



GOV. MSG. NO. 1414

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 09, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

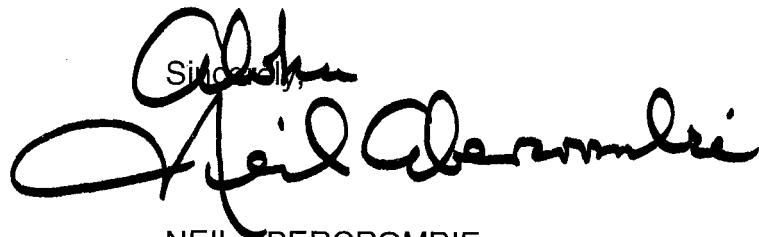
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 09, 2012, the following bill was signed into law:

SB2630 HD2

RELATING TO NOISE.
Act 297 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO NOISE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the method of
2 measuring noise used by the department of health is the dBA
3 weighting system. The dBA system measures sound in decibels
4 using the "A weighted" measurement, dBA, such that sound levels
5 measured in dBA correspond to what the human ear hears. An
6 alternative, the dBC weighting system also measures sound levels
7 but includes measurement of the lower frequencies that cause
8 physical objects such as windows and walls to vibrate. Because
9 these lower frequency sound waves are not perceived by the human
10 ear as measured by the dBA weighting system, even though they
11 are physically felt through strong vibrations, the sound levels
12 generated do not currently constitute a violation of the
13 community noise control law.

14 The purpose of this Act is to authorize a liquor commission
15 in a county with a population of seven hundred thousand or
16 greater to use both the dBA and the dBC weighting system for the
17 purpose of community noise control.



1 SECTION 2. Section 281-17, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The liquor commission, within its own county, shall
4 have the sole jurisdiction, power, authority, and discretion,
5 subject only to this chapter:

6 (1) To grant, refuse, suspend, and revoke any licenses for
7 the manufacture, importation, and sale of liquors;

8 (2) To take appropriate action against a person who,
9 directly or indirectly, manufactures, sells, or
10 purchases any liquor without being authorized pursuant
11 to this chapter; provided that in counties which have
12 established by charter a liquor control adjudication
13 board, the board shall have the jurisdiction, power,
14 authority, and discretion to hear and determine
15 administrative complaints of the director regarding
16 violations of the liquor laws of the State or of the
17 rules of the liquor commission, and impose penalties
18 for violations thereof as may be provided by law;

19 (3) To control, supervise, and regulate the manufacture,
20 importation, and sale of liquors by investigation,
21 enforcement, and education; provided that any
22 educational program shall be limited to the commission



1 staff, commissioners, liquor control adjudication
2 board members, licensees and their employees and shall
3 be financed through the money collected from the
4 assessment of fines against licensees; provided that
5 fine moneys, not to exceed ten per cent a year of
6 fines accumulated, may be used to fund public liquor
7 related educational or enforcement programs;

8 (4) From time to time to make, amend, and repeal such
9 rules, not inconsistent with this chapter, as in the
10 judgment of the commission seem appropriate for
11 carrying out this chapter and for the efficient
12 administration thereof, and the proper conduct of the
13 business of all licensees, including every matter or
14 thing required to be done or which may be done with
15 the approval or consent or by order or under the
16 direction or supervision of or as prescribed by the
17 commission; which rules, when adopted as provided in
18 chapter 91 shall have the force and effect of law;

19 (5) Subject to chapter 76, to appoint and remove an
20 administrator, who may also be appointed an
21 investigator and who shall be responsible for the
22 operations and activities of the staff. The



1 administrator may hire and remove hearing officers,
2 investigators, and clerical or other assistants as its
3 business may from time to time require, to prescribe
4 their duties, and fix their compensation; to engage
5 the services of experts and persons engaged in the
6 practice of a profession, if deemed expedient. Every
7 investigator, within the scope of the investigator's
8 duties, shall have the powers of a police officer;

