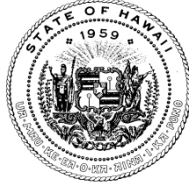


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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Nā Hope Luna Ho'okele
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

January 30, 2024
3:00 P.M.
State Capitol, RM 224 Videoconference
S.B. 2350
RELATING TO NOISE POLLUTION

Senate Committee on Transportation and Culture and the Arts

The Hawaii Department of Transportation (DOT) **supports S.B. 2350** which establishes a separate prohibition on driving motor vehicles having noisy mufflers on public highways in high-density areas; authorizes police officers to conduct examinations and inspections of motor vehicle mufflers in high-density areas; establishes separate fines for mopeds having noisy exhaust pipes or mufflers that are driven in high-design areas; and defines "high-density areas".

The HDOT's Traffic Noise Detection Camera pilot will assist with addressing excessive traffic noise from the vehicle using noisy mufflers. Roadside sound meters and cameras can provide evidence of vehicles emitting excessive noise. Once the preset noise threshold is triggered, the camera can capture video of the vehicle emitting the excessive noise. This will provide evidence for law enforcement to take action.

Thank you for the opportunity to provide testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2350, RELATING TO NOISE POLLUTION.

BEFORE THE:

SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

DATE: Tuesday, January 30, 2024 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General,
Elyse C.N. Oyama, Deputy Attorney General, or
Mark Tom, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (Department) has concerns and provides the following comments.

The purposes of this bill are to increase penalties for drivers of vehicles with noisy mufflers in high-density areas, and to authorize law enforcement to conduct inspections of said vehicles.

We recognize that the intent of the bill is to reduce noise pollution in high-density areas. However, we have concerns about the new proposed violation in subsection (a) of the new section to be added to chapter 291, Hawaii Revised Statutes (HRS), by section 2 of the bill, on page 2, lines 13-17, because of the "high-density area" definition and muffler inspection provisions.

On page 3, lines 9-14, and on page 4, lines 2-7, the bill provides:

As used in this section, "high-density area" means a census-designated place that:

- (1) According to the United States Census Bureau, has a population of thirteen thousand or more; and
- (2) Is located in a county having a population of five hundred thousand or more.

It is a definition that is not easily understood, applied, or enforced. It will be difficult for an officer or anyone else to know exactly where the boundaries of that area might be. And under subsection (c), on page 3, lines 3-8, law enforcement would be

permitted to do examinations and inspections for noisy mufflers if they believe there is probable cause as to the offense. Further, an individual cannot refuse such examination and inspection. This provision would not comply with the Fourth Amendment of the United States Constitution or article I, section 7, of the Hawai'i Constitution, which protect an individual's legitimate expectations of privacy to not be subjected to unreasonable governmental intrusions. See State v. Bonnell, 75 Haw. 124, 136, 856 P.2d 1265 (1993). As provided in State v. Barrett, 67 Haw. 650, 701 P.2d 1277 (1985), "government agents are required to obtain search warrants based on probable cause before effecting a search and seizure of persons or places connected to criminal activity." Id. Without a warrant to inspect the motor vehicle, any evidence obtained by law enforcement related to the offense or any other offenses would likely be suppressed.

For these reasons, the Department recommends the removal of the new proposed violation in section 2 of the bill from page 2, line 10, through page 3, line 14, and section 4 of the bill, on page 4, lines 8-14, which references that proposed violation. We note that in chapter 291 there already are noisy muffler offenses for motor scooters, mopeds, motorcycles, and motor vehicles. For these existing offenses, we recommend providing enhanced penalties for repeat offenders of the offenses under sections 291-22, 291-24, and 291-24.5, HRS, to deter further violations.

The penalty for section 291-22, HRS, motor scooter violation, is covered by section 291-23, HRS. Section 291-23, at page 3, line 17 through page 4, line 7, should be amended to read as follows:

"§291-23 Penalty. ~~[Whoever is convicted of violating any of the provisions of section 291-22 shall be fined not more than \$100.]~~ (a) Violation of any of the provisions of section 291-22 shall subject the violator to the following penalties:

- (1) For a first conviction, the person shall be fined not more than \$100;
- (2) For a second conviction committed within three years of any other conviction under this section, the person shall be fined not less than \$250 but not more than \$500; and

- (3) For a conviction of a third or subsequent offense committed within three years of any other conviction under this section, the person shall be fined not less than \$500 but not more than \$800."

These same enhanced penalty provisions could be inserted into sections 291-24 and 291-24.5, HRS, for mopeds, motorcycles, and motor vehicles.

Thank you for the opportunity to provide comments.

POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU
801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: honolulu.police.hawaii.gov

LATE

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KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE JS-DGKC

January 30, 2024

The Honorable Senator Chris Lee, Chair
Committee on Transportation
and Culture and the Arts
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 224
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: Senate Bill No. 2350, Relating to Noise Pollution

I am James Slayter, Major of District 6 of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 2350, Relating to Noise Pollution. This bill would establish a separate prohibition on driving motor vehicles having noisy mufflers on public highways in high-density areas. It would also authorize police officers to conduct examinations and inspections of motor vehicle mufflers in high-density areas.

Loud vehicle noise is a common complaint from the community. This measure could provide another tool for law enforcement personnel to address their concerns.

The HPD urges you to support Senate Bill No. 2350, Relating to Noise Pollution.


Thank you for the opportunity to testify.

