

SUBJECT: Exemption extension for idling motor vehicle with sleeper berth in use

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 6 ayes — Bonnen, Hancock, Lucio, T. King, Kuempel, West

0 nays

1 absent — Driver

WITNESSES: For — Elaine Briles, DART Transit/Texas Motor Transportation Association; Michael Bromhall, FFE Transportation/Texas Motor Transportation Association; (*Registered, but did not testify*: Les Findeisen, Texas Motor Transportation Association; Beth O'Brien, Public Citizen)

Against — Melanie Oldham

On — Scott Anderson, Environmental Defense

BACKGROUND: The Federal Motor Carrier Safety Administration's hours-of-service rule requires a rest period of 10 hours for every 24-hour period in which a truck driver operates.

Texas' State Implementation Plan (SIP) outlines state efforts to comply with federal air quality standards established by the federal Environmental Protection Agency (EPA). Certain provisions apply to jurisdictions where local governments have signed a memorandum of agreement with the Texas Commission on Environmental Quality (TCEQ) as part of the SIP. As outlined in Texas Administrative Code, Title 30, part 1, ch. 114, the primary propulsion engine of a motor vehicle cannot idle for more than five consecutive minutes while the vehicle is not motion from April 1 through October 31 of each year. The rule does not apply to motor vehicles with a gross vehicle rating of 14,000 pounds or less. Motor vehicles forced to remain motionless due to traffic conditions are not subject to this rule.

In 2005, the 79th Legislature enacted of HB 1540 by Bonnen, which establishes, in Health and Safety Code, sec. 382.0191, that TCEQ may not prohibit or limit the idling of a motor vehicle when idling is necessary to power the heater or air conditioner during a government-mandated rest period. This section will expire on September 1, 2007.

DIGEST:

HB 1235 would extend for an additional two years the expiration date of sec. 382.0191, which restricts TCEQ from prohibiting or limiting the idling of a motor vehicle when idling is necessary to power the heater or air conditioner during a government-mandated rest period. The section would expire on September 1, 2009.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 1235 would give the trucking industry more time to retrofit trucks with auxiliary power units (APUs) to run air conditioners and heaters. The two years exemption granted by the 79th Legislature in 2005 was intended to be enough time to accomplish the retrofitting. However, installing new technology is a time consuming process, and the trucking industry needs additional time to complete this task. Moreover, APUs cost up to \$8,000. The trucking industry should be allotted two more years to determine if this is the most cost-effective method of complying with the motor-vehicle idling limits.

Commercial truck drivers need to rest, as stipulated by federal rules. Truck sleeper berths often serve as the driver's sleeping area, as the location of a driver's rest depends on hours on duty, traffic conditions, loading and unloading delays, and roadside inspections. With Texas' extreme climate conditions, a driver needs ample air conditioning or heat in the sleeping berth to achieve adequate resting conditions. Restrictions on engine idling might prevent truck drivers from taking proper rest, which would be dangerous for truck drivers and others on the road.

Since the terrorist attacks on September 11, 2001, the trucking industry has worked to improve the safety and security of their equipment. Enabling drivers to keep watch over their trucks during rest periods is an important security tactic.

OPPONENTS
SAY:

HB 1235 would continue to limit TCEQ's air quality regulation authority with regard to truck idling. The idling restrictions are designed to reduce harmful emissions in areas trying to comply with federal air quality standards. Extending the exemption could negatively affect the health of citizens while setting a precedent for future legislatures to maintain this exception for idling trucks.

The bill assumes that drivers' compliance with the federally mandated rest period can be achieved only through rest in a truck's sleeper berth. However, a truck driver can check into a motel as opposed to enduring uncomfortable climate conditions inside a truck. Also, fuel consumption is reduced when a truck driver turns off the engine and rests elsewhere.

OTHER
OPPONENTS
SAY:

HB 1235 should be amended to prohibit idling by trucks near a facility with an open parking space offering external heating and air conditioning. This would encourage the use of new truck stop electrification technology that can heat and cool a vehicle's sleeper berth without engine idling. Use of these systems, available at a number of Texas truck stops, would reduce fuel expenses, prevent engine damage, and improve air quality.

NOTES:

The author plans to offer an amendment to HB 1235 that would allow TCEQ to prohibit or limit the idling of a motor vehicle to power a heater or air conditioner if the vehicle was within two miles of a facility with available external heating and air conditioning connections.