

AMERICAN SLEEP APNEA ASSOCIATION
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November 10, 2010

The Honorable Ray Basham
P.O. Box 30036 Via Fax
Lansing, MI 48909-7536

Dear Senator Basham,

The American Sleep Apnea Association (ASAA) is a nonprofit patient interest organization located in Washington, DC. Our members and supporters are composed apnea patients, their family members and the sleep medicine professional who care for them.

We are writing to you to that you to consider an amendment to **SB-1069** to address the needs of truck drivers under treatment for obstructive sleep apnea.

Obstructive Sleep Apnea is a condition where the soft tissues of the throat relax and block the airway during the deeper stages of sleep. This results in arousals when the body senses a lack of oxygen. The frequent number of arousals per hour during sleep disrupts the ability to enter the deep restful stages of sleep as well as Rapid Eye Movement (REM) sleep. Untreated sleep apnea contributes to high blood pressure, diabetes, hypothyroidism, and a host of other medical complications. Among the notable people who died prematurely due this condition is football great Reggie White. The treatment that is most effective for the most people is Positive Airway Pressure, commonly referred to as CPAP. This involves uses an electric blower delivering a constant pressure of room air through a mask that covers the nose or nose and mouth.

The ASAA recently hosted the Sleep Apnea & Trucking Conference (SATC) in Baltimore, MD. This first ever conference brought together sleep apnea medical treatment experts, trucking company executives, insurance carriers, National Transportation Safety Board, and Federal Motor Carrier Safety Administration representatives. One of the outcomes of the conference was a recognition that dealing with sleep apnea in trucking is a complicated issue as it involves highway safety and a host of regulations such as anti-idling where this issue would not normally be considered. Another outcome of the conference was that ASAA began to understand the complexities of the trucking industry. Sleep apnea treatment solutions that might work for a larger trucking company will not work for a single truck owner operator. Solutions workable for US based trucking interests may not work with Canadian cross border trucking. Ensuring truck drivers with sleep apnea stay current on their CPAP therapy is a critical highway safety and medical treatment issue.

Another outcome of the SATC was an appreciation for how the Americans with Disabilities Act will apply. Sleep apnea is a disability under the ADA as it affects the basic life process of sleeping. While no specific cases on reasonable accommodations for sleep apnea in trucking have come up, there is a host of other case law on what the courts have held to be reasonable accommodations. An exemption to an anti-idling law for use of an assistive device to mitigate the disability of sleep apnea would be a required reasonable accommodation under the ADA.

Truck drivers under treatment for sleep apnea face a variety of issues in dealing with this easily treated but potentially deadly condition.

First, drivers under treatment for sleep apnea need a way to power their CPAP machine. Most operate on 110-V household current, which can be created in a truck sleeper through a specific type of inverter designed for medical equipment. Some newer CPAP can operate directly on 12-V power. These medical devices which supply heated and humidified air at a very specific range of pressures they are sensitive to changes in voltage. Most CPAP draw more power than the batteries of a semi-truck can supply for an 8-hour period. This issue is complicated when ambient air temperature drops and the capacity of any batteries drop with cold weather. Michigan's Upper Peninsula winter temperatures are often well outside the range of temperatures truck batteries can supply power for a CPAP for very long.

Second, a driver using a CPAP needs to have reasonable climate control in the sleeper berth. A CPAP pushes large quantities of air into the airway to keep the throat inflated to prevent obstructions. This air has to be pre-heated and humidified to prevent complications. There is a limit to how much the heating and humidification of a CPAP can prevent hypothermia. This is when the heart, lungs, and body core are cooled too much. This potentially deadly condition would be similar to immersing a person in cold water. While no specific temperature ranges for CPAP use have been established by any of the medical groups associated with sleep apnea our member's experiences have shown sleeping on CPAP below 60 or above 75 degrees results in treatment complications.

Auxiliary Power Units (APU) and other anti-idling technologies can provide the power and climate control needed to ensure proper treatment of sleep apnea by truck drivers. The problem is ensuring all drivers with sleep apnea passing through, picking up or delivering in Michigan have access to this technology. We understand that Michigan has established a grant program for funding APUs and other anti-idling technology. This will address the needs of trucking interests based in Michigan and eligible for the grant program. From our understandings of the trucking industry this will not address the needs of trucking companies based outside of Michigan where drivers pick up, deliver, or need to take their DOT mandated sleep period while in Michigan. It also appears that this grant program will not address the needs of drivers with sleep apnea who operate company owned trucks where their employer does not choose or is not eligible for the APU grant program. Last, while the ASAA does not represent Canadian patients with sleep apnea, Canadian drivers with sleep apnea face the same issues as their American counterparts. A truck driver under treatment for sleep apnea missing even a single night of CPAP use faces grave medical issues and poses a large safety risk to the general Michigan driving public. Recently the NTSB cited untreated mild sleep apnea as a contributing cause to the worst fatality accident in Oklahoma history.

To address these concerns we would like to suggest you consider the following as options.

OPTION 1

Include an exemption to allow idling of trucks only when the driver is physically present in the sleeper berth if required for the use of a medically required device such as a CPAP.

There is no firm nationwide data on how many drivers are currently under treatment for sleep apnea. As medical treatment information in confidential nationwide figures are not available. Information from several large trucking companies with sleep apnea testing and treatment programs, which made presentations at the SATC in Baltimore, had about 10% of their fleets under treatment.

The issue for you as a legislator is balancing the medical needs of this small percentage of truck drivers against the larger air quality issues of truck idling. The other issue to consider in this balancing of needs will be the effect on Michigan highway safety.

OPTION 2

Require all sleeper berth equipped trucks operated in the state of Michigan, when driven by a driver under treatment for sleep apnea to be equipped with APU or other anti-idling technology. “Under treatment for sleep apnea” could be defined as being in possession of a CPAP machine and having a copy of the driver’s DOT long form physical noting sleep apnea available for enforcement personnel. A phase-in period to allow trucking companies to comply with this provision would be needed. Enforcement could be through a complaint system where driver’s DOT logs showing a DOT break in Michigan with a non-APU equipped truck would be sufficient to generate fines or penalties to the truck owner.

We suspect this option might find less favor with the Michigan Trucking Association or other trucking related groups as it would require costly investments in anti-idling equipment or be exposed to fines.

Your neighbors in Dane County Wisconsin decided to modify their anti-idling regulation to take into consideration the medical needs of commercial vehicle drivers passing through their jurisdiction. I hope the great state of Michigan can as well.

If the association can provide any additional information or be a resource to you and your staff on this issue, please feel free to contact me.

Sincerely,

Edward Grandi



Executive Director