APPROVED:

Sincerely,

FOR 

Arthur J. Logan
Chief of Police


James Slayter, Major
District 6

SB-2350

Submitted on: 1/29/2024 1:04:07 AM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe Shimkonis	Testifying for Mopeds Direct	Support	Written Testimony Only

Comments:

Hello,

I strongly agree with this bill because there truly is no need for these modifications. I am a safety check examiner and I happily fail any modified exhaust. What the customer does after the fact is not my business but I will tell you they will modify their moped back to a stock exhaust only to pass inspection. HPD already has their hands full with chronic homeless and crime which is never ending and money should be appropriated to them to regulate not only loud exhausts but the aforementioned hinderences to society.

Thankyou for your time and consideration.

Joe Shimkonis
Mopeds Direct

SB-2350

Submitted on: 1/29/2024 6:11:28 AM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

Support, especially important to high density areas of Waikiki and Kaka'ako.

SB-2350

Submitted on: 1/26/2024 5:38:33 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please pass this bill especially for those of us who are confined to our apartments because of health reasons. The incessant noise from traffic is exacerbating our problems. Last night noise when everything is still is particularly disturbing. Please help us!

SB-2350

Submitted on: 1/29/2024 2:48:44 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Thomas Miller	Individual	Support	Written Testimony Only

Comments:

I fully support SB 2350! Where I live on Kapahulu Avenue, loud moped mufflers are a hourly, daily, especially nighttime irritant. Please increase fines for these loud mufflers!

Btw, the Craigslist text from a local moped business is below:

"NEW ANTI MOPED BILLS ARE UP FOR HEARING ! SUBMIT TESTIMONY TO OPPOSE ! THEY ARE 1)SB2892: STATE WANTS TO ADD CHARGE EXTRA FEES FOR ALL GAS MOPED SALES 2)SB2350 EXTRA SPECIAL FINES FOR mopeds louder mufflers in heavily populated areas 3)SB3021 Electric moped/ebike program will be expanded and taking money from the fees charged to gas mopeds in SB2892, the first bill. OPPOSE them all! Go here: <https://www.capitol.hawaii.gov/> , register with an account and submit testimony opposing BEFORE the accepting deadline of TOMORROW 3PM Monday January 29, 2024. Also, please contact Senator Chris Lee, who is introduced this (and other) anti moped measures starting 8am tomorrow morning (monday) and letting him and staff KNOW your concerns. PLEASE be POLITE and professional but firm. We need to let them know we do mean business in a nice way with Aloha. If you can't call , ONLINE TESTIMONY OPPOSING those bills is the BEST way if nothing else! Go to the website mentioned above, find the drop down search menu (says 'SELECT SEARCH TYPE) after registering with an account and find the bills by dragging it to "Measure Status" then typing in the bill numbers which are SB2892, SB2350 and SB3021. Be nice, don't say anything beyond "I oppose" or "I STRONGLY OPPOSE bill SB 2892 because it will impact my cost of operating a moped in Hawaii even more ' etc etc. Actually, you can just say I support mopeds and Oppose the bill. Simple as that! Mahalo! Btw, Senator Chris Lee: Senate District 25 Kailua, Waimānalo, Hawai'i Kai Actual physical hearing is at 3pm Tuesday January 30, Conference Room 224 Capitol Building."

SB-2350

Submitted on: 1/28/2024 10:14:27 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jayanne Palma	Individual	Oppose	Written Testimony Only

Comments:

I support mopeds and oppose the bill.

SB-2350

Submitted on: 1/28/2024 9:19:08 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Manabo Sato	Individual	Oppose	In Person

Comments:

Aloha. My name is Manabo Sato and I work in the moped industry . I am also a moped safety inspector for Moped Doctors Inc, a local moped shop that has been in business since 2010. and i helped implement the moped safety inspection sound standard in cooperation with the State DOT when the moped safety inspection program first came into being in 2016. Moped Doctors opposes this proposal on the ground that it appears to be well intentioned but unnecessary as it is our position that simply increasing vigilance and enforcement of existing laws by the authorities should be enough to deal with such issues. The safety inspection program is a line of defense aainst loud mopeds by failing them legally should they be detected but I've stated in prior moped related bills that enforcement is necessary to truly deal with the matter. Adding another statute or law without pushing what already exists a bit harder won't enable us to eliminate or significantly reduce the problem. It isn't the laws that need increasing so much as enforcement. Start pulling over more offenders , ticketing them, repossessing their violating vehicles and getting the word out that law enforcement is serious would have a better impact then yet another law or bill or statute. Mahalo for your time.

SB-2350

Submitted on: 1/29/2024 3:49:40 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoë Willis	Individual	Oppose	Written Testimony Only

Comments:

I oppose the legislation (H.B. 2251 / S.B. 2350) which would reform enforcement of its exhaust noise laws. However, the underlying laws are fundamentally flawed.

The current exhaust noise law is vague and unenforceable, as measuring each motor vehicle to its factory set muffler creates hundreds of exhaust noise standards on which to enforce.

Hawaii should set one upper limit for exhaust noise—95 decibels—backed by an objective measurement system, instead of relying on subjective judgments.

Hawaii needs to implement a working system with an objective testing procedure for determining if a vehicle’s exhaust system illegally amplifies the noise emitted by the motor vehicle.

Using an SAE International measurement standard would allow the state to definitively prove guilt or innocence, replacing an unpredictable system that cannot objectively verify whether an exhaust system amplifies the noise emitted by the motor vehicle.

SB-2350

Submitted on: 1/29/2024 3:46:59 PM

Testimony for TCA on 1/30/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I oppose the legislation (H.B. 2251 / S.B. 2350) which would reform enforcement of its exhaust noise laws. However, the underlying laws are fundamentally flawed.

The current exhaust noise law is vague and unenforceable, as measuring each motor vehicle to its factory set muffler creates hundreds of exhaust noise standards on which to enforce.

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