

ORDINANCE NO. 263*
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AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA, 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 MUFFLERS SO AS TO PERMIT THE CREATION OF EXCESSIVE NOISE THROUGH THE EMPLOYMENT OF SAID ENGINE BRAKE TO BE A NUISANCE IN FACT; ESTABLISHING PENALTIES FOR THE VIOLATION OF SAID ORDINANCE AND ESTABLISHING EXCEPTIONS TO THE ENFORCEMENT OF SAID ORDINANCE IN EMERGENCY SITUATIONS.

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Pursuant to the powers vested in it by the Act of February 1, 1966, P.L. (1965) No. 581, Section 1202, as amended, 53 P.S. 46202 (4) the Borough of Berlin, Somerset County, Pennsylvania, hereby enacts the following Ordinance:

SECTION 1. This Ordinance shall be known as the "Berlin Borough Engine Brake Ordinance".

SECTION 2. The Borough Council of the Borough of Berlin, Somerset County, Pennsylvania, finds 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 the use of said engine brake, adversely affects the public health, safety and welfare of the residents of the Borough of Berlin and, therefore, is a nuisance in fact.

SECTION 3. No gasoline powered or diesel powered motor vehicle shall be operated on the streets, roads, alleys or highways within the Borough of Berlin, Somerset County, Pennsylvania, utilizing, in said operation, 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. This Ordinance shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Berlin Borough, other motor

vehicle operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency situation.

SECTION 5. Any person, firm, corporation or organization violating any of 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 costs of prosecution, and in default of the payment thereof, shall be sentenced to undergo imprisonment in the Somerset County Jail for a period not to exceed ten (10) days.

SECTION 6. This Ordinance shall become effective five (5) days after its enactment or adoption.

SECTION 7. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional, illegal, invalid, or otherwise unenforceable by a Court of competent jurisdiction, the remaining portions thereof shall not be affected thereby.

SECTION 8. Any Ordinance or part of an Ordinance conflicting with the terms of this Ordinance is hereby specifically repealed.

Adopted by the Berlin Borough Council, enacted and ordained this 2nd day of October, 1986.

ATTEST

BOROUGH OF BERLIN

Kerry B. Claydon
Secretary

Anna L. Miller
President of Council

(SEAL)

Approved, this 2nd day of October, 1986.

Stuart Kreimbach
Mayor, Borough of Berlin