

RESOLUTION NO. 1338

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS
OF ATCHISON COUNTY, KANSAS, CONCERNING THE USE OF
ENGINE BRAKES ON VEHICLES**

WHEREAS, the Board of County Commissioners of Atchison County, Kansas finds 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 in populated areas adversely affects the public health, safety and welfare of residents of the County, and therefore, is a nuisance in fact; and

NOW, THEREFORE, BE IT RESOLVED by The Board of County Commissioners of the County of Atchison, Kansas, as follows:

Section 1: Definitions: "Engine compression brake" shall mean any device that utilizes air compression and/or rapid release of compressed air in the cylinders of combustion engines to slow or retard vehicle speed. These devices are commonly referred to as "air brakes," "compression brakes," "engine brakes," "engine retarders" or "exhaust brakes," and are sometimes marketed as "Jacob's Brakes," "Jake Brakes," "Pacbrakes," "TecBrakes" or "D-Celerator brakes."

"Noise baffling device" shall mean a properly functioning muffler or engine exhaust silencer that eliminates the offensive and disturbing noise caused by use of engine compression brakes. The muffler or engine exhaust silencer must reduce the noise to levels meeting vehicle noise emission standards set or authorized by the Noise Control Act (42 U.S.C. §4901 *et seq.*) and the United States Environmental Protection Agency, and must also comply with all other federal, state or local laws and regulations relating to vehicle noise levels.

Section 2: Use of Engine Compression Brake Prohibited. It shall be unlawful for the operator of a motor vehicle to engage, or allow to be engaged, operate, or use, an engine compression brake, or any similar mechanical exhaust device designed to aid in the deceleration of any vehicle which results in the emission of excessive and loud noise from the vehicle, while the vehicle is operated on Sherman Road between the intersection of Sherman Road and 6th Street and the intersection of Sherman Road and Sheridan Road.

Section 3: Exclusions. This resolution shall not apply to operation of any public safety vehicle or to the operation of a vehicle involved in an emergency not caused by the operator of the vehicle utilizing the engine compression brake, wherein the operator reasonably believes that use of the engine compression brake is necessary to avoid or mitigate a collision or mishap.

Section 4: Penalties. Any person and/or the firm or corporation for whom the driver is employed violating this resolution shall be deemed guilty of a misdemeanor crime and, upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Section 5: Signage: The County is authorized, but is not required, to place "No Engine Brake" traffic control signs, or other similar signs, along Sherman Road warning drivers of the prohibition.

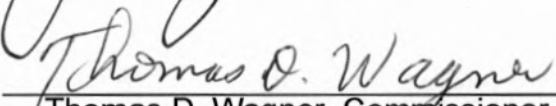
Section 6: Severability. If any sentence, clause, section or part of this Resolution is for any reason be found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Resolution.

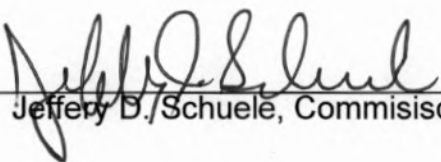
Section 7: Effective Date. This Resolution shall be in effect from its adoption and publication once in the official county newspaper

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Atchison

County, Kansas, this 2nd day of May, 2011.

By: 
Jerry Madden, Chairman

By: 
Thomas D. Wagner, Commissioner

By: 
Jeffery D. Schuele, Commisisoner



ATTEST:


Pauline M. Lee, Atchison County Clerk