

HONOLULU FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MUIF HANNEMANN
MAYOR



KENNETH G. SILVA
FIRE CHIEF

ALVIN K. TOMITA
DEPUTY FIRE CHIEF

February 11, 2008

The Honorable Hermina M. Morita, Chair
Committee on Energy and Environmental Protection
House of Representatives
State Capitol, Room 314
Honolulu, Hawaii 96813

Dear Chair Morita:

Subject: H.B. 3150, H.D. 1 Relating to the Hawaii Emergency Planning and Community Right-To-Know Act

I am Kenneth G. Silva, Fire Chief of the Honolulu Fire Department (HFD). The HFD supports H.B. 3150, H.D. 1, which proposes to clarify the Hawaii Emergency Planning and Community Right-To-Know Act reporting requirements. As a first responder agency, it is imperative that our personnel know the risks and potential risks concerning hazardous materials that are present in a building or facility, especially under extreme hazardous fire or release conditions. Accurate information will be used as a planning tool prior to and during emergency conditions and can mean the difference between life and death. This information is also essential for facility owners to plan for the safety of its employees, who will be the first line of defense if or when emergency conditions arise.

The HFD urges your committee's support on the passage of H.B. 3150, H.D. 1.

Should you have any questions, please call HFD Legislative Liaison Lloyd Rogers at 723-7171.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA
Fire Chief

KGS/LR:cn



GENERAL CONTRACTORS ASSOCIATION OF HAWAII

1065 AHUA STREET • HONOLULU, HAWAII 96819-4493 • PHONE 808-833-1681 • FAX 808-839-4167

E-MAIL ADDRESS: gca@gcahawaii.org • WEBSITE: www.gcahawaii.org

February 11, 2008

TO: THE HONORABLE REPRESENTATIVE HERMINA M. MORITA, CHAIR
AND HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION

SUBJECT: H. B. 3001, RELATING TO NOISE

DATE: Tuesday, February 12, 2008
TIME: 8:55 am
PLACE: Conference Room 312
State Capitol
415 South Beretania Street

Dear Chair Morita and Members of the Committee:

The General Contractors Association (GCA) of Hawaii, an organization comprised of over five hundred and forty (540) general contractors, subcontractors, and construction related firms, **opposes** the passage of H.B. 3001, Relating To Noise.

The bill adds a new section to Chapter 663, HRS, Tort Actions to grant individuals the right to sue for injunctive relief and damages for alleged private nuisance due to excessive noise within two (2) years of the alleged violation.

The current laws under Chapter 342F, HRS, already provide for control and penalties for noise pollution. The Director of Health has the power to seek injunctive relief for excessive noise under Chapter 342F. Addition of a new section under the tort statues creates confusion and dual responsibility. The GCA believes that the Director of Health who is charged with the responsibility for issuance and administration of the noise permits can adequately enforce the laws. We believe that the existing laws are adequate to insure that excessive noise is controlled.

The GCA **opposes** the passage of H.B.3001, as unnecessary and duplicative and requests that this bill be passed.

Thank you for considering our concerns on the above bill.

RECEIVED FEB 11 7⁰⁰

William George

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February 4, 2008

Representative Hermina M. Morita
Chairperson, Energy and Environmental Protection Committee
Hawaii State Legislature
Hawaii State Capitol, Room 314
415 South Beretania Street
Honolulu, HI 96813

Support for House Bill HB3001

Dear Ms. Morita,

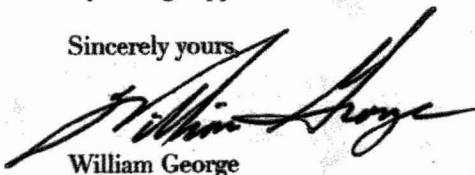
Here's a short story that indicates why we support the referenced bill. After being long time residents of Oahu, we moved to Ahualoa in September 1995 just prior to my retirement as a Captain with Aloha Airlines. It was love at first sight. Beautiful rolling pastures, the ocean visible in the distance, stands of tall Eucalyptus trees, colorful impatiens. But mostly it was the feeling. The only sounds were the trade winds through the trees, insects and birds, the cattle in the pasture. Blissful peace and quiet. We worked hard to care for the aina; to keep the place clean and beautiful. This paradise lasted ten years.

