



January 30, 2008

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
ON HB 3246 RELATING TO NOISE**

Thank you Chair Souki and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) which has 360 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association has concerns with this because of the uncertainty of how vehicular sound will be measured and adjusted, in high density areas, and because of the fine and impound provisions.

The Hawaii State Department of Health's website has a photograph of a backhoe in an open environment registering 80 decibels. However, commercial motor vehicles carry product where they are needed, and this always includes high density areas like Waikiki, Salt Lake and Downtown.

The same is true for passenger carriers who service clients wherever they are - and that means Waikiki again for the most part.

In these high density areas you have multiple tall buildings which cause sound to reverberate and become amplified. A delivery truck or a tour bus is not louder than an operating backhoe, but when the sound they emit goes bouncing off of multiple buildings, the decibel reading can be higher, but it is because of the environment rather than the motor vehicle.

Furthermore, the sound level from an intermittent reverse warning signal - a necessary safety device - also adds to the sound being emitted and that too is amplified in an area where tall buildings are massed.

In these cases, the vehicle is not at fault and the loss of a commercial motor vehicle through impound is catastrophic to a motor carrier business.

Enforcement should take place outside of the high density areas, in the open, to get a true reading.

Thank you.

Submittal of Testimony

Testimony Submitted by: Mark Morrison- Vice President – Hawaii Motorcycle Dealers Association

Committee: COMMITTEE ON TRANSPORTATION

Time and Date of Hearing:

DATE: Wednesday, January 30, 2008
TIME: 9:00 am
PLACE: Conference Room 309
State Capitol
415 South Beretania Street

Measure Number: HB3246

E-mail to: TRNtestimony@Capitol.hawaii.gov

Subject: Testimony

Submit testimony at least 24 hours prior to the hearing.

Testimony: HB3246 will create some serious hardships for many, particularly in the section requiring an affixed label matching the muffler to vehicle type, pursuant to 40 code of Federal Regulations Section 205.158.

Motorcycles manufactured prior to this regulation (shows revised as of July 1 2006), will not be in compliance with the requirements of this bill, as they will not have the required labels, even though they may have nothing but original manufacturer's equipment and be in full compliance with EPA requirements.

Motor vehicles, (automobiles and motorcycles) and mopeds older than 10 years may be unable to purchase original equipment exhausts, as many manufacturers stop making replacement parts for vehicles after 10 years from the date of origin. Aftermarket exhausts will likely be the only source for needed exhaust replacement. I spoke with a couple of aftermarket exhaust manufacturers and they stated that it would take a long time to get testing and labeling done, to meet the requirements of the Federal regulation, which is aimed only at original vehicle manufacturers. They also stated that it would likely be impossible since many aftermarket mufflers fit a variety of vehicles, to get all exhausts to meet this regulation. Since they make only exhausts and not the entire vehicle, it would likely be more expensive to get the testing done, than their product is worth.

Considering the above, HB3246 will eliminate virtually all aftermarket exhausts, in Hawaii. This will create the loss of an important segment of the motor vehicle and moped industry in Hawaii. This will also create a hardship for the owners of motor vehicles and

mopeds, in Hawaii, by making exhaust replacement much more expensive and in the case of older vehicles, possibly impossible.

The other difficulties with HB3246 concern the decibel limits. There is currently no way for the police department to measure decibels and should they get the equipment for this, the decibel reading will be strongly affected by the ambient surroundings. To be accurate, decibel measurements need to be done in a controlled environment as they are for the vehicle manufacturers, when they certify for the Federal requirement.

The Hawaii Motorcycle Dealers Association shares the concern about excessive noise, but this bill is not the way to solve those concerns.

nishimoto2-Bryce

From: Warren Woodward [w6345789@yahoo.com]
Sent: Monday, January 28, 2008 4:24 PM
To: TRNtestimony
Subject: HB3246 testimony

To: Representative Joseph M. Souki, Chair, House Committee on Transportation

From: Warren Woodward, Chair, State Legislative Committee, Street Bikers United Hawaii, 8805 Kula Hwy., Kula, Hawaii 96790, 808 878 3103

Re: In opposition to HB3246, RELATING TO NOISE, being heard by TRN on Wednesday, 01-30-08 at 9:00 am in House conference room 309.

