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6-11-2010

Hot Topic: State Shared Taxes and Appropriations (2010-2011)

Dick Phebus

Municipal Technical Advisory Service

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May 26, 2010

REGULATING SO-CALLED "JAKE BRAKES"

Ron Darden, Municipal Management Consultant

Tennessee cities may regulate, but not prohibit, the use of engine compression braking devices by ordinance provided that the ordinance conforms to Interstate Motor Carriers Noise Emission Standards as outlined in 49 C.F.R. 325 *et seq.*

T.C.A. § 55-7-117 states that truck tractors and semi-trailers, as defined in T.C.A. § 55-8-101, shall not use an engine compression braking device unless the device is equipped with an operational, approved muffler.

Federal testing procedures for measuring allowable decibel levels of truck tractor and semi-trailers require certified equipment, testing sites, testing procedures, and inspectors. The testing standards

are very complex, and most cities do not have the ability to administer such tests. Cities experiencing problems with noise pollution from engine compression devices are advised to use a visual muffler inspection procedure to reduce the noise level from engine compression braking systems.

MTAS recommends that cities desiring to enforce engine compression braking device standards require that truck tractors and semi-trailers comply with the approved muffler requirements of T.C.A. § 55-7-117. Cities may request appropriate highway notice signs from the Tennessee Department of Transportation. A sample ordinance follows.

MUNICIPAL TECHNICAL ADVISORY SERVICE

Knoxville (Headquarters) ... (865) 974-0411
Johnson City. (423) 854-9882
Jackson (731) 423-3710

Nashville (615) 532-6827
Martin. (731) 881-7055

The Municipal Technical Advisory Service (MTAS) is a statewide agency of the University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and water and wastewater management.

MTAS Hot Topics are information briefs that provide a timely review of current issues of interest to Tennessee municipal officials. Hot Topics are free to Tennessee local, state, and federal government officials and are available to others for \$2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.

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SAMPLE ORDINANCE

Ordinance Number _____

AN ORDINANCE REGULATING THE USE OF ENGINE COMPRESSION BRAKING DEVICES

Whereas, Tennessee law provides for visual muffler inspection standards as a means to enforce noise pollution; now

Therefore, Be It Ordained by the Board of Mayor and Aldermen of the City of _____ as follows:

Section 1. All truck tractor and semi-trailers operating within the city of _____ shall conform to the visual exhaust system inspection requirements, 40 C.F.R. 202.22, of the Interstate Motor Carriers Noise Emission Standards.

Section 2. A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in Section 1 of this ordinance if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

- Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.);
- Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or
- Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

Section 3. Violations of this ordinance shall subject the offender to a fine of \$50 per offense.

Section 4. This ordinance shall be supplemental to other noise control ordinances and regulations of the city, and shall be effective upon its final passage, the public welfare requiring it.

Passed 1st reading on _____, 2010

Passed 2nd reading on _____, 2010

Mayor

Attest: City Recorder

Approved As To Form: City Attorney