Then, one day in October 2005, the stillness was shattered with the sharp staccato crack of racing machines. It went on for hours on end. Someone had moved onto the neighborhood, and built a full blown dirt race track. Then, virtually every weekend and sometimes on weekdays, we were assaulted by incredible noise. In this age of environmental awareness it is astonishing that this would occur. Our normal outdoor activities must be curtailed. We train and show western performance horses and cannot train while the track is operating. Our grandchildren cannot ride when the track is operating

The property owner was ordered to cease and desist operation of the track, but refused. The county Planning Department issued a violation order and the case is now before the Hawaii County Board of Appeals. Land use and zoning are cumbersome and ineffective ways to deal with the problem.

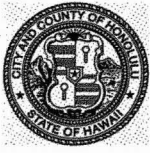
Our situation is not unique. Noise pollution is a quality of life issue. It has known negative psychological and physiological effect on humans and animals. Residents and visitors alike have a right to enjoy their experience free from unwanted noise. Noise pollution is somewhat addressed by statute in public places but there is scant remedy for those affected by noise sources on private property. Nationwide, states, counties and municipalities are increasingly addressing the problem with ordinances specifically targeting noise pollution. This bill is a good step in: 1. Recognizing that noise is a detriment to the quality of life in Hawaii and 2. Providing some remedy for resolution. I know I speak for our rural community when I voice my strong support for HB 3001.

Sincerely yours,



William George

Cc: Representative Dwight Takamine



DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
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Testimony of Thomas Smyth, Chair

House Committee on Energy & Environmental Protection

Tuesday, February 12, 2008

8:55 am Room 312

On

HB 3001 Relating to Noise

Chair Morita, Vice Chair Carroll, and Members of the Committee:

The Downtown Neighborhood Board supports the intent of HB 3001 that allows a tort action and injunctive action to providing relief from excessive noise. Excessive noise, especially from licensed liquor establishments and construction work is a common complaint received by our board.

Our concern is with some very broad aspects of this bill that may not be appropriate to those of us living in the downtown Honolulu urban core:

1. The downtown area is noisy most of each day! Motor vehicles, be they trucks, busses, cars, motorcycles, or motor scooters are often loud and certainly could interfere with "comfortable enjoyment of life and property." Construction, emergency vehicles, even people talking on the street, can also be noisy. Those without air conditioning often are uncomfortable if windows must be closed. But surely they knew that living in the urban core was not going to be like living in a bucolic rural area. Sorting out one noise from another is often challenging as well, so the singular, irritating noise source must be considered in the context of the overall background noise.
2. Expecting someone to remember just what he or she was doing that might be perceived as noisy at a specific time and location as long as two years later, in order to defend themselves, also does not seem reasonable. It is then too late to measure the background noise and the specific noise being complained about. A named defendant would be hard pressed to respond to a suit that might actually be related to some other noise source occurring at the same time and place.
3. Some noise that may interfere with comfortable enjoyment may actually be a permitted noise under the rules of the Department of Health. Road construction noise, sometimes done at night to avoid traffic congestion is a good example. Respond to a suit to bring this permitted factor into consideration is a cost and inconvenience that seems unnecessary. Could I sue the C&C because of noise from public safety vehicles?
4. We also note that noise in more suburban or even rural areas could lead to nuisance suits. If I don't like my neighbor's crowing roosters or barking dogs, could I sue because it "interferes with my comfortable enjoyment?"

Given these considerations it appears that this bill is just too broad and does not consider that such a tort action could come down to a "he said, I heard" situation that could easily create excessive litigation and nuisance legal actions.

Thank you for the opportunity to provide testimony.



Janice Lehner

From: animal_care_foundation@juno.com
Sent: Tuesday, February 12, 2008 7:46 AM
To: EEPtestimony
Subject: HB 3001 (Noise Bill) Testimony

Please deliver this testimony concerning bill HB3001, which is scheduled to be heard by EEP on Tuesday, 02-12-08 at 8:55 am in House conference room 312. Mahalo!

Representatives:

Animal CARE Foundation opposes HB 3001. This bill sounds good on its face, but the reality is that it will be abused if enacted into law. Wealthy people who can afford attorneys, or are attorneys themselves, can go after just about anyone and prevail because the language is so broad.

Every veterinary clinic, animal rescue organization, doggie daycare establishment, dog grooming establishment, and animal foster care or rehabilitation facility will be open to law suit under this bill- not to mention any of the thousands of homes in this state with animals in them.

Many city's and states have noise laws. What helps is having specificity. Dog barking ordinances contain a certain time period of continuous barking that reaches certain decibel levels. Car stereo, muffler, and alarm statutes contain decibel level measures that are quantifiable.

Noise laws have their place, we just encourage being cautious about having undue consequences in a litigious society, especially one that is transforming from rural to urban cultural norms.

Submitted by:

Frank De Giacomo, V.P.
Animal CARE Foundation