

## ACT 147

H. B. NO. 2046-70

A Bill for an Act Relating to Excessive Noise.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 322 of the Hawaii Revised Statutes is amended by adding a new part to read as follows:

**“PART EXCESSIVE NOISE**

**Section 322- . Definitions.** As used in this part, unless the context otherwise requires.

“Department” means the State department of health.

“Excessive Noise” means sound which is injurious or which unreasonably interferes with the comfortable enjoyment of life and property in the State or in such areas of the State as shall be affected thereby.

“Committee” means the county advisory noise control committee.

**Section 322- . Powers; rule-making.** The department shall, pursuant to chapter 91, adopt such rules and regulations, including standards of excessive noise relating to the various sources thereof, for different areas of the State, as are necessary to prohibit or control excessive noise caused by any person. No such rule or regulation, or any amendment thereto, shall be effective until sixty days after the adoption thereof and after the publication thereof in a newspaper of general circulation in the area of the State affected thereby.

**Section 322- . Fees.** The department may establish fees for the issuance of permits which fees shall not exceed the estimated cost of issuing such permits and any inspection pertaining thereto. Such fees shall revert to the general fund.

**Section 322- . County advisory noise control committee.** (a) The department may organize a county advisory noise control committee in any county in which it shall determine that the establishment of such committee is advisable to assist it in carrying out the purposes of this part. The committee shall consist of not more than seven members, a majority of whom shall not be officers or employees of the State, county, or federal governments, who shall be appointed by the department and shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performances of their duties.

(b) The committee shall study excessive noise problems of the county, and advise the department relative thereto.

(c) All rules or regulations of strictly local application, before they are adopted by the department, shall be submitted to the committee if one shall

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have been appointed for the county affected, for discussion and, within thirty days after submission, a report thereon.

**Section 322- . Cease and desist orders.** If, after a hearing in accordance with chapter 91, the department shall determine that any person is violating this part or any rule or regulation thereunder, the department may order that such person, within a reasonable time fixed by the department, cease and desist from such violation. The department may institute a civil action in any court of competent jurisdiction for the enforcement of any such order.

**Section 322- . Injunctive relief.** The department may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this part or any rule or regulation made thereunder.

**Section 322- . Misdemeanor.** Whoever wilfully and knowingly makes or causes to be made any excessive noise in violation of this part or in violation of any rule or regulation of the department shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six months, or both, except as otherwise provided by law.

**Section 322- . Other actions not barred.** No existing civil or criminal remedy for any wrongful action which is a violation of any rule or regulation of the department shall be excluded or impaired by this part.

**Section 322- . Effect on laws, ordinances, rules, and regulations.** (a) All laws, ordinances, rules, and regulations inconsistent with this part shall be void and of no effect; provided that all laws, ordinances, rules and regulations relating to noise control in effect on the effective date of this Act shall remain in effect for any area of the State with respect to which rules of the department of health adopted pursuant to this part are not in effect.

(b) No county shall adopt an ordinance, rule or regulation relating to noise control after the effective date of this Act.

**Section 322- . Enforcement by state and county authorities.** All county health authorities, sheriffs and police officers, and all other officers and employees of the State and every county thereof shall enforce the rules, regulations and orders of the department.

**Section 322- Severability.** If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are declared to be severable.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 22, 1970.)