

JAN 19 2022

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# A BILL FOR AN ACT

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RELATING TO NOISE CONTROL.

**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 V to be appropriately  
3       designated and to read as follows:

4       "§281-       Noise violations; maximum permissible sound  
5       level; enforcement; penalty. (a) Notwithstanding any law to  
6       the contrary, noise emitting from an establishment, adjacent  
7       outdoor areas under the control of the establishment, including  
8       parking lots or lanais, or patrons entering or departing from  
9       the establishment shall not exceed the following sound levels:

10       (1) In areas zoned as conservation, preservation,  
11       residential, open, or open space, or designated a  
12       similar type of zoning, the maximum sound level shall  
13       be:

14       (A) Fifty-five decibels (dBC) during the hours of  
15       7:00 a.m. to 10:00 p.m.; and

16       (B) Forty-five decibels (dBC) during the hours of  
17       10:00 p.m. to 7:00 a.m.;



(2) In areas zoned as apartment, business, commercial, hotel, or resort, or designated a similar type of zoning, the maximum sound level shall be:

(A) Sixty decibels (dBC) during the hours of 7:00 a.m. to 10:00 p.m.; and

(B) Fifty decibels (dBC) during the hours of 10:00 p.m. to 7:00 a.m.; and

(3) In areas zoned agriculture, country, or industrial, or designated a similar type of zoning, the maximum sound level shall be seventy decibels (dBC) during all hours of the day.

The maximum permissible sound level for areas that have not been designated a county zoning district shall be the lowest maximum permissible sound level applicable to comparable State land use districts; provided that the maximum permissible sound level for unzoned land within the state urban land use district shall be the sound levels set forth in paragraph (2). In areas with more than one county zoning designation, the lowest applicable maximum permissible sound levels shall apply.

(b) For the purposes of this section, sound level measurement shall be taken within three meters of the perimeter



1 of the exterior of the establishment employing a sound level  
2 meter using the "C" weighting network. If the initial sound  
3 measurement taken in response to a complaint does not establish  
4 a violation, upon the complainant's request, an additional  
5 measurement may be taken at the complainant's site where the  
6 complainant alleges to have heard noise levels that exceed the  
7 maximum permissible sound levels established by this section.

8 (c) An establishment shall be in violation of this section  
9 if the sound level measured pursuant to subsection (b) is more  
10 than three decibels (dBC) louder than the ambient noise level  
11 for:

12 (1) Any two-minute segment within a measurement taken for  
13 a duration of at least ten minutes; or

14 (2) Any time segment, within a measurement taken for more  
15 than ten minutes, that is at least twenty per cent as  
16 long as the total duration of the measurement.

17 (d) Violations of this section or rules adopted pursuant  
18 to this section shall be enforced by summons or citation issued  
19 by a law enforcement officer, who shall employ a sound level  
20 meter using the "C" weighting network to investigate noise  
21 levels. The summons or citation shall:



1       (1) Be printed in the form described in this subsection,  
2       warning the purported violator to appear and answer to  
3       the charge against the person at a certain place and  
4       at a time within seven days after the issuance of the  
5       summons or citation;

6       (2) Be designed to provide for all necessary information.  
7       The form and content of the summons or citation shall  
8       be adopted or prescribed by the district environmental  
9       courts;

10       (3) Be given to the purported violator and the other copy  
11       or copies distributed in the manner prescribed by the  
12       district environmental courts; provided that the  
13       district environmental courts may prescribe  
14       alternative methods of distribution of the original  
15       and any other copies; and

16       (4) Be consecutively numbered and the carbon copy or  
17       copies of each shall bear the same number.

18       In the event any person fails to comply with a summons or  
19       citation issued to the person, the law enforcement officer who  
20       issued the summons or citation shall cause a complaint to be  
21       entered against the person and secure the issuance of a warrant



1 for the person's arrest. Failure to comply with a summons or  
2 citation is a misdemeanor.

3 (e) Notwithstanding any law to the contrary, the  
4 commission may revoke or suspend a license, deny the  
5 application, renewal, or transfer of a license, or withhold  
6 issuance of a license, if the licensee or applicant, as  
7 applicable, fails to take corrective action that, to the  
8 commission's satisfaction and approval, addresses:

9 (1) Complaints from the public;

10 (2) Reports from the commission's investigators;

11 (3) Summons or citations issued pursuant to this section;

12 or

13 (4) Adjudications of the commission or the liquor control  
14 adjudication board,

15 indicating that noise emitting from an establishment, adjacent  
16 outdoor areas under the control of the establishment, including  
17 parking lots or lanais, or patrons entering or departing from  
18 the establishment disturbs residents on the street or of the  
19 neighborhood in which the establishment is located, the noise  
20 exceeds the applicable maximum permissible sound levels set  
21 forth in the county's noise codes or commission rules, or



1 intrudes into nearby residential units, or the establishment is  
2 in violation of this section.

