

ACT 250

H.B. NO. 2860-74

A Bill for an Act Relating to Environmental Quality.

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

SECTION 1. Section 342-11, Hawaii Revised Statutes, is amended to read:

“Sec. 342-11 Penalties. (a) Violation of the vehicular noise control regulations and vehicular smoke emission regulations promulgated by the department pursuant to this chapter shall constitute a violation as defined in the Hawaii Penal Code, Sec. 107, Session Laws of Hawaii 1972 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2500 for each separate offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control regulations promulgated by the department pursuant to this chapter shall constitute a violation as defined in the Hawaii Penal Code, Sec. 107, Session Laws of Hawaii 1972 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule or regulation, other than vehicular noise control, vehicular smoke emission control and open burning control regulations, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission and open burning regulations, shall be considered a civil action.

(d) Any person who willfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to Part III of this chapter shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or both.

(e) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 2. Section 342-22, Hawaii Revised Statutes, is amended to read:

“Sec. 342-22 Powers and duties, specific. In addition to any other power or duty prescribed by law in this part, the director shall prevent, control, and abate air pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation the control of open burning, and the control of vehicular smoke emission;
- (2) Establish by rule or regulation other specific areas for control of air pollution, thereby allowing for varying conditions;
- (3) Require private persons or agencies or governmental agencies engaged or desiring to engage in operations which result or may result in air pollution to secure a permit prior to installation or operation or continued operation. The director shall refuse to issue the permit unless it appears that the operations would be in compliance with the

rules and regulations of the department and the state ambient air quality standards. The director may also require the persons or agencies to submit plans and the filing of reports by the persons or agencies containing the information relating to location size of outlet, height of outlet, rate incurred at emission and composition of discharge and such other matters relative to air pollution as the department shall prescribe to be filed;

- (4) Require the owner or operator of any emission source to:
 - (A) Establish and maintain such records;
 - (B) Make such reports;
 - (C) Install, use and maintain such monitoring equipment or methods;
 - (D) Sample such emission; and
 - (E) Provide such other information as the department may require;
- (5) Conduct and supervise research programs for the purpose of determining the causes, effects, hazards or means to monitor or abate sources of air pollution;
- (6) Conduct and supervise state-wide educational and training programs on air pollution prevention, control, and abatement, including the preparation and distribution of information relating to air pollution;
- (7) Appoint a master or masters to conduct investigations and hearings;
- (8) Receive or initiate complaints on air pollution, hold hearings in connection with air pollution, and institute legal proceedings in the name of the state for the prevention, control, or abatement of air pollution;
- (9) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the state or from private sources for the study and control of air pollution;
- (10) Establish ambient air quality standards for the state as a whole or for any part thereof;
- (11) Require the installation, use and proper maintenance of air pollution control equipment for motor vehicles; and
- (12) Establish and carry out a program of inspection and testing of all modes of transportation except aircraft, to enforce compliance with applicable emission limitations when necessary and practicable and to control or limit the operation of motor vehicular and other modes of transportation when the director finds pursuant to standards established by rules and regulations such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollutants or when such control is necessary to meet applicable ambient air quality standards."

SECTION 3. Section 342-42, Hawaii Revised Statutes, is amended to read:

"Sec. 342-42 Powers and duties, specific. In addition to any other duty prescribed by law and in this part, the director shall prevent, control, and

abate excessive noise in the State. In the discharge of his duty, the director may:

- (1) Establish by rule or regulation the control of vehicular noise;
- (2) Establish by rule or regulation other specific areas for control of excessive noise, thereby allowing for varying conditions;
- (3) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of excessive noise and the means whereby noise may be monitored, controlled, or abated;
- (4) Conduct and supervise state educational and training programs on noise prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise;
- (5) Appoint a master or masters to conduct investigations and hearings;
- (6) Receive or initiate complaints of excessive noise, hold hearings in connection with excessive noise, and institute legal proceedings in the name of the State for the prevention, control or abatement of excessive noise; and
- (7) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State or from private sources for the study and control of excessive noise."

SECTION 4. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 342- . Citation. Any person who commits a violation of the noise control regulations, vehicular smoke emission regulations and open burning control regulations promulgated by the department pursuant to this chapter may be issued a summons or citation for such violation by any person authorized to enforce such regulations, hereinafter referred to as enforcement officer. The summons or citation shall be printed in the form hereinafter described, warning such person to appear and answer to the charge against him at a certain place and at a time within seven (7) days after the issuance of such summons or citation.

The summons or citation shall be designed to provide for all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that the district courts may prescribe alternative methods of distribution of the original and any other copies.

Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

In the event any person fails to comply with a summons or citation issued to such person, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest. Failure to comply with a summons or citation is a misdemeanor.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not

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include the brackets, the bracketed material or the underscoring.*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 15, 1974.)

*Edited accordingly.