

**Testimony of Michael Gilsonan**  
**Assistant Commissioner, Bureau of Environmental Compliance**  
**New York City Department of Environmental Protection**  
**before the**  
**New York City Council Committee on Environmental Protection**  
**concerning**  
**Oversight - Enforcement of NYC Idling Restrictions and**  
**Intros. 325 and 717 - in relation to engine idling**  
**250 Broadway**  
**September 27, 2016**

Good afternoon, Chairman Constantinides and Members of the Committee. I am Michael Gilsonan, Assistant Commissioner of the Bureau of Environmental Compliance at the New York City Department of Environmental Protection (DEP). With me are Geraldine Kelpin, Director, Air/Noise Permitting and Enforcement, and Rick Muller, Director of Legislative Affairs. We are also joined by colleagues from the Police Department, who will answer any questions you may have for them.

Thank you for the opportunity to testify on the enforcement of idling restrictions in New York City and Introductions 325 and 717 that address aspects of reducing motor-vehicle idling in New York City.

As you know, New York City's prohibition on idling resides in Section 24-163 of Title 24, Chapter One of the Administrative Code (Ad. Code) and in the Rules of the City of New York. Section 24-163 provides that with certain exceptions, no vehicle in the City is allowed to idle more than three minutes while parked, stopped or standing.

Working with the Council, we have already prohibited idling adjacent to schools for more than one minute, and extended the use of the citizen-complaint provision to allow citizen enforcement against idling buses by adding enforcement against idling trucks. Further, a rule promulgated by the Department of Finance (Finance) created a program code that allows the handheld devices employed by Traffic Enforcement Agents (TEAs) to issue tickets pursuant to the NYC Traffic Rules to those who violate the idling rules. Finally, authority to enforce idling restrictions is also exercised by the Police Department (NYPD), the Department of Parks and Recreation (DPR), the Department of Sanitation (DSNY) and the Business Integrity Commission (BIC).

Enforcement personnel of DEP, DPR, DSNY, and BIC are authorized to issue Office of Administrative Trials and Hearings (OATH) summonses returnable to the Environmental Control Board (ECB). Summonses written pursuant to 24-163 are adjudicated before ECB, which is now under OATH. Penalties on a finding of violation range from \$200 to \$2,000. Parking summonses issued pursuant to the NYC Traffic Rules by all TEAs are returnable to the Department of Finance and the penalty is \$100.

Intro. 230, which was introduced in 2014 in conjunction with the update to the Air Code, would address idling trucks that use secondary engines to idle indefinitely under the processing-device exception, as well as to clarify some of the other exceptions in the current law, including the timeframe to idle during extreme temperatures. DEP supports Intro. 230 and hopes to continue to work with the Council to pass this important piece of legislation.

Before I turn my attention to the specifics of Intros. 325 and 717, I would like to note that the Administration takes enforcement of engine idling very seriously. As a point of reference, 3,263 parking violations were issued for engine idling in 2014, and 3,284 parking violations were issued in 2015, which represents a 28% increase from 2013.

To increase the effectiveness of our efforts, we target enforcement by identifying or being informed of 'hotspots' where idling is a recurring problem. In addition to visiting locations along tour buses routes, unofficial layover stops, and express van pick-up/drop-off locations, we have most recently focused on several areas where school bus companies house their fleets. We respond to complaints from elected officials and in fact have engaged in prolonged enforcement actions at their request. In one case we even had Council staff members observe our efforts. We also send idling fliers to bus companies and schools and pass them out to parents around the schools in May, which is Asthma Awareness Month, reminding everyone of the law and steps to take to reduce idling around schools. In conjunction with this effort we conduct enforcement actions at schools across the boroughs.

It is important to bear in mind that there are many instances when trucks and buses are operating within the law under certain exemptions, though citizens might not realize or understand that. Finally there are many cases in which the ticketing of one individual will lead to others in the area who are idling to shut their engine off.

I'll turn now to Intro. 325, which proposes to make the current handheld parking ticket devices used by the Police Department capable of issuing OATH summonses for violations of Ad. Code 24-163, which would be returnable to ECB. NYPD's primary enforcement of engine idling is performed by TEAs, as mentioned, through the issuance of a parking summons under the NYC Traffic Rules. Engine idling is prohibited under 34 RCNY § 4-08(p) of the Rules. Additionally, NYPD patrol officers may issue criminal court summonses for engine idling under the Ad. Code as well. The Police Department's handheld parking ticket devices, which are used exclusively by TEAs, are not technologically capable of issuing OATH summonses returnable to ECB.

I'll now turn to Intro. 717, which proposes to enable citizens to submit online video recording of an idling violation and to collect a reward therefor on a finding of violation.

The citizen's complaint provision has rarely been used in the past. However, after meeting with Council Member Rosenthal and her staff last spring, DEP committed to provide a more transparent process, a component of which includes citizen training. Since then, DEP staff met with interested citizens to teach them the requirements for preparing a complete citizen's complaint form that could lead to the issuance of an idling summons, including training on the law, what constitutes idling, the types of exemptions, and how evidence should be provided. The citizens provided several test cases and shared feedback with us. As a result of the test cases, and follow-up discussions and meetings, DEP has revised the citizen's complaint form, created an instruction sheet that is available on our website, and worked with OATH to formalize the transmission of citizen's complaints into the hearing process, as well as training interested citizens.

DEP is concerned about the requirement in the bill of no fewer than five training sessions a year. This number of required trainings would create a significant resource issue. We agree that training to familiarize citizens with the law is necessary; therefore we would welcome the opportunity to discuss the best and most manageable options for training.

DEP has no objection to the submission of video, but it would be more useful as a record that encompasses salient aspects of the type of activity being captured. For example, there is an exemption for idling of buses to control cabin temperature for passengers, or for processing devices, such as a truck's lift gate. That is, this information would be more helpful as a video when used to show that the activity does not fall within one of the exceptions to the idling law. A picture, which is more of a tool to show that there is an actual vehicle present and its license plate number, provides the start and end time to determine if the vehicle exceeded the allowable timeframe. This information along with the affidavit will provide

more detail as to whether a violation of Section 24-163 has occurred. Finally, idling might not be evident if there are no visible emissions from the vehicle in the video.

Section 24-182(a) of the Code only authorizes citizen's complaints for idling violations by buses and trucks as defined in the State Vehicle and Traffic Law (VTL); we believe expanding it to include passenger cars is both dangerous and impractical. DEP's inspectors will approach a passenger vehicle knowing police support is available. DEP also has a means to request information from the Department of Motor Vehicles (DMV) when engaging in an idling enforcement action. It is extremely difficult to obtain the registered owner's information from DMV even if the plate number is available. And it is extremely unlikely that a driver would provide a citizen who asked for identification information with it and could instead become violent or simply drive off. DEP strongly urges in the name of public safety that this bill not include citizen enforcement against passenger vehicles. Further, we are more concerned at this point with reducing emissions from diesel-fueled vehicles, which contribute to ozone formation.

DEP supports increased penalty amounts for idling, which is after all an unwarranted and unnecessary detriment to air quality and public health in New York City. While the Air Code update eliminated the distinction between gasoline (generally passenger cars) and diesel (commercial) vehicles with regard to penalties, the Council might now want to consider differing penalty levels for commercial and private vehicle idling.

Again, thank you for this opportunity to testify. I will be glad to answer any questions.