3 (f) 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 "dBC" shall have the same meaning as defined in section  
8 342F-1.

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

11 "Establishment" means a single physical location where the  
12 selling of liquor occurs and for which a license has been or is  
13 proposed to be issued, renewed, or transferred pursuant to this  
14 chapter."

15 SECTION 2. Section 281-17, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

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

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



- 1           (2) To take appropriate action against a person who,  
2           directly or indirectly, manufactures, sells, or  
3           purchases any liquor without being authorized pursuant  
4           to this chapter; provided that in counties that have  
5           established by charter a liquor control adjudication  
6           board, the board shall have the jurisdiction, power,  
7           authority, and discretion to hear and determine  
8           administrative complaints of the director regarding  
9           violations of the liquor laws of the State or of the  
10          rules of the liquor commission, and impose penalties  
11          for violations thereof as may be provided by law;
- 12          (3) To control, supervise, and regulate the manufacture,  
13          importation, and sale of liquors by investigation,  
14          enforcement, and education; provided that any  
15          educational program shall be limited to the commission  
16          staff, commissioners, liquor control adjudication  
17          board members, and licensees and their employees, and  
18          shall be financed through the money collected from the  
19          assessment of fines against licensees; provided that  
20          fine moneys, not to exceed ten per cent a year of



1            fines accumulated, may be used to fund public liquor-  
2            related educational or enforcement programs;

3            (4) From time to time to make, amend, and repeal rules,  
4            not inconsistent with this chapter, as in the judgment  
5            of the commission are deemed appropriate for carrying  
6            out this chapter and for the efficient administration  
7            thereof, and the proper conduct of the business of all  
8            licensees, including every matter or thing required to  
9            be done or which may be done with the approval or  
10           consent, by order, under the direction or supervision  
11           of, or as prescribed by the commission; which rules,  
12           when adopted as provided in chapter 91 shall have the  
13           force and effect of law;

14           (5) Subject to chapter 76, to appoint and remove an  
15           administrator, who may also be appointed an  
16           investigator and who shall be responsible for the  
17           operations and activities of the staff. The  
18           administrator may hire and remove hearing officers,  
19           investigators, and clerical or other assistants as its  
20           business may from time to time require, prescribe  
21           their duties and fix their compensation, and engage





1           the services of experts and persons engaged in the  
2           practice of a profession, if deemed expedient. Every  
3           investigator, within the scope of the investigator's  
4           duties, shall have the powers of a police officer;

5           (6) To limit the number of licenses of any class or kind  
6           within the county, or the number of licenses of any  
7           class or kind to do business in any given locality,  
8           when in the judgment of the commission such  
9           limitations are in the public interest;

10          (7) To prescribe the nature of the proof to be furnished,  
11          the notices to be given, and the conditions to be met  
12          or observed in case of the issuance of a duplicate  
13          license in place of one alleged to have been lost or  
14          destroyed, including a requirement of any indemnity  
15          deemed appropriate to the case;

16          (8) To fix the hours between which licensed premises of  
17          any class or classes may regularly be open for the  
18          transaction of business, which shall be uniform  
19          throughout the county as to each class respectively;

20          (9) To prescribe all forms to be used for the purposes of  
21          this chapter not otherwise provided for in this



chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;

(10) To investigate violations of this chapter, chapter 244D and, notwithstanding any to the contrary, violations of the applicable [~~department of health's allowable noise levels,~~] maximum permissible sound levels provided in this chapter, through its investigators or otherwise, to include covert operations, and to report violations to the prosecuting officer for prosecution and, where appropriate, the director of taxation to hear and determine complaints against any licensee; provided that violations of maximum permissible sound levels provided in this chapter shall be enforced by issuance of summons or citations by law enforcement officers;

(11) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of licenses;

(12) To prescribe, by rule, the term of any license or solicitor's and representative's permit authorized by



1           this chapter, the annual or prorated amount, the  
2           manner of payment of fees for the licenses and  
3           permits, and the amount of filing fees;

4       (13) To prescribe, by rule, regulations on dancing in  
5           licensed premises; ~~[and]~~

6       (14) To prescribe, by rule, the circumstances and penalty  
7           for the unauthorized manufacturing or selling of any  
8           liquor~~[÷]~~; and

9       (15) To prescribe, by rule, the circumstances and penalty  
10           for violation of maximum permissible sound levels  
11           pursuant to section 281- ."