Testimony: My name is Warren Woodward and in opposing HB3246 I represent myself and the members of Street Bikers United Hawaii, the state's motorcyclists' rights organization.

There are already ample laws dealing with mufflers. **HRS291-24.5** prohibits increasing the sound of a stock motor vehicle muffler, and provides for as much as a \$250 fine for each citation. **HRS291-24** is basically the same but singles out motorcycles and mopeds, and **HRS291-22** adds motor scooters.

If there is an area where vehicle noise is a constant problem, then that area should be targeted with the enforcement of existing laws.

The bill has many unintended consequences. The bill calls for a specific limit of 95 decibels on mufflers. Police, then, will have to be issued and trained in the use and maintenance and calibration of decibel meters. Where is the money and time going to come from for this? Also, we believe our police have more pressing issues.

While the bill calls for a specific decibel limit, the bill also calls for vehicle impoundment if the police officer has "probable cause" to believe a vehicle is in violation. This vagary of "probable cause" opens the door for misapplied law and possible harassment. The thought of someone whose muffler becomes loose or their exhaust cracked (as has happened to me) having to also endure impoundment at their expense is harsh to say the least. Violations of this sort should be a "fix-it" ticket not a punishment.

Additionally, the bill is discriminatory. Power mowers make 100 decibels. Will they be impounded and their owners fined? And what about other noise sources? From the street, 100 decibels was recorded outside the Atherton YMCA during their dance & drum class. Should the public be protected from that? Should the drums be impounded? Diesel trucks make 100db. Will they be taken off the road?

The bill calls for an unspecified amount of money to be expended this year and next year on impoundment lots. Better set aside a stack of cash for Maui because even now Maui police cannot park on their own premises for lack of storage space. Spending what will probably amount to over a million dollars statewide to store the vehicles of muffler law violators is excessive and wasteful, especially when any vehicle noise problem could be solved with *targeted enforcement of existing law*, without the need for buying impound lots.

Exhaust inspection is already part of the yearly safety inspection. However, vehicle safety inspections

only ensure the vehicle is compliant on one day of the year - the day the vehicle passes inspection. Without difficulty, mufflers *can* and no doubt *will* be changed just to pass inspection, and then changed back. Enforcing existing law would be more effective.

The bill also does not address motorcycles that are hand built by the owner or by custom shops. Many of these have exhausts for which there is no EPA label since the exhausts were fabricated specifically for them. Citizens who own compliant, legal vehicles in Hawaii today will be outlaws if this bill passes. As such, the bill would constitute a taking of millions of dollars of citizens' property by unfairly rendering that property useless. Another consequence will be the elimination of custom exhaust and custom motorcycle manufacturers in Hawaii and the laying off of their employees.

Everyone has their pet peeves. I personally do not like false car alarms. Neighboring dogs can howl for hours, and then there's always the roosters. However I am mature enough not to elevate my pet peeves to the force and status of law.

Vote NO on HB3246.

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nishimoto2-Bryce

From: Dennis Freitas [HawnHog@hawaii.rr.com]
Sent: Monday, January 28, 2008 6:47 PM
To: TRNtestimony
Subject: Testimony: Opposition to HB3246

To: Representative Joseph M. Souki, Chair, House Committee on Transportation
From: Dennis J. Freitas, 45-656 Haamaile St, Kaneohe, HI 96744
Re: In opposition to HB3246, RELATING TO NOISE, being heard by TRN on Wednesday, 01-30-08 at 9:00 am in House conference room 309.

Testimony: My name is Dennis Freitas and I am in opposition to HB3246

There are currently laws dealing with exhaust systems/mufflers. HRS291-24.5 prohibits increasing the sound of a stock motor vehicle muffler. It also provides as much as a \$250 fine for each citation. HRS291-24 is basically the same law, but with a few added bells and whistles. It also singles out certain types of vehicles while omitting others.

Creating a new law is redundant and wasteful spending of our resources. Target these problem areas by using the CURRENT laws and spare us the indignity of another law and wasting the time and money of others to appease a few.

