



GOV. MSG. NO. 826

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 15, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB605 SD1 HD3 CD1, without my approval, and with the statement of objections relating to the measure.

SB605 SD1 HD3 CD1

A BILL FOR AN ACT
RELATING TO NOISE.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written over the printed name.

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 605

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 605, entitled "A Bill for an Act Relating to Noise."

The purpose of this bill is to require the Department of Health to add the dBC decibel weighting system to the current dBA weighting system for community noise control. In addition, the bill establishes a maximum nighttime sound level of fifty to sixty decibels dBC for urban land use districts. Finally, the bill directs the county liquor commissions, with the assistance of the Department of Health and the Department of Labor and Industrial Relations, to develop recommendations for a permanent maximum sound level in dBC decibels for licensed liquor establishments.

Noise can be a major irritant for residents living in urban districts, especially those living in mixed use areas. Nighttime noise can be especially disruptive to residents who are trying to relax after work, spend time with their families, and get much needed sleep. Unfortunately, noise is a reality of urban living and it is something most urban residents learn to tolerate over time.

This bill is objectionable because it sets a new maximum nighttime noise level for urban land use districts which

STATEMENT OF OBJECTIONS
SENATE BILL NO. 605
Page 2

is not based on scientific, validated research. The new maximum sound level would be measured with the dBC weighting system, which has not been previously used by the Department of Health or the county liquor commissions. As a result, more study and research is needed before adopting this system and mandating a maximum sound level that will unfairly impact many law-abiding businesses located in mixed used areas.

I support provisions in the bill which would require the county liquor commissions, along with the Department of Health and the Department of Labor and Industrial Relations, to develop recommendations for maximum sound levels in urban areas. I encourage these entities to research and study this issue even though I am issuing a veto of this bill.

For the foregoing reasons, I am returning Senate Bill No. 605 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read 'L. Lingle', written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO NOISE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The department of health currently uses the dBA
2 weighting system to measure noise. The dBA system measures
3 sound in decibels (dB) using the "A weighted" measurement, dBA,
4 such that sound levels measured in dBA correspond to what the
5 human ear hears. An alternative dBC weighting system also
6 measures sound levels but includes measurement of the lower
7 frequencies that cause physical objects such as windows and
8 walls to vibrate. Despite these tangible effects, however,
9 because these lower frequency sound waves are not perceived by
10 the human ear as measured by the dBA weighting system, the sound
11 levels generated do not currently constitute a violation of the
12 community noise control law.

13 The purpose of this Act is to:

- 14 (1) Require the department of health to add the dBC
15 decibel weighting system to the current dBA decibel
16 weighting system for community noise control;
- 17 (2) Require the department of health to adopt a range of
18 fifty to sixty decibels (using the dBC weighting



1 system) as the maximum sound level permissible at
2 nighttime in any urban land use district, as
3 designated pursuant to section 205-2 Hawaii Revised
4 Statutes; and

- 5 (3) Direct the county liquor commissions, with the
6 assistance of the department of health and the
7 department of labor and industrial relations, to
8 develop recommendations for a permanent maximum sound
9 level, in decibels.

10 SECTION 2. The county liquor commissions, with the
11 assistance of the department of health and the department of
12 labor and industrial relations, shall develop recommendations
13 for a permanent maximum sound level, in decibels, for liquor
14 establishments licensed under chapter 281, Hawaii Revised
15 Statutes, by no later than twenty days prior to the convening of
16 the 2010 regular session. The recommendations shall address the
17 following:

- 18 (1) Protection of hearing of employees and patrons of the
19 liquor establishment; and
20 (2) Protection of hearing of residents whose homes are
21 adjacent to or abut the liquor establishment,



1 including noise levels resulting from early morning
2 trash and bottle disposal.

3 SECTION 3. Chapter 342F, Hawaii Revised Statutes, is
4 amended by adding a new section to part II to be appropriately
5 designated and to read as follows:

6 "§342F- Noise measurement; rules. (a) The department
7 shall adopt rules in accordance with chapter 91 that shall use
8 both the dBC and the dBA sound level measurement systems for
9 community noise control. The department and the county liquor
10 commissions may enforce nighttime noise levels in any urban land
11 use district measured from over fifty to sixty decibels,
12 measured using the dBC weighting system, in certain areas they
13 deem appropriate and not adversely affecting public health and
14 safety.

15 (b) In any urban land use district, a sound level of more
16 than sixty decibels for bass sound (using the dBC weighting
17 system), measured at a complainant's site, shall be deemed to
18 exceed the maximum permissible sound at nighttime; provided
19 that, where the complainant's site is within or in close
20 proximity to an area zoned mixed-use or residential, the maximum
21 permissible sound at nighttime shall be fifty decibels dBC.

22 (c) For purposes of this section:



1 "Nighttime" means the time between the hours of 10:00 p.m.
2 and 7:00 a.m.; and

3 "Urban land use district" means property designated as such
4 pursuant to section 205-2."

5 SECTION 4. Section 342F-1, Hawaii Revised Statutes, is
6 amended by adding three new definitions to be appropriately
7 inserted and to read as follows:

8 "dBA" means the A-weighted sound level or unit of
9 measurement describing the total sound level of all noises as
10 measured with a sound level meter using the "A" weighting
11 network.

12 "dBC" means the C-weighted sound level or unit of
13 measurement describing the total sound level of all noises as
14 measured with a sound level meter using the "C" weighting
15 network.

16 "Decibel" means the unit for measuring the volume of sound,
17 equal to twenty times the logarithm to the base ten of the ratio
18 of the pressure of the sound measured to the reference pressure,
19 which is twenty micropascals (0.0002 dynes per square
20 centimeter)."

21 SECTION 5. New statutory material is underscored.

22 SECTION 6. This Act shall take effect upon approval.