12       SECTION 3. Section 281-51, Hawaii Revised Statutes, is  
13       amended to read as follows:

14       **"§281-51 Prior inspection.** No license shall be issued  
15       under this chapter unless and until the liquor commission has  
16       caused to be made a thorough inspection of the premises upon  
17       which the proposed business is to be conducted and is satisfied  
18       as to its fitness and that all other general conditions and  
19       proposed methods of operation under the license are such as are  
20       suitable for carrying on the business in a reputable way. "In a  
21       reputable way" includes among other considerations operating in



1 such a manner that activities within the premises or in such  
2 adjacent related outdoor areas such as parking lots or lanais  
3 will not create noise in excess of standards contained in  
4 section 281- , state or county noise or vibration codes, or  
5 rules adopted by the liquor commissions, which intrudes into  
6 nearby residential units."

7 SECTION 4. Section 281-61, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 **"§281-61 Renewals.** (a) Other than for good cause, the  
10 renewal of an existing license shall be granted upon the filing  
11 of an application; provided that if:

12 (1) Complaints from the public;

13 (2) Reports from the commission's investigators; [~~or~~]

14 (3) Summons or citations issued pursuant to section  
15 281- ; or

16 (4) Adjudications of the commission or the liquor control  
17 adjudication board,

18 indicate that noise [~~created by~~] emitting from the premises,

19 adjacent outdoor areas under the control of the licensee,

20 including parking lots or lanais, or patrons entering or

21 departing from the premises disturbs residents on the street or



1 of the neighborhood in which the premises are located, [~~or that~~]  
2 the noise [from the premises or adjacent related outdoor areas  
3 such as parking lots or lanais exceed standards contained in  
4 state or] exceeds the applicable maximum permissible sound  
5 levels set forth in the county noise codes or commission rules,  
6 or intrudes into nearby residential units, or the licensee is in  
7 violation of section 281- , the commission may deny the renewal  
8 application or withhold the issuance of a renewed license until  
9 corrective measures meeting the commission's approval are  
10 taken."

11 SECTION 5. Section 342F-31.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~§~~§342F-31.5[~~§~~] **Noise measurement; rules.** (a) The  
14 department shall adopt rules in accordance with chapter 91 that  
15 shall use both the dBC and the dBA sound level measurement  
16 systems for community noise control. The department [~~and the~~],  
17 county liquor commissions, and law enforcement officers,  
18 pursuant to section 281- , may enforce nighttime noise levels  
19 in any urban land use district measured from over fifty to sixty  
20 decibels, measured using the dBC weighting system, in certain



1 areas they deem appropriate and not adversely affecting public  
2 health and safety.

3 (b) In any urban land use district, a sound level of more  
4 than [~~sixty~~] fifty decibels for bass sound (using the dBC  
5 weighting system), measured at a complainant's site, shall be  
6 deemed to exceed the maximum permissible sound at nighttime[~~;~~  
7 ~~provided that, where the complainant's site is within or in~~  
8 ~~close proximity to an area zoned mixed use or residential, the~~  
9 ~~maximum permissible sound at nighttime shall be fifty decibels~~  
10 ~~dBC~~].

11 (c) For purposes of this section:

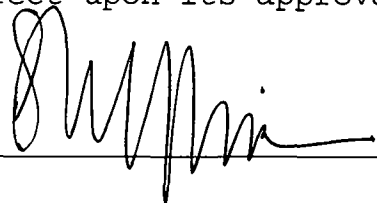
12 "Nighttime" means the time between the hours of 10:00 p.m.  
13 and 7:00 a.m.; and

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

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.

19  
INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 2124

**Report Title:**

Noise Control; County Liquor Commissions; Maximum Permissible Sound Level; Enforcement; Law Enforcement Officers; Liquor License

**Description:**

Enhances the control of low-frequency noise emitted from establishments regulated by county liquor commissions by setting a maximum permissible noise level in dBC measurements. Clarifies that emission of noise that exceeds the maximum permissible noise level constitutes a noise violation. Allows noise violations to be enforced by summons or citation issued by law enforcement officers. Allows county liquor commissions to adopt rules to issue fines for noise violation. Allows county liquor commissions to revoke or suspend a liquor license, deny the application, renewal, or transfer of a license, or withhold issuance of a license when the licensee or applicant fails to take corrective action to address noise complaints or violations.

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