9 (6) To limit the number of licenses of any class or kind
10 within the county, or the number of licenses of any
11 class or kind to do business in any given locality,
12 when in the judgment of the commission such
13 limitations are in the public interest;

14 (7) To prescribe the nature of the proof to be furnished,
15 the notices to be given, and the conditions to be met
16 or observed in case of the issuance of a duplicate
17 license in place of one alleged to have been lost or
18 destroyed, including a requirement of any indemnity
19 deemed appropriate to the case;

20 (8) To fix the hours between which licensed premises of
21 any class or classes may regularly be open for the



1 transaction of business, which shall be uniform
2 throughout the county as to each class respectively;

3 (9) To prescribe all forms to be used for the purposes of
4 this chapter not otherwise provided for in this
5 chapter, and the character and manner of keeping of
6 books, records, and accounts to be kept by licensees
7 in any matter pertaining to their business;

8 (10) To investigate violations of this chapter, chapter
9 244D and, notwithstanding any law to the contrary,
10 violations of the applicable department of health's
11 allowable noise levels, through its investigators or
12 otherwise, to include covert operations, and to report
13 violations to the prosecuting officer for prosecution
14 and, where appropriate, the director of taxation to
15 hear and determine complaints against any licensee;
16 provided that a liquor commission in a county with a
17 population of seven hundred thousand or greater may
18 establish a pilot program that employs both a dBA and
19 a dBC sound level measurement system for the purpose
20 of community noise control; provided further that the
21 dBC sound level measurements shall be in accordance



1 with the following maximum permissible sound levels in
2 dBc:

3 (A) Zoning districts that include all areas
4 equivalent to lands zoned residential,
5 conservation, preservation, public space, open
6 space, or similar type shall have a maximum dBc
7 sound level of fifty-five from 7:00 a.m. to 10:00
8 p.m. and a maximum dBc level of forty-five from
9 10:00 p.m. to 7:00 a.m.;

10 (B) Zoning districts that include all areas
11 equivalent to lands zoned for multi-family
12 dwellings, apartment, business, commercial,
13 hotel, resort, or similar type shall have a
14 maximum dBc sound level of sixty from 7:00 a.m.
15 to 10:00 p.m. and a maximum dBc level of fifty
16 from 10:00 p.m. to 7:00 a.m.; and

17 (C) Zoning districts that include all areas
18 equivalent to lands zoned in agriculture,
19 country, industrial, or similar type shall have a
20 maximum dBc sound level of seventy from 7:00 a.m.
21 to 10:00 p.m. and a maximum dBc level of seventy
22 from 10:00 p.m. to 7:00 a.m.;

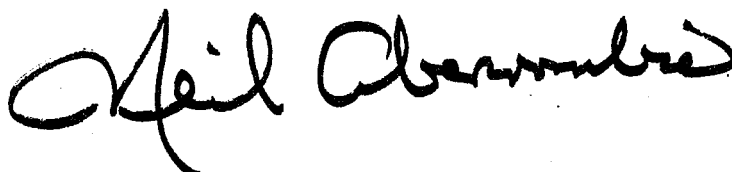


- 1 (11) To prescribe, by rule, the terms, conditions, and
2 circumstances under which persons or any class of
3 persons may be employed by holders of licenses;
4 (12) To prescribe, by rule, the term of any license or
5 solicitor's and representative's permit authorized by
6 this chapter, the annual or prorated amount, the
7 manner of payment of fees for the licenses and
8 permits, and the amount of filing fees; and
9 (13) To prescribe, by rule, the circumstances and penalty
10 for the unauthorized manufacturing or selling of any
11 liquor."

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval
14 and shall be repealed on May 5, 2017; provided that section
15 281-17(a), Hawaii Revised Statutes, shall be reenacted in the
16 form in which it read on the day before the effective date of
17 this Act.

APPROVED this 9 day of JUL, 2012



GOVERNOR OF THE STATE OF HAWAII