

JAN 18 2019

A BILL FOR AN ACT

RELATING TO NOISE CONTROL.

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

1 SECTION 1. The legislature finds that noise control is a
2 serious issue for residents and businesses that must coexist
3 closely in our State's urban areas. The United States
4 Environmental Protection Agency, which regulates certain noise
5 sources, has observed that millions of people nationwide are
6 negatively affected by noise and that studies show a direct link
7 between excessive noise and health issues, such as stress-
8 related illnesses, high blood pressure, speech interference,
9 hearing loss, sleep disruption, and lost productivity.
10 Fortunately, quality of life can be enhanced through improved
11 monitoring and enforcement of applicable noise regulations.

12 An often overlooked source of noise pollution is lower
13 frequency sound commonly thought of as "bass" that can permeate
14 walls and windows and cause disruptive and harmful vibrations
15 even when not heard by the human ear. This lower frequency
16 sound is best detected by use of a dBC sound level measurement



1 system rather than a dBA system that understates the lower
2 frequencies.

3 The purpose of this Act is to enhance community noise
4 control as regulated by county liquor commissions in counties
5 with a large population by:

6 (1) Clarifying that it is a noise violation for an
7 establishment requiring a liquor license to exceed the
8 dBC sound level measurements addressed by this Act;

9 (2) Requiring the employment and enforcement of a dBC
10 sound level measurement system for investigating noise
11 levels from establishments requiring liquor licenses;
12 and

13 (3) Requiring the revocation, suspension, or denial of
14 application, renewal, or transfer of a liquor license,
15 or withholding of the issuance of the license, if the
16 applicant or licensee fails to take corrective action
17 to address noise complaints or violations for an
18 establishment for which a license has been issued or
19 is requested to be issued, renewed, or transferred.



1 SECTION 2. Chapter 281, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§281- Noise violations and enforcement in a county with
5 a population of seven hundred thousand or more. (a) In a
6 county with a population of seven hundred thousand or more, the
7 licensee of an establishment shall be in violation of this
8 section when the dBC sound level of the establishment is in
9 excess of the following levels:

10 (1) In zoning districts that include all areas equivalent
11 to lands zoned for:

12 (A) Residential, conservation, preservation, public
13 space, open space, or similar type, the maximum
14 dBC sound level shall not exceed fifty-five from
15 7:00 a.m. to 10:00 p.m. and shall not exceed
16 forty-five from 10:00 p.m. to 7:00 a.m.;

17 (B) Multi-family dwellings, apartment, business,
18 commercial, hotel, resort, or similar type the
19 maximum dBC sound level shall not exceed sixty
20 from 7:00 a.m. to 10:00 p.m. and shall not exceed
21 fifty from 10:00 p.m. to 7:00 a.m.; or



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1 (C) Agriculture, country, industrial, or similar type
2 the maximum dBC sound level shall not exceed
3 seventy at any time; and

4 (2) In any zoning district listed in paragraph (1), the
5 maximum dBC sound level shall not be louder than three
6 decibels above the ambient noise level for:

7 (A) Any two minute segment within a measurement taken
8 for a duration of at least ten minutes; or

9 (B) Any time segment, within a measurement taken for
10 more than ten minutes, that is at least twenty
11 per cent as long as the total duration of the
12 measurement.

13 (b) The county liquor commission shall enforce compliance
14 with the maximum sound levels established in this section and
15 shall employ a dBC sound level measurement system for
16 investigating noise levels.

17 (c) When measuring the dBC sound level of an
18 establishment, the measurement shall be taken within three
19 meters of the perimeter of the exterior of the establishment.
20 If the initial sound measurement taken in response to a
21 complaint does not establish a violation, upon the complainant's



1 request, an additional measurement shall be taken at the
2 complainant's site where the complainant alleges to have heard
3 noise levels that exceed the maximum dBC sound levels
4 established by this section.

5 (d) Notwithstanding any other provision to the contrary,
6 the county liquor commission shall revoke or suspend a license,
7 or deny the application, renewal, or transfer of a license, or
8 withhold the issuance of the license, if the licensee or
9 applicant, as applicable, fails to take corrective action
10 meeting the county liquor commission's approval to address:

11 (1) Complaints from the public;

12 (2) Reports from the county liquor commission's
13 investigators; or

14 (3) Adjudications of the county liquor commission or the
15 liquor control adjudication board,

16 that indicate that noise created by the establishment or patrons
17 departing from the establishment disturbs residents on the
18 street or of the neighborhood in which the establishment is
19 located, or that noise from the premises or adjacent related
20 outdoor areas such as parking lots or lanais exceeds standards



1 contained in state or county noise codes or intrudes into nearby
2 residential units.

3 (e) As used in this section:

4 "Ambient noise" means the totality of sounds in a given
5 place and time, independent of the sound contribution of any
6 specific source of sound being measured.

