

**RUSH TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA
ORDINANCE NO. 157**

AN ORDINANCE OF RUSH TOWNSHIP, DECLARING THE OPERATION OF AN ENGINE BRAKE INSTALLED UPON OR IN A GASOLINE POWERED OR DIESEL POWERED MOTOR VEHICLE NOT EQUIPPED WITH EXHAUST MUFFLERS OR EQUIPPED WITH INOPERABLE OR MODIFIED EXHAUST MUFFLER, SO AS TO PERMIT THE CREATION OF EXCESSIVE NOISE THROUGH THE EMPLOYMENT OF SAID ENGINE BRAKE TO BE A NUISANCE IN FACT AND ESTABLISHING PENALTIES FOR THE VIOLATION OF SAID ORDINANCE AND ESTABLISHING EXCEPTIONS TO THE ENFORCEMENT OF SAID ORDINANCE IN EMERGENCY SITUATIONS.

WHEREAS on State Route 309 and State Route 54 within the Township of Rush, (hereinafter Township), individuals are operating trucks and/or other vehicles with engine brakes not equipped with exhaust mufflers or which are equipped with either inoperable or modified exhaust mufflers so as to omit the creation of excessive noise through the use or employment of said engine brakes; and

WHEREAS, the use of such vehicles, equipped with engine brakes without exhaust mufflers or with inoperable exhaust mufflers or with a modified exhaust mufflers which permit the creation of excessive noise, disturb the peace and harmony of the citizenry, residents, and general public of the Township; and

WHEREAS such engine brakes disrupt or injury the health, general welfare, and comfort of the residents of the Township; and

WHEREAS the Township has the power and authority to regulate nuisances within its municipal limits and has the authority and power to make such regulations as may be necessary for the health, safety, morals, general welfare, convenience and comfort of the citizenry and residents of the Township and the general public therein;

NOW THEREFORE be it ordained by the Board of Supervisors of Rush Township as follows:

Section 1. This Ordinance shall be known as the "Rush Township Engine Brake Ordinance".

Section 2. The Supervisors of Rush Township find, as a fact, that the operation of an engine brake on a gasoline powered or diesel powered motor vehicle not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through said engine brakes, adversely affects the public health, safety and welfare of the residents of Rush Township, and

therefore, is a nuisance in fact.

Section 3. No gasoline powered or diesel powered motor vehicle shall be operated on State Route 309 within the Township of Rush, Schuylkill County, Pennsylvania, between the intersection of Route 309 and Grove Street and the intersection of State Route 309 and State Route 54 utilizing an engine brake without exhaust mufflers, or with defective or modified exhaust mufflers permitting excessive noise to be created by said motor vehicle.

Section 4. No gasoline powered or diesel powered motor vehicle shall be operated on State Route 54 within the between the eastern most point of the Skyview Cemetery and the intersection of State Routes 54 and 309 in the Village of Hometown, nor between the intersection of Matz Street and State Route 54 and the intersection of State Route 54 at 309 in the Village of Hometown, all of which is in the Township of Rush, Schuylkill County, Pennsylvania, utilizing an engine brake without exhaust muffler, or with defective or modified exhaust mufflers permitting excessive noise to be created by said motor vehicle.

Section 5. This Ordinance shall not apply to emergency driving situations which require utilizing in said operation of a motor vehicle an engine brake without exhaust mufflers or equipped with inoperable exhaust mufflers or equipped with exhaust mufflers which have been modified or which are defective to protect the safety and property of the residents of the Township of Rush, other motor vehicles operators, pedestrians, and the operator and passengers of the motor vehicle or vehicles involved in said emergency situations.

Section 6. Any person, firm, corporation or organization violating the provisions of this Ordinance shall, upon summary conviction before a District Magistrate having jurisdiction, be sentenced to pay a fine of not more than three hundred (\$300.00) dollars and undergo the costs of prosecution, and in default of the payment thereof, shall be sentenced undergo imprisonment in the Schuylkill County Prison for a period not to exceed thirty (30) days.

Section 7. Those delineated roadway sections that are found to have no downhill grades no greater than four (4%) percent, no posted reduced speed limit for trucks due to hazardous grades, reduced gear zones due to hazardous grades, no posted speed limit in excess of fifty (55) miles per hour, no history of "runaway truck" crashes and no discernable pattern of a number of rear end truck crashes in the past three (3) years where trucks were the striking vehicles.

Section 8. This Ordinance shall become effective at the earliest date permitted by law after enactment or adoption.

Section 9. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal, or invalid, or otherwise

unenforceable by a Court of Competent Jurisdiction, the remaining portions thereof shall not be effected thereby.

Section 10. Any Ordinance or part of any Ordinance conflicting with the terms of this Ordinance is hereby specifically repealed only to the extent of such conflict.

ENACTED AND ORDAINED by the Rush Township Board of Supervisors at a lawfully advertised meeting this 16th day of August, 2005, 2005.

RUSH TOWNSHIP BOARD OF SUPERVISORS:



FRANK BERLETH, Chairman

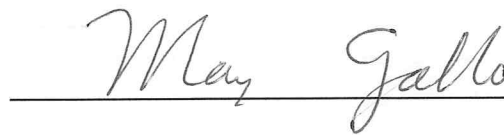


WILLIAM SANCHEZ, JR, Vice Chairman



MARION LAZUR, Supervisor

ATTEST:



Secretary