

Before the  
General Assembly of Pennsylvania  
House Transportation Committee

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**TESTIMONY OF MICHAEL JOYCE  
GOVERNMENT RELATIONS REPRESENTATIVE  
OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION,  
INC.**

**Senate Bill N. 295  
Diesel-Powered Commercial Motor Vehicle Idling Act**

**April 10, 2008**

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Submitted by:



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## Introduction

Good morning Chairman Markosek, Representative Geist, and Members of the Transportation Committee. Thank you for the opportunity to join you today.

My name is Mike Joyce. I am a native of Pennsylvania, but have been in Washington, DC for the past 13 years. I have become involved in transportation-related policy, and have spent nearly 3-1/2 years with the Owner-Operator Independent Drivers Association (OOIDA) representing small-business, long-haul professional truckers at both the Federal and State levels.

## OOIDA

For those of you that may not be aware, OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small-business truckers. OOIDA has been in the business of representing truckers for nearly 35 years. The more than 161,000 members of OOIDA are small-business men and women in all 50 states who collectively own and operate more than 260,000 individual heavy-duty trucks. Owner-operators' trucks represent nearly half of the total number of Class 7 and 8 trucks operated in the United States. As citizens of Pennsylvania are well aware, trucking is significant to their economic well-being. As of today, OOIDA has over 7,600 active members across the Commonwealth of Pennsylvania.

OOIDA actively promotes the views of small business truckers through its interaction with state and federal regulatory agencies, legislatures, the courts, other trade associations and private entities to advance an equitable business environment and safe

working conditions for commercial drivers. The patchwork of idling regulations across the Nation, are a tremendous burden to small business truckers.

### **Owner-Operators**

The typical Owner-Operator will drive more than 115,000 miles per year, adding up to almost 3 million miles in a lifetime, and spend 240 nights of the year away from home. On average Owner-Operators pay in excess of \$10,000 in federal taxes, and state taxes of more than \$6,000 per truck per year. To put some perspective on that, the \$16,000 paid in taxes equates to about half of the annual net income of the average truck driver.

OOIDA members make a significant financial contribution to federal and state government transportation funds through a combination of taxes. Taxes that are paid into the federal Highway Trust Fund include a 24.4 cent per gallon federal diesel fuel tax, Pennsylvania diesel fuel tax of \$.381 cents per gallon (the highest in the country), 12% federal excise taxes on the purchase of a truck or trailer, weight mileage tax (Heavy Vehicle Use Tax – HVUT), and tire taxes. It should be noted that Heavy-duty trucks account for less than 10 percent of our nation's highway traffic.

### **Small Business Trucking as a Percentage of the Trucking Industry**

Finally, if you thought the trucking world was predominantly made up of the big, familiar trucking companies, you are mistaken. Small business truckers, companies operating six or fewer trucks, comprise close to 90% of the motor carrier industry. Considering that roughly 69 percent of freight tonnage in the United States is moved by truck, it is certainly not a stretch to say

that small business truckers are truly the backbone of our nation's economy.

### **General Position Regarding Idling Prohibitions**

OOIDA and its more than 7,600 Pennsylvania members recognize the value of being good environmental stewards and how it affects their bottom line. According to a recent survey of OOIDA members, many are beginning to make the investment in anti-idling technology, although the up-front costs are expensive with an APU costing on average between \$7,000 and \$9,000, not to mention the downtime of having a truck fitted with an APU. *(When a trucker's wheels aren't turning, he's usually not making any money)*. However, increasingly the cost to idle a truck in an era of four dollar per gallon diesel fuel has become a significant deterrent. And, as sensible as the prohibition against idling of heavy-duty trucks seems, the proposed bill, SB 295, completely misses the mark in assigning proper legal responsibility for unnecessary idling. SB 295 puts the burden on the operator of the vehicle, when it should fall squarely on the shoulders of the owner.

### **Regulatory Catch-22 faced by drivers.**

Drivers are limited by federal regulations to the amount of time they can drive and work. After fourteen consecutive hours on-duty they must be off-duty and rest for ten hours. For a majority of drivers the rest period is taken in a sleeper berth attached to the truck. Mandatory rest periods are directly related to highway safety.

This Act attempts to prescribe what seems to be a reasonable standard when requiring the main drive engine to be turned off.

An exemption from the Act exists if the outside air temperature is below 40 degrees or above 75 degrees Fahrenheit. While an outside temperature of 75 degrees may seem reasonable, inside cab temperatures will quickly rise well beyond 75 degrees potentially endangering the life of a driver or at the least their ability to get restorative sleep necessary for highway safety. OOIDA suggests that the air temperature measurement should be that taken from inside the cab.

It is already recognized nationally that sunlight magnifies temperature inside closed vehicles. Every year in America tragedies resulting in death or heat stroke occur when uninformed people leave a child or animal within a closed vehicle. It is simply preposterous to discount the accumulated heat build-up in a heavy-duty truck and the effect on the occupant(s). Furthermore, truck cabs and sleeper berths have additional radiated heat sources that significantly affect inside cab temperature. Engines and transmissions operate in excess of 200 degrees Fahrenheit and as they cool the heat is radiated into the occupied area of a truck.

While this issue is ameliorated if anti-idling technology such as an Alternative Power Unit ("APU") is installed to heat or cool the driver occupied cab areas, the simple fact is that few motor carrier employers will invest in this technology. An employee driver has no say in the economic decision whether to purchase and install these technologies on company owned equipment. Motor carriers that attempt to evade their responsibility by stating they provide availability to electrification facilities such as *Idle Aire* are engaged in equivocation. Simply stated, electrified facilities are few and far apart. A motor carrier is not going to permit a driver to go 50 miles out-of-route to plug into an electrified facility. Compounding the driver's burden, many motor

carriers charge-back to the driver the cost associated with subscribing to a service such as *Idle-Aire*.

### **Responsibility for convictions.**

The Act proposes to fine “operators” upon conviction. An “operator” clearly means the driver since the bill proposes to notify the “vehicle owner” upon an “operators” conviction for a violation. This clearly demonstrates the Act differentiates between “operator” and “vehicle owner” for legal responsibility when a violation occurs. As previously expressed, a driver (operator) must comply with federal regulations, yet the motor carrier who owns the equipment and makes the financial choice not to invest in anti-idling technology would avoid penalty.

The United States Environmental Protection Agency issued a non-binding Model State Idling Law guidance in March 2006. They utilized the language “owner or operator” repeatedly through their guidance. Pennsylvania law should provide for placing accountability where it belongs when enforcing anti-idling restrictions - the vehicle owner/motor carrier. Simply going after the driver will not raise the level of compliance sought - not in Pennsylvania nor in jurisdictions throughout the U.S. with similar laws.

OOIDA strongly urges that the bill specifically place responsibility for violations upon the vehicle owner.

### **Additional Exemption.**

Mechanical failure and malfunctions are endemic with any machinery. Both vehicle owners and drivers should not be further penalized if a driver is idling for comfort/safety when the anti-

idling technology on-board has broken down. The simple fact that a vehicle owner has invested significant sums of money in placing the technology on-board is indicative of both their desire to be good environmental stewards as well as comply with idling restrictions. Warrantee and repair facilities for many anti-idling devices are few and far apart. Adding this exemption or at least allowing for proof of repair in lieu of a fine is a reasonable addition to the proposed legislation.

### **Conclusion**

Thank you for providing me with this opportunity to speak on behalf of the hard-working members of OOIDA on these very important issues. I would be pleased to answer any questions that you may have.

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