

ACT 265

S.B. NO. 798

A Bill for an Act Relating to Noise.

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

SECTION 1. The purpose of this Act is to set forth conditions under which the counties can regulate noise issues and to clarify that the department of health has jurisdiction over noise issues regarding the convention center.

SECTION 2. Section 46-17, Hawaii Revised Statutes, is amended to read as follows:

**“§46-17 Regulation of certain public nuisances.** Any provision of law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating or prohibiting noise, smoke, dust, vibration, or odors which constitute a public nuisance. No such ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that in any case of conflict between [the] a statute or rule and an ordinance, the law [which affords] affording the most protection to the public shall apply[; provided further that such], with the exception that:

- (1) An ordinance shall not be effective to the extent that it is inconsistent with any permit for agricultural burning granted by the [state] department of health under authority of chapter 342B, or to the extent that it prohibits, subjects to fine or injunction, or declares to be a public nuisance any agricultural burning [which is] conducted in accordance with such a permit[.]; and
- (2) An ordinance shall not be effective to the extent that it is inconsistent with any noise rule adopted by the department of health under authority of chapter 342F.”

SECTION 3. Section 342F-20, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342F-20]] Effect of laws, ordinances, and rules.** [(a) All laws, ordinances, and rules inconsistent with this chapter shall be void and of no effect.

(b)] Any county may adopt ordinances and rules governing any matter relating to excessive noise control [which is not governed by a rule of the department adopted pursuant to this chapter; provided that any county ordinance or rule relating to excessive noise control shall be void and of no effect as to any matter regulated by a rule of the department upon the adoption thereof.] as provided in section 46-17,

and any conflict between state and county law shall be resolved as provided in section 46-17.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 6, 1999.)