

Bill No. 1941-05

No. 21-05-OR

## AN ORDINANCE

Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending Ordinance No. 40-03-OR enacted August 19, 2003 entitled, "An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a policy on idling of diesel powered motor vehicles," by deleting Section 3 relating to regulation of diesel powered locomotives and renumbering remaining sections.

**WHEREAS**, on August 19, 2003, County Council passed legislation creating an anti-idling policy for the County, assigning the responsibility for promulgation of rules and regulations to the Board of Health; and

**WHEREAS**, the ordinance, intended to be comprehensive in order to address the health implications resulting from emissions in the County and protect the health, safety, and welfare of this County's residents, also provided that the regulations should extend to diesel powered locomotives; and

**WHEREAS**, it is the belief of the Allegheny County Law Department that regulation of idling for locomotives has been preempted by the United States Constitution through the Commerce Clause and subsequent statutory regulation of the field by the United States Congress; and

**WHEREAS**, railroads in the United States are focused upon finding ways to lower their fuel consumption, an effort that has resulting in a statement by the Environmental Protection Agency (EPA) that locomotives are three times cleaner than trucks on an emissions per ton-mile basis; and

**WHEREAS**, railroads are currently subject to EPA emission standards that apply to new locomotives and remanufactured locomotives; as a result, the existing locomotive fleet burns less fuel than it did ten years ago and continues to reduce its emissions and fuel consumption consistent with safety requirements and operating needs;

***The Council of the County of Allegheny hereby enacts as follows:***

### **SECTION 1.**

Section 3 of Ordinance No. 40-03-OR shall be deleted in its entirety:

**~~SECTION 3. IDLING OF DIESEL POWERED LOCOMOTIVES~~**

~~No person owning or operating a diesel powered locomotive shall permit, cause, suffer or allow said locomotive to be idled in such a manner such as to cause or contribute to a condition of air pollution. The Board of Health shall promulgate rules and regulations, subject to the approval of the County Council, regarding a maximum allowable period of idling. Such rules and regulations shall also define exceptions to the maximum allowable period that consider extreme temperatures.~~

**SECTION 2.**

Sections 4-8 of Ordinance No. 40-03-OR shall be renumbered accordingly.

**SECTION 3.**

Notice of this action shall be provided to the Allegheny County Board of Health upon passage.

**SECTION 4.** *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

**SECTION 5.** *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

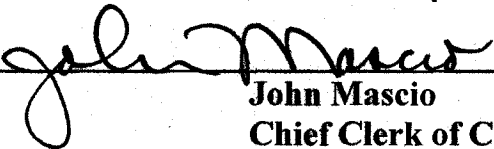
**SPONSORED BY COUNCIL PRESIDENT FITZGERALD**

Enacted in Council, this 19<sup>th</sup> day of April, 2005

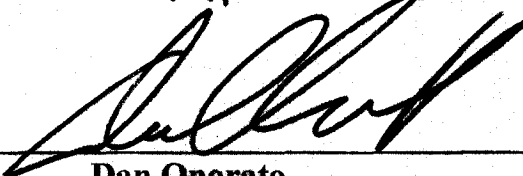
Council Agenda No. 1941-05

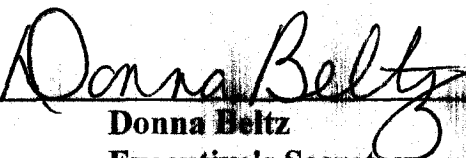


**Rich Fitzgerald**  
President of Council

Attest:   
**John Mascio**  
Chief Clerk of Council

Chief Executive Office April 27, 2005

Approved:   
**Dan Onorato**  
Chief Executive

Attest:   
**Donna Beltz**  
Executive's Secretary