

LOCAL LAW NO. "O" FOR 2008

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK PROHIBITING THE IDLING OF MOTOR VEHICLES FOR MORE THAN THREE MINUTES

Introduced: 11/10/08

By Mr. Higgins:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

SECTION 1. DEFINITIONS

1. As used in this local law, the following terms shall have the meanings indicated:

- a. Motor vehicle. Any vehicle that is self-propelled by an engine, including but not limited to, automobiles, vans, motorcycles and construction vehicles;
- b. Hybrid-electric vehicle. A motor vehicle which operates by combining an internal combustion engine powered by gasoline or diesel fuel with a battery powered electric motor; and
- c. Electric vehicle. A vehicle powered by electricity, usually provided by batteries.

SECTION 2. PROHIBITION

1. No person shall operate, allow or permit the operation of a motor vehicle in such a manner as to emit exhaust emissions equal to or greater than 20 percent opacity for a continuous period of more than five seconds as determined by a trained certified observer.

2. No person shall allow or permit the engine of a motor vehicle to idle for more than three consecutive minutes, except as provided in subdivision (3) of this section, when the motor vehicle is not in motion, except that this provision shall not apply when:

- a. A motor vehicle is forced to remain motionless because of traffic conditions over which the operator thereof has no control;
- b. Regulations adopted by a federal, state or local agency having jurisdiction that require the maintenance of a specific temperature for passenger comfort, in which case the idling time may be increased to the extent necessary to comply with such regulations;

- c. An engine is being used to provide power for an essential auxiliary purpose; such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming operations; or when operation of the engine is required for the purpose of maintenance;
- d. Trucks and heavy-duty construction equipment propelled by diesel engines, owned and operated by persons engaged in mining and quarrying, are used within the confines of such person's property;
- e. A hybrid-electric vehicle is idling for the purpose of providing energy for the battery or other form of energy storage recharging;
- f. The motor vehicle is an electric vehicle; and
- g. The motor vehicle is not powered by a diesel engine and the ambient air temperature is 32 degrees Fahrenheit (0 degrees Celsius) or less.

3. No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent to any public school or to any non-public school within Albany County that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred.

SECTION 3. APPLICATION

1. The prohibitions of this local law shall apply to any person who owns, operates, leases, supervises or who otherwise has charge, supervision or control of such motor vehicle and to any person who owns, leases or occupies land and has actual or apparent domain or control over such vehicle or engine which is present on such land.

2. The prohibitions of this local law shall not apply to fire trucks, police, emergency medical services and other emergency vehicles and equipment while performing in the scope of their duties.

SECTION 4. PENALTIES:

A violation of the prohibitions of Section 2 of this local law shall be punishable as follows:

1. First Offense - Any person who violates Section 2 of this local law shall be guilty of a violation punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250), where such violation constitutes the person's first offense.

2. Second Offense - Any person who violates Section 2 of this local law, shall be guilty of a violation punishable by a fine of not less than Five Hundred Dollars (\$500), where such violation constitutes the person's second offense.

3. Third and Subsequent Offenses - Any person who violates Section 2 of this local law, shall be guilty of an unclassified misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000) where such violation constitutes the person's third or subsequent offense.

SECTION 5. ENFORCEMENT

1. The provisions of this local law shall be enforced by the officers of the Albany County Sheriff's Department and may be enforced by all law enforcement officers with jurisdiction in Albany County, including state and municipal law enforcement officers authorized to enforce the Vehicle and Traffic Law of the State of New York. The provisions of this local law may also be enforced by municipal traffic and parking enforcement agents if authorized by the municipality to issue appearance tickets. The law enforcement officer or enforcement agent shall issue an appearance ticket returnable in the local court of the jurisdiction where the violation occurred.

SECTION 6. PREEMPTION:

- (1) If any part or provision of this local law is inconsistent with any Federal or State statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.
- (2) If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved

in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

SECTION 7. REVERSE PREEMPTION:

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The Albany County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION 8. EFFECTIVE DATE:

This local law shall take effect ninety (90) days following its enactment.

Referred to Law Committee. 11/10/08

Without Recommendation - Law Committee. 1/25/10

On roll call vote the following voted in favor: Mr. Bullock, Ms. Chapman, Messrs. Domalewicz, Gordon, Higgins, Ms. Maffia-Tobler, Messrs. McCoy, Steck and Ms. Willingham - 9

Those opposed: Mr. Aylward, Ms. Benedict, Messrs. Beston, Carman, Clay, Clenahan, Clouse, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Ethier, Hoblock, Houghtaling, Infante, Joyce, Ms. Lockart, Mr. Mayo, Ms. McKnight, Messrs. Mendick, Morse, Nichols, Rahm, Scavo, Timmins, Tunny and Ward. - 27.

Abstained: Mr. Horstmyer - 1.

Local Law was defeated. 2/8/10