



TO: School Board Members, Superintendents and Business Managers

FROM: The Vermont Education Policy Service
Don Morrill, Program Manager, VSBIT
Nicole Mace, Associate Director for Legal Services, VSBA

RE: Motor Vehicle Idling Policy Guidance

New Law Prohibits Idling of Motor Vehicles

Effective May 5, 2014, Vermont has a new law prohibiting a person from causing or permitting the idling of motor vehicles for more than five minutes in any 60-minute period while the vehicle is stationary [Chapter 23 V.S.A. §1110]. There are exceptions, which include a school bus on school grounds in compliance with rules adopted in 2007 pursuant to 23 V.S.A. §1282(f).

VSBIT and VSBA understand the concerns that exist about automobile or school bus idling at schools. However, we do not believe that school districts ought to be in the position of enforcing the motor vehicle idling law. Rather, we recommend schools take the following steps:

1. Ensure all school vehicles and vehicles used for school purposes conform to the law.
2. Educate staff - especially those that may drive on behalf of the school or supervise drivers who accompany school field trips - on the law and require them to comply with it.
3. Communicate with parents, vendors and others who regularly bring vehicles on school property to ensure they are aware of the law and are responsible for complying.

We believe the actions listed above are reasonable and appropriate steps for schools to take in response to the law. Idle-Free VT, Inc. is a Vermont non-profit interested in this important issue. As required by Act 48 of 2007, the Agency of Education developed a model policy prohibiting the idling of vehicles other than school buses for school districts to adopt **at their discretion**. We believe that in light of the new law prohibiting idling of all motor vehicles, such a policy is not necessary or advisable. However, Idle-Free VT, Inc is currently engaged in an effort to encourage its adoption by school districts and recently submitted a formal request that the VSBA include the policy in its model policy manual.

As part of the Vermont Education Policy Service – a partnership between VSBA and VSBIT - VSBIT's legal counsel reviewed the model policy for motor vehicle idling and found the policy raises some potential liability issues for school districts. Because of these concerns, VSBIT and VSBA will not add this policy to the list of policies to consider in the VSBA model policy manual.

While we acknowledge that this is an extremely important issue, we urge all of our members to carefully consider the potential ramifications of any policy that they enact. Some of the potential risks associated with adopting the model policy include:

1. The model policy contemplates that administrators or other school employees will make efforts to enforce the anti-idling policy. We expect that this will mean that during times of heavy motor vehicle traffic, like drop-off and pick-up, that employees will monitor buses and other vehicles for violations. This may include walking about driveways and parking lots to check for idling. Unless additional employees are assigned to monitor for idling, anti-idling enforcement will divert attention away from students as they arrive and depart from school. Bullying, harassment and other student-on-student misbehavior often occur in the context of unstructured time. We believe that adult supervision is particularly important during this unstructured time. If school districts wish to adopt the model policy, it is our view that the best practice would be to assign additional employees to make certain that there is not less attention paid to students.
2. The model policy also specifically contemplates enforcement on all school grounds, including parking lots and driveways. This means that employees would be expected to patrol the grounds for compliance. Wintertime compliance checks would often expose those employees to a greater chance of slip and fall injury because of ice and snow on the parking lots or driveways. This creates the potential for increased worker's compensation costs and, of course, significant injury to the employees.
3. The policy may also increase liability exposure for members if a school fails to reasonably enforce the policy. The policy creates a burden and a standard of care for the school that would likely be unhelpful in the event of personal injury litigation arising from exposure to fumes from idling vehicles. The policy imposes a legal obligation to make reasonable efforts to stop unlawful idling. A failure to do so, with resulting injury, would create a cause of action against the school district.
4. Finally, the policy seems to acknowledge that motor vehicle idling presents a risk of harm to people in the vicinity of motor vehicle exhaust. In fact, the policy specifically identifies vehicle exhaust as a cause of lung damage and respiratory problems. There is no doubt that extreme exposure to fumes is unhealthy and may cause illness. However, there would likely be significant dispute in litigation as to whether casual exposure to fumes in an open air environment is sufficient to cause significant illness. If the cause of some claimed illness were to become a disputed issue in litigation arising from fume exposure, the policy language is problematic.

The Vermont Education Policy Service provides information and guidance to school board members to assist them in their role as policymakers for school districts and supervisory unions. If you have any questions or concerns regarding this or any other policy matter please do not hesitate to contact us.