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**From:** Joel R Phillips <jphillips@marshallcountya.gov>  
**Sent:** Tuesday, September 6, 2022 3:26:29 PM  
**To:** Steve Salasek <ssalasek@marshallcountya.gov>  
**Subject:** RE: Found 2 examples of ordinances jake brake

Steve,

This is a long and contentious subject in many communities. This would fall under I.C. 723.4-Disorderly Conduct (Loud and Raucous Noise) or a completely specific county ordinance for an engine brake that would have to be detailed versus a county wide ordinance. For disorderly conduct (like many incorporated communities use for a "noise ordinance") a 2019 a Federal ruling made Iowa's disorderly code unconstitutional and subjective to enforce. Iowa Code was then revised in 2020, however this would have to be proven that the noise is made intentionally or recklessly to cause unreasonable distress to occupants. An engine brake does have a mechanical purpose especially in the reduced speed zone in that area that goes from 55-35 MPH in a short distance unlike a loud radio.

For an engine brake ordinance the examples that Shari provided are not current from what I can tell (2007 and the 2<sup>nd</sup> I have no idea where it originated or year enacted). A County Engine Brake Ordinance would have to be specific and I would be curious if there has been recent prosecution/conviction of this ordinance.

Here are the obstacles that would need to be addressed:

Signage-County highway so IDOT waiver doesn't need applied for, hours allowing or completely ban engine brakes. Likelihood deputies will be in Green Mountain throughout the night to monitor engine brake compliance.  
Enforcement-We do not have calibrated decibel meters, minimum number of meters that would have to be measured 50 ft. from the offense at a specific decibel and "victim" if using the disorderly code section. This would create a large "rabbit hole" for a large agriculture county. Polk County does have an county ordinance that is region specific mostly includes subdivision areas.  
State Law allows use for emergency engine brake use that would difficult to prove for a conviction.

Here are possible solutions:

Address this with Iowa Select if it is a company specific problem. I think this would be reasonable to avoid proactive enforcement if an ordinance is adopted.

Raise speed limit from 35 to 45 MPH during non-school hours and add a yellow flashing light with 25 MPH speed limit. Voluntary compliance is achievable as long as the speed reductions make sense. Violators have a logical point when there is no school, 0300 in the morning when no traffic present or clear sight distance. IDOT crash data most likely support 35 MPH is on the low end for the roadway demographics. Since 2012 there has been 4 crashes at the intersection of 170<sup>th</sup> St. and Wallace Avenue. 2-weather related, 1-animal, 1- failure to yield right of way. In 2017 there was the fatality at the intersection of Woolston and Wallace Avenue, this was a single vehicle that alcohol was the cause of the fatality. A total of 5 in a 11 year period for that speed zone.

Is there a large number of complaints or is a specific individual(s), certain nights or just recent? I'm surprised livestock haulers are using Wallace Avenue; we have had a couple crashes last week where traffic was re-routed to Wallace.

Joel

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