

5/18/07

ORDINANCE NO. **26766**

An ordinance adding Section 5A-15 to CHAPTER 5A, "AIR POLLUTION," and amending Section 30-3.1 of CHAPTER 30, "NOISE," of the Dallas City Code, as amended; defining terms; restricting idling by motor vehicles with a gross vehicle weight rating of over 14,000 pounds, with certain defenses; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the U. S. Environmental Protection Agency ("EPA") and the Texas Commission on Environmental Quality ("TCEQ") jointly have considered emission reductions to control air pollution from motor vehicles, and the Texas Legislature has created the Texas Clean Air Act ("Act"), which addresses that purpose; and

WHEREAS, Section 382.113 of the Act provides authority for municipalities to enact and enforce local laws and ordinances for the control and abatement of air pollution; and

WHEREAS, by means of the regulations set forth in Sections 114.50 through 144.512 and Section 114.517 of Title 30 of the Texas Administration Code, the TCEQ has set forth regulations intended to assist in the prevention of air pollution caused by unnecessary idling of certain motor vehicles; and

WHEREAS, the city of Dallas has engaged in discussions with the TCEQ for the purpose of entering into a memorandum of agreement with the TCEQ and, possibly, other local governmental entities in the area to implement the rules aimed at the control of air pollution from such motor vehicles; and

26766

WHEREAS, the city council of the city of Dallas finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare of the citizens of the city of Dallas, by limiting the pollution created by large motor vehicles unnecessarily idling within the city's corporate limits; Now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That CHAPTER 5A, "AIR POLLUTION," of the Dallas City Code, as amended, is amended by adding Section 5A-15, "Motor Vehicle Idling," to read as follows:

"SEC. 5A-15. MOTOR VEHICLE IDLING."

(a) Definitions. In this section:

(1) COMMERCIAL PASSENGER TRANSPORTATION means a mode of transportation provided by a bus or motor coach designed to accommodate more than 10 passengers (including the operator) for compensation and that is powered by a primary propulsion engine, but specifically excluding the modes of railroad, light rail, or taxicabs.

(2) IDLE means the operation of an engine in the operating mode where:

(A) the engine is not engaged in gear;

(B) the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released; and

(C) there is no load on the engine.

(3) MECHANICAL OPERATIONS means the use of electrical tools or equipment in construction, maintenance, or repair of facilities.

(4) PASSENGER TRANSIT OPERATIONS means a regional mode of public transportation that is funded through a portion of sales tax for the region being served.

(5) PRIMARY PROPULSION ENGINE means a gasoline or diesel-fueled internal combustion engine that:

(A) is attached to a motor vehicle; and

(B) provides the power to propel the motor vehicle into motion and maintain motion.

26766

(b) Idling prohibited. A person commits an offense if, at any time from April 1 through October 31 of any calendar year, he causes, suffers, allows, or permits the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle is not in motion.

(c) Defenses. It is a defense to prosecution under this section that:

(1) the motor vehicle has a gross vehicle weight rating of 14,000 pounds or less;

(2) the motor vehicle was forced to remain motionless because of traffic conditions over which the operator had no control;

(3) the motor vehicle was being used:

(A) by the United States military, national guard, or reserve forces; or

(B) as an emergency or law enforcement motor vehicle;

(4) the primary propulsion engine of the motor vehicle was providing a power source necessary for a mechanical operation of the vehicle, other than:

(A) propulsion; or

(B) passenger compartment heating or air conditioning;

(5) the primary propulsion engine of the motor vehicle was being operated for maintenance or diagnostic purposes;

(6) the primary propulsion engine of the motor vehicle was being operated solely to defrost a windshield;

(7) the primary propulsion engine of the motor vehicle was being used to supply heat or air conditioning necessary for passenger comfort or safety, if the vehicle:

(A) was a school bus or was intended for commercial passenger transportation or passenger transit operations; and

(B) did not idle more than 30 consecutive minutes;

(8) the primary propulsion engine of the motor vehicle was being used to provide air conditioning or heating necessary for employee health or safety while the employee was using the vehicle to perform an essential job function related to roadway construction or maintenance;

(9) the primary propulsion engine of the motor vehicle was being used as airport ground support equipment; or

(10) the person charged with the offense was the owner of a motor vehicle that had been rented or leased to the person operating the vehicle at the time of the offense, if the vehicle operator was not employed by the vehicle owner.

(d) Penalties.

(1) An offense under this section is punishable by a fine not to exceed \$500. Each instance of a violation of this section is a separate offense.

(2) The culpable mental state required for the commission of an offense under this section is governed by Section 1-5.1 of this code.

(3) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city."

SECTION 2. That Section 30-1, "Noise from the Idling of Commercial Motor Vehicles," of CHAPTER 30, "NOISE," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 30-3.1. NOISE FROM THE IDLING OF COMMERCIAL MOTOR VEHICLES.

(a) In this section:

(1) COMMERCIAL MOTOR VEHICLE means any motor vehicle with a gross vehicle weight rating (GVWR) over 14,000 pounds.

(2) IDLE means the operation of a motor vehicle engine in operating mode where the engine is not engaged in gear.

(b) A person commits an offense if he idles a commercial motor vehicle for more than five [40] consecutive minutes at a location on or within 300 feet of any residential use, as defined in the Dallas Development Code;

(c) A person commits an offense if, on any premises that he owns or controls, he permits the idling of a commercial motor vehicle for more than five [40] consecutive minutes at a location on or within 300 feet of any residential use, as defined by the Dallas Development Code.

(d) It is a defense to prosecution under Subsections (b) and (c) of this section that the commercial motor vehicle [~~was~~]:

(1) was idling in obedience to an official traffic control device;

- (2) was idling while stopped in traffic;
- (3) was idling in obedience to a peace officer;
- (4) was idling while being repaired in an enclosed structure;
- (5) was idling in order to defrost a windshield;
- (6) was a school bus;
- (7) was intended for commercial passenger transportation and was not idling on a public street, highway, or alley;
- (8) was a concrete mixer truck that was only idling while actually pouring concrete or staging to pour concrete; [or]
- (9) was a utility truck that was only idling while providing power as needed to perform utility work; or
- (10) met a defense set forth in Section 5A-15 of this code.

(e) Penalties.

(1) An offense under this section is punishable by a fine not to exceed \$500. Each instance of a violation of this section is a separate offense.

(2) The culpable mental state required for the commission of an offense under this section is governed by Section 1-5.1 of this code.

(3) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city.

(f) Nothing in this section may be construed to authorize idling of a commercial vehicle in violation of Section 15A-15 of this code.”

SECTION 3. That CHAPTERS 5A and 30 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

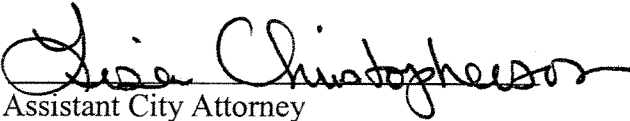
26766

SECTION 5. That this ordinance will take effect on October 1, 2007, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By


Assistant City Attorney

Passed MAY 23 2007

LC/DCC/00414A