

JAN 27 2016

A BILL FOR AN ACT

RELATING TO NOISE.

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

1 SECTION 1. Chapter 281, Hawaii Revised Statutes, is
2 amended by adding a new section to part VII to be appropriately
3 designated and to read as follows:
4 "§281- Noise restrictions; multiple violations;
5 penalties. (a) Notwithstanding any other law to the contrary,
6 if the liquor commission or liquor control adjudication board
7 established in a county with a population of five hundred
8 thousand or more pursuant to section 281-11 determines that any
9 licensee has violated a noise restriction more than once during
10 the same calendar year, the penalty for the second or subsequent
11 violation shall be as follows:

12 (1) For a second violation, the fine shall be a minimum of
13 \$2,000 and a maximum of \$4,000;

14 (2) For a third violation, the fine shall be a minimum of
15 \$4,000 and a maximum of \$8,000;

16 (3) For a fourth violation, the licensee's license shall
17 be suspended for one month;



1 (4) For a fifth violation, the licensee's license shall be
2 revoked.

3 (b) As used in this section, "noise restriction" means a
4 provision of any statute, rule, regulation, permit, or license
5 under chapter 281 or 342F that restricts sound levels using
6 either dBA or dBC as a measurement of sound; provided that "dBA"
7 and "dBC" shall have the same meanings as in section 342F-1."

8 SECTION 2. Section 281-91, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§281-91 Revocation or suspension of license; hearing.**

11 The liquor commission or liquor control adjudication board may
12 revoke any license at any time issued, or suspend the right of
13 the licensee to use the licensee's license, or assess and
14 collect a penalty, or reprimand the licensee, either for the
15 violation of any condition of the license or of any provisions
16 of this chapter or of any rule or regulation applicable thereto,
17 or upon the conviction in a court of law of the licensee of any
18 violation of this chapter or of any other law relative to the
19 licensee's license or the proper exercise thereof, or of any
20 violation of law in any other respect on account whereof the
21 commission or board may deem the licensee to be an unfit or



1 improper person to hold a license, or for any other cause deemed
2 sufficient by the commission or board.

3 In every case where it is proposed to revoke or suspend the
4 exercise of any license or assess and collect a penalty for any
5 cause other than a conviction at law of the licensee as above
6 specified, the licensee shall be entitled to notice and hearing
7 in conformity with chapter 91, the notice to be given at least
8 five days before the hearing, except that any special license
9 shall be subject to summary revocation for any violation of or
10 evidence of intent to violate the proper exercise thereof,
11 without hearing before the commission or board.

12 At the hearing, before final action is taken by the
13 commission or board, the licensee shall be entitled to be heard
14 in person or through counsel and shall be given a full and fair
15 opportunity to present any facts showing that the alleged cause
16 or causes for the proposed action do not exist, or any reasons
17 why no penalty should be imposed. The testimony taken at the
18 hearing shall be under oath and recorded stenographically, or by
19 machine, but the parties shall not be bound by the strict rules
20 of evidence; certified copies of any transcript and of any other
21 record made of or at the hearing shall be furnished to the



1 licensee upon the licensee's request and at the licensee's
2 expense.

3 Any order of revocation, suspension, fine, or reprimand
4 imposed by the commission or board upon the licensee shall be in
5 addition to any penalty that might be imposed upon the licensee
6 upon the licensee's conviction at law for any violation of this
7 chapter. No licensee shall be subject to both the penalty
8 assessed and collected by the commission or board and to
9 revocation or suspension of license. The amount of penalty
10 assessed and collected by the commission or board from any
11 licensee for any particular offense shall not exceed the sum of
12 \$2,000 [-]; provided that the amount of penalty assessed and
13 collected by the commission or board established in a county
14 with a population of five hundred thousand or more for a second
15 or subsequent offense by a licensee in the same calendar year
16 for violation of a noise restriction, as defined in section 281-
17 (b), shall be assessed pursuant to section 281- (a).

18 Whenever the service of any order or notice shall be
19 required by this section, the service shall be made in the
20 following manner: in the case of any violation based upon the
21 personal observation of any investigator, a written notice of



1 the violation shall be given to the licensee or the licensee's
2 registered manager in active charge of the premises, or by
3 serving a certified copy of the notice or order upon the holder
4 of the license wherever the holder may be found in the circuit
5 wherein the holder is licensed, or, if the holder cannot be
6 found after diligent search, by leaving a certified copy thereof
7 at the holder's dwelling house or usual place of abode with some
8 person of suitable age and discretion residing therein; and if
9 the holder of the license cannot be found after diligent search,
10 and service cannot be made, then service may be made by posting
11 a certified copy of the notice or order in a conspicuous place
12 on the licensed premises and depositing another certified copy
13 thereof in the certified mail of the United States post office,
14 postage prepaid, addressed to the holder of the license at the
15 holder's last known residence address; provided that in the case
16 of a partnership, corporation, unincorporated association, or
17 limited liability company, service may be made upon any partner,
18 officer, or member thereof."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.




S.B. NO. 3021

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY:





S.B. NO. 3021

Report Title:

Liquor; Honolulu Liquor Commission; Noise Violations; Penalties

Description:

Establishes enhanced penalties for multiple noise violations by a licensee in a county with a population of 500,000 or more during a single calendar year.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

