

OHIO TURNPIKE COMMISSION

Resolution Authorizing the Filing of New Engine Brake Rule

WHEREAS, the Commission has adopted traffic rules for the control and regulation of traffic, for the protection and preservation of property under its jurisdiction and/or for the maintenance and preservation of good order within the property under its control in accordance with the authority granted to it under Ohio Revised Code Section 5537.16 as promulgated in the provisions of Ohio Administrative Code Sections 5537-1-01 through 5537-7-01; and

WHEREAS, the Ohio General Assembly enacted an amendment to the provisions of Ohio Revised Code Section 5537.16, through the passage of Am. Sub. H.B. 67 which authorizes the Commission to adopt rules regulating the use of engine brakes that became effective July 1, 2007; and

WHEREAS, the Commission wishes to adopt a rule prohibiting the use of unmuffled engine brakes except in cases of an emergency or extreme weather conditions on the Turnpike in response to noise complaints from residential property owners who live in proximity to the Turnpike; and

WHEREAS, in accordance with applicable statutory provisions, including Sections 111.15 and 119.032 of the Ohio Revised Code, the Commission must file with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State any new rule in accordance with the procedures set forth in the statutes and the Commission wishes to begin the process to file a new rule.

NOW, THEREFORE, BE IT

RESOLVED that the Commission hereby authorizes the General Counsel to initiate the process necessary to adopt the attached new rule regulating the use of unmuffled engine brakes in accordance with Sections 111.15 and 119.032 of the Ohio Revised Code.

(Resolution No. 35 - 2007 adopted August 20, 2007)

EXHIBIT A

Chapter 5537-1 Definitions

5537-1-01 Definitions.

(A) "Commission" means the Ohio turnpike commission, and also includes such officers and employees of the commission as may act for or in the place of the commission.

(B) "Turnpike" means all traffic lanes, acceleration lanes, deceleration lanes, shoulders, medial strip, bridges, overpasses, underpasses, interchanges, approaches, entrance and exit ramps, access roads, toll plazas, service plazas, maintenance areas, parking areas and any and all other area or areas adjacent thereto under the control or jurisdiction of the Commission and comprising a part of Ohio turnpike project No. 1.

(C) "Traffic lanes" are the continuous traffic lanes (each for a single line of vehicles) extending between the eastern and western termini of the turnpike. The westbound and eastbound traffic lanes are separated by A medal strip. The lanes immediately adjacent to the medial strip are denominated "inner" lanes. The lanes immediately adjacent to and beyond the inner lane are denominated "outer" lanes, except where three lanes are provided for the same direction of travel, in which case the lanes immediately adjacent to and beyond the inner lanes are denominated "center" lanes and the lanes immediately adjacent to and beyond the center lanes are denominated "outer" lanes.

(D) "Deceleration lanes" and "acceleration lanes" are speed-change lanes provided for vehicles entering and leaving service plazas or interchanges, respectively, and are adjacent to the outer traffic lanes.

(E) "Shoulders" are the paved strips adjoining the traffic lanes, acceleration and deceleration lanes, and interchange ramps.

(F) "Medial strip" means the area, including paved shoulders and grassed or median barrier separating traffic lanes for traffic moving in opposite directions.

(G) "Vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a highway

(H) "Motor vehicle" means every self-propelled vehicle

(I) "Motorcycle" means every motor vehicle other than a tractor, which has a saddle for the use of the operator and is constructed to travel on not more than three wheels in contact with the ground, including, but not limited to vehicles known as "motorized bicycle," "motor scooter" or "moped."

(J) "Emergency vehicle" means ambulance, garage-service vehicle, garage towing and wrecking trucks, fire-department, and police vehicles, responding to emergency calls and when identified as such as required by law.

(K) "Bicycle" means a vehicle propelled by human power which is constructed to travel on not more than three wheels in contact with the ground.

(L) "Truck" means every motor vehicle, except trailers and semi-trailers, designed and used to carry property.

(M) "Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle.

(N) "Semi-trailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle.

(O) "Commercial tractor" means every motor vehicle having motive power and designed or used for drawing other vehicles and not so constructed as to carry any loan thereon except a part of the weight of a semi-trailer, or of its load, or both.

(P) "Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons.

(Q) "Pedestrian" means any natural person afoot.

(R) "Operator" means every person who drives, operates, or is in actual physical control of a motor vehicle.

(S) "Police officer" means an officer of the Ohio state highway patrol and every person authorized to direct, control, or regulate traffic, or to make arrests for violations of traffic regulations, on the turnpike.

(T) "Public police officer" means any one of those public police officers referred to in section [5537.16](#) of the Revised Code.

(U) "Person" means every natural person, firm, partnership, association, limited liability company, corporation, trust, estate or legal entity.

(V) "Axle" means the common axis of rotation of one or more wheels, whether power driven or freely rotating, and whether in one or more segments and regardless of the number of wheels carried thereon.

(W) "Axle load" means the gross weight of vehicle and load imposed by any axle upon the road surface.

(X) "Gross weight" means the weight of a vehicle plus the weight of any load thereon.

(Y) "Combined axle load" means the gross weight of vehicle and load imposed by any two tandem axles upon the road surface.

(Z) "Aircraft" means any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air, excepting a parachute or other contrivance for such navigation used exclusively as safety equipment.

(AA) "Automobile transporter" means any vehicle combination designed and used expressly for the transport of assembled motor vehicles.

(BB) "CFR" means the code of federal regulations.

(CC) "Heavy commercial vehicle" means a motor vehicle in excess of 2-1/2 tons used for commercial purposes such as transportation of goods and wares.

(DD) "License" means the whole or part of any Commission permit, certificate, approval, registration or similar form of permission required by Ohio Turnpike Commission rules.

(EE) "Long combination vehicles" means semi-trailers with triple trailer or long double trailer combinations in excess of ninety feet in length.

(FF) "Service plazas" means service facilities as defined in section [5537.01](#) of the Revised Code.

(GG) "Engine Brake" means engine retarder including, but not limited to, C Brakes, Pac Brakes, Tek Brakes, Jake Brakes, or any other engine retarder utilized by the trucking industry.

(HH) "Unmuffled Engine Brake" means an engine brake that is not equipped with a muffler in good working order, or a motor vehicle with an exhaust system that has been modified to amplify or increase the noise emitted by the muffler originally installed on the vehicle by the manufacturer.

NEW RULE

5537-3-06

(A) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass, or similar device upon a motor vehicle on the Turnpike. Every motor vehicle and motorcycle muffler shall be equipped with baffle plates.

(B) Except in cases of emergency or extreme weather conditions, no person may operate an unmuffled engine brake on the Turnpike.