What upsets me is this Bill smacks of being discriminatory. There are many other devices and vehicles that exceed the 95 decibel level called for in the Bill. (Trucks, buses, construction equipment, weed whackers, leaf blowers, just to name a few.) Why are they not in the Bill? We already single out barking dogs, and boom boxes. Shouldn't there be a blanket on all equipment, devices, as well as anything else that emits "noise" over 95 decibels (parades, outdoor activities, parties, church bells, air shows, etc.) Why are not these not written into law and also subject to impound and fines? The bottom line: this Bill is about loud cars, trucks, and two-wheeled vehicles that traverse "certain" neighborhoods. Wouldn't it make more sense to enforce the current muffler law in those neighborhoods than to write a new law?

Also, the bill has many unintended consequences. The bill calls for a specific limit of 95 decibels on mufflers. Police, then, will have to be issued and trained in the use and maintenance and calibration of decibel meters. Appropriation of funds that could be better put to use will be mis-spent and our already overtaxed police force will be given yet another task to fulfill.

The bill also does not address one-off custom built vehicles for which there is no chance of acquiring an EPA label since the exhausts were fabricated specifically for them. Also, there are an abundance of old vehicles where EPA parts were never or are no longer available. Thus this Bill will make Citizens who own compliant, legal vehicles in Hawaii subject to being scofflaws if this bill passes. As such, the bill would constitute the taking of citizens' property and unfairly rendering that property useless. Another consequence of this Bill will be the elimination of certain small business' in Hawaii that are dependent on the automotive and motorcycle trades.

I ask that you reconsider the value of this Bill and Vote NO on HB3246.

1/29/2008

Testimony In OPPOSITION TO HB -3246

My name is Emil Gomez; I am a Vietnam Veteran, currently employed at Pearl Harbor Naval Shipyard as a Marine Machinery Mechanic Supervisor and have over 33 years of total federal service. I am also a member of Street Bikers United a motorcycle rights organization in Hawaii.

I have been riding motorcycles for over 35 years and we are opposed to HB - 3246 for these reasons. First of all it singles out motorcycles / 2 wheels motorized vehicles, which is highly discriminatory as other motorized vehicles are not being targeted. Second there are currently laws dealing with exhaust systems/mufflers. HRS291-24.5 prohibits increasing the sound of a stock motor vehicle muffler. It also provides as much as a \$250 fine for each citation. HRS291-24 is basically the same law.

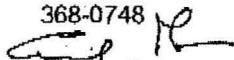
Creating a new law is redundant and wasteful spending of our resources. Enforcing the current law is all that should be required especially since the current law does not discriminate against motorcycles.

Also, the bill has many unintended consequences. The bill calls for a specific limit of 95 decibels on mufflers. Police, then, will have to be issued and trained in the use and maintenance and calibration of decibel meters. Appropriation of funds that could be better put to use will be misspent and our already overtaxed police force will be given yet another task to fulfill.

There are many other devices and vehicles that exceed the 95 decibel level called for in the Bill. (Trucks, buses, construction equipment, weed whackers, leaf blowers, just to name a few.) Why are they not in the Bill? We already single out barking dogs, and boom boxes. Shouldn't there be a blanket on all equipment, devices, as well as anything else that emits "noise" over 95 decibels (parades, outdoor activities, parties, church bells, air shows, etc.) Why are not these not written into law and also subject to impound and fines? The bottom line: this Bill is about loud cars, trucks, and two-wheeled vehicles that traverse "certain" neighborhoods. Wouldn't it make more sense to enforce current muffler law in those neighborhoods than to write a new law?

The bill also does not address one-off custom built vehicles for which there is no EPA label since the exhausts were fabricated specifically for them as well as old vehicles where EPA parts were never or are no longer available. Thus this Bill will make Citizens who own compliant, legal vehicles in Hawaii subject to being scofflaws if this bill passes. As such, the bill would constitute the taking of citizens' property and unfairly rendering that property useless. Another consequence will be the elimination of small businesses in Hawaii that are dependent on the automotive and motorcycle trades.

I ask that you reconsider the value of this Bill and Vote NO on HB3246. Thank you for your consideration and if there are any questions regarding this issue please feel free to contact me at 368-0748


Respectfully
Emil Gomez