7 "County liquor commission" means a liquor commission in a
8 county with a population of seven hundred thousand or more.

9 "dBC" shall have the same meaning as provided in section
10 342F-1."

11 SECTION 3. Section 281-17, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The liquor commission, within its own county, shall
14 have the jurisdiction, power, authority, and discretion, subject
15 only to this chapter:

16 (1) To grant, refuse, suspend, and revoke any license for
17 the manufacture, importation, and sale of liquors;

18 (2) To take appropriate action against a person who,
19 directly or indirectly, manufactures, sells, or
20 purchases any liquor without being authorized pursuant
21 to this chapter; provided that in counties that have



1 established by charter a liquor control adjudication
2 board, the board shall have the jurisdiction, power,
3 authority, and discretion to hear and determine
4 administrative complaints of the director regarding
5 violations of the liquor laws of the State or of the
6 rules of the liquor commission, and impose penalties
7 for violations thereof as may be provided by law;

8 (3) To control, supervise, and regulate the manufacture,
9 importation, and sale of liquors by investigation,
10 enforcement, and education; provided that any
11 educational program shall be limited to the commission
12 staff, commissioners, liquor control adjudication
13 board members, and licensees and their employees, and
14 shall be financed through the money collected from the
15 assessment of fines against licensees; provided that
16 fine moneys, not to exceed ten per cent a year of
17 fines accumulated, may be used to fund public liquor-
18 related educational or enforcement programs;

19 (4) From time to time to make, amend, and repeal rules,
20 not inconsistent with this chapter, as in the judgment
21 of the commission are deemed appropriate for carrying



1 out this chapter and for the efficient administration
2 thereof, and the proper conduct of the business of all
3 licensees, including every matter or thing required to
4 be done or which may be done with the approval or
5 consent, by order, under the direction or supervision
6 of, or as prescribed by the commission; which rules,
7 when adopted as provided in chapter 91 shall have the
8 force and effect of law;

- 9 (5) Subject to chapter 76, to appoint and remove an
10 administrator, who may also be appointed an
11 investigator and who shall be responsible for the
12 operations and activities of the staff. The
13 administrator may hire and remove hearing officers,
14 investigators, and clerical or other assistants as its
15 business may from time to time require, prescribe
16 their duties and fix their compensation, and engage
17 the services of experts and persons engaged in the
18 practice of a profession, if deemed expedient. Every
19 investigator, within the scope of the investigator's
20 duties, shall have the powers of a police officer;



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- 1 (6) To limit the number of licenses of any class or kind
2 within the county, or the number of licenses of any
3 class or kind to do business in any given locality,
4 when in the judgment of the commission such
5 limitations are in the public interest;
- 6 (7) To prescribe the nature of the proof to be furnished,
7 the notices to be given, and the conditions to be met
8 or observed in case of the issuance of a duplicate
9 license in place of one alleged to have been lost or
10 destroyed, including a requirement of any indemnity
11 deemed appropriate to the case;
- 12 (8) To fix the hours between which licensed premises of
13 any class or classes may regularly be open for the
14 transaction of business, which shall be uniform
15 throughout the county as to each class respectively;
- 16 (9) To prescribe all forms to be used for the purposes of
17 this chapter not otherwise provided for in this
18 chapter, and the character and manner of keeping of
19 books, records, and accounts to be kept by licensees
20 in any matter pertaining to their business;



- 1 (10) To investigate violations of this chapter, chapter
2 244D and, notwithstanding any law to the contrary,
3 violations of the applicable department of health's
4 allowable noise levels, through its investigators or
5 otherwise, to include covert operations, and to report
6 violations to the prosecuting officer for prosecution
7 and, where appropriate, the director of taxation to
8 hear and determine complaints against any licensee;
- 9 (11) To prescribe, by rule, the terms, conditions, and
10 circumstances under which persons or any class of
11 persons may be employed by holders of licenses;
- 12 (12) To prescribe, by rule, the term of any license or
13 solicitor's and representative's permit authorized by
14 this chapter, the annual or prorated amount, the
15 manner of payment of fees for the licenses and
16 permits, and the amount of filing fees;
- 17 (13) To prescribe, by rule, regulations on dancing in
18 licensed premises; ~~and~~
- 19 (14) To prescribe, by rule, the circumstances and penalty
20 for the unauthorized manufacturing or selling of any
21 liquor[-]; and



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1 (15) For a liquor commission in a county with a population
2 of seven hundred thousand or more, to prescribe, by
3 rule, the circumstances and penalty for noise level
4 violations pursuant to section 281- ."

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2019.

8

INTRODUCED BY:

Karl Rhoads

[Signature]



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Report Title:

Noise Control; Measurement; County Liquor Commissions; Liquor License Requirements

Description:

Enhances community noise control as regulated by county liquor commissions in counties with a population of seven hundred thousand or more.

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