

**STATE OF PENNSYLVANIA
HOUSE TRANSPORTATION COMMITTEE**

**SENATE BILL NO. 295; DIESEL-
POWERED COMMERCIAL MOTOR)
VEHICLE IDLING ACT)**

PUBLIC HEARING: APRIL 10, 2008

**ORAL STATEMENT AND COMMENTS
OF THE ENGINE MANUFACTURERS ASSOCIATION**

APRIL 7, 2008

**TIMOTHY A. FRENCH
ENGINE MANUFACTURERS ASSOCIATION
2 NORTH LASALLE STREET
SUITE 2200
CHICAGO, IL 60602
(312) 269-5670**

STATE OF PENNSYLVANIA
HOUSE TRANSPORTATION COMMITTEE

SENATE BILL NO. 295; DIESEL-)
POWERED COMMERCIAL MOTOR) PUBLIC HEARING: APRIL 10, 2008
VEHICLE IDLING ACT)

**ORAL STATEMENT AND COMMENTS
OF THE ENGINE MANUFACTURERS ASSOCIATION**

Introduction

The Engine Manufacturers Association (“EMA”) is pleased to submit these comments regarding the proposed legislation -- Senate Bill No. 295 (“SB 295”) -- to adopt a statewide diesel-powered commercial motor vehicle anti-idling act. Specifically, SB 295 would establish an idling restriction of 5 minutes in any 60-minute period for diesel-powered commercial vehicles, subject to various exemptions and exceptions, and also would establish emission control requirements for auxiliary power system (“APS”) units used in conjunction with commercial diesel vehicles powered by 2007 model year or newer diesel engines. The requirements established under SB 295 would take effect 60 days after their enactment.

EMA is the trade association that represents the world’s leading manufacturers of internal combustion engines, including the diesel-fueled engines deployed in heavy-duty on-highway (“HDOH”) commercial vehicles, as well as the much smaller diesel-fueled nonroad engines utilized in many APS units. Accordingly, EMA’s members have a direct and significant interest in SB 295.

Proposed Diesel Vehicle Idling Restrictions

As a general matter, EMA and its members support efforts to eliminate unnecessary idling emissions from HDOH diesel-fueled vehicles. To that end, EMA has worked with the U.S. EPA and many other stakeholders to develop a model rule for an operator-based regulation to limit idling emissions from diesel trucks. EMA also worked closely with the California Air Resources Board (“CARB”) to craft the initial version of its anti-idling regulations. In light of the extensive collaborative efforts that have gone into the development of those regulations, EMA encourages the Pennsylvania Legislature and this Committee to ensure that its operator-based requirements are consistent with EPA’s and CARB’s. Indeed, as discussed below, with respect to the proposed APS requirements, enacting provisions that are “identical” to CARB’s is a mandate of federal law.

Turning to the specifics of SB 295, there are certain provisions of the proposed legislation that should be addressed. First, the anti-idling exemption that is provided for maintenance, servicing and repairs (see proposed §3(b)(4)) should explicitly include “regeneration or maintenance of the exhaust emission control device.” Second, the temperature limits in the sleeper berth exemption (see § 3(b)(10)) are overly restrictive. Instead, we

recommend that the outside temperature restrictions be eliminated as is the case in the EPA model rule. Third, eliminating the sleeper-berth exemption as of May 1, 2010, will unfairly penalize owner-operators that purchased 2007, 2008 and 2009 MY HDOH trucks, even though those current model year vehicles are equipped with diesel particulate filters and so have near-zero PM emissions. Accordingly, the sleeper-berth exemption should be modified so that it does not expire for 2010 and later model year HDOH vehicles, which (again) is how that exemption is set forth in the EPA model rule. Third, the operator-based anti-idling requirements at issue should not take effect a mere 60 days after their enactment. Instead, a more extensive period of time (i.e., 180 days) needs to be provided to inform and educate impacted stakeholders and vehicle operators about these restrictions on idling before they are implemented and enforced through the assessment of fines.

Proposed APS Provisions

With respect to SB 295's proposed regulation of APS units "powered by a diesel-powered internal combustion engine," the Legislature and this Committee need to recognize that those APS engines are a subset of what are referred to as "nonroad" engines. Under section 209(e)(2) of the federal Clean Air Act (42 U.S.C. § 7543(e)(2)), Pennsylvania is preempted from enforcing any emission-related requirements for nonroad engines, unless (i) those requirements (as well as their implementation and enforcement) are "identical" to CARB standards that have been specifically authorized by U.S. EPA, and (ii) Pennsylvania provides at least 2 years between the date it adopts such nonroad engine requirements and the date they are slated to take effect.

SB 295's proposed emission-related requirements for APS engines fail on each of these grounds. They are not identical to CARB's APS engine requirements (see 13 CCR § 2485(c)(2) and (c)(3)), a preemption waiver has not been sought or issued for CARB's APS engine requirements, and SB 295 does not provide 2-years leadtime prior to the effective date of the proposed APS engine requirements. Accordingly, SB 295's proposed requirements for APS nonroad engines need to be revised to comply with the applicable provisions of controlling federal law. See, e.g., Pacific Merchant Shipping Ass'n v. California Air Resources Board, Case No. 07-16695 (9th Cir.) (Feb. 27, 2008) (state may not enforce emission-related requirements for nonroad engines in the absence of express authorization by U.S. EPA under section 209(e)(2) of the Clean Air Act).

In making those necessary revisions, SB 295 also must allow for all of the alternative compliance options that are included in the CARB APS regulation. (See 13 CCR §2485(c)(3)). Indeed, ensuring this "identity" with the anti-idling CARB rule is fundamental to enacting a viable statutory program in Pennsylvania.

Conclusion

EMA appreciates the opportunity to present these comments regarding SB 295, and we stand ready to work with this Committee over the coming months to develop and implement a sound, cost-effective and duly-authorized legislative program to control and limit unnecessary idling emissions.

Respectfully submitted,

ENGINE MANUFACTURERS ASSOCIATION

EMADOCS: 32366.1