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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Section 46-17, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§46-17 Regulation of certain public nuisances.** (a) Any  
4 provision of law to the contrary notwithstanding, the council of  
5 any county may adopt and provide for the enforcement of  
6 ordinances regulating or prohibiting noise, smoke, dust,  
7 vibration, or odors which constitute a public nuisance. No such  
8 ordinance shall be held invalid on the ground that it covers any  
9 subject or matter embraced within any statute or rule of the  
10 State; provided that in any case of conflict between a statute  
11 or rule and an ordinance, the law affording the most protection  
12 to the public shall apply, with the exception that:

13           (1) An ordinance shall not be effective to the extent that  
14           it is inconsistent with any permit for agricultural  
15           burning granted by the department of health under  
16           authority of chapter 342B, or to the extent that it  
17           prohibits, subjects to fine or injunction, or declares



1 to be a public nuisance any agricultural burning  
2 conducted in accordance with such a permit; and

3 (2) An ordinance shall not be effective to the extent that  
4 it is inconsistent with any noise rule adopted by the  
5 department of health under authority of chapter 342F.

6 (b) A county shall investigate and notify the department  
7 of health of any report of an actual or suspected source of air  
8 pollution, as defined in section 342B-1, pursuant to section  
9 322-1, without regard to whether the actual or suspected air  
10 pollutant is regulated by the director of health pursuant to  
11 section 342B-11."

12 SECTION 2. Section 322-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§322-1 Removal, prevention.** (a) The department of  
15 health and its agents shall examine into all nuisances, foul or  
16 noxious odors, gases or vapors, water in which mosquito larvae  
17 exist, sources of filth, and all causes of sickness or disease,  
18 on shore, and in any vessel, which may be known to them or  
19 brought to their attention, which in their opinion are dangerous  
20 or injurious to health, and into any and all conditions created  
21 or existing which cause or tend to cause sickness or disease or



1 to be dangerous or injurious to health, and shall cause the same  
2 to be abated, destroyed, removed, or prevented.

3 (b) For purposes of this section, a nuisance shall include  
4 [~~toxic~~]:

5 (1) Toxic materials that are used in or by-products of the  
6 manufacture or conversion of methamphetamine, and  
7 clandestine drug labs that manufacture  
8 [~~methamphetamine.~~] methamphetamine; and

9 (2) Foul or noxious odors, gases, or vapors such as those  
10 emanating from buildings."

11 SECTION 3. Section 342B-41, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~+~~§342B-41[~~+~~] **Inspection of premises.** (a) The  
14 director, in accordance with the law, may enter and inspect any  
15 building or place to investigate an actual or suspected source  
16 of air pollution, to ascertain compliance or noncompliance with  
17 this chapter or any rule or standard adopted by the department  
18 pursuant to this chapter, or any permit or other approval  
19 granted by the department pursuant to this chapter, and to make  
20 reasonable tests in connection therewith. No confidential  
21 information secured pursuant to this section by any official or  
22 employee of the department within the scope and course of the



1 official's or employee's employment in the prevention, control,  
2 or abatement of air pollution shall be disclosed by the official  
3 or employee except as it relates directly to air pollution and  
4 then only in connection with the official's or employee's  
5 official duties and within the scope and course of the  
6 official's or employee's employment.

7 (b) The director, upon receipt of a complaint of foul or  
8 noxious odors, gas, or vapors emanating from any building may  
9 enter and inspect the building or place to investigate an actual  
10 or suspected source of air pollution in accordance with  
11 subsection (a) and examine for the existence of a nuisance under  
12 section 322-1."

13 SECTION 4. Section 342F-20, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§342F-20 Effect of laws, ordinances, and rules.** Any  
16 county may adopt ordinances and rules governing any matter  
17 relating to excessive noise control as provided in section [~~46-~~  
18 ~~17,~~] 46-17(a), and any conflict between state and county law  
19 shall be resolved as provided in section [~~46-17,~~] 46-17(a)."

20 SECTION 5. Section 342F-30.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



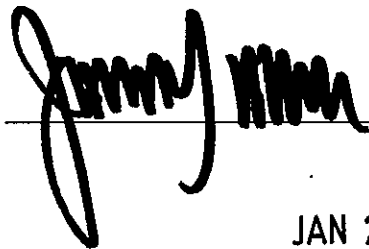
1           "~~§~~**§342F-30.5**~~§~~ **Noise control.** By June 30, 1996, the  
2 department shall adopt a state community noise code pursuant to  
3 chapter 91, which recognizes differences in noise level  
4 standards in urban and non-urban areas of the State and noise  
5 level standards of each county. In the event of any conflict  
6 between this section and section ~~[46-17,]~~ 46-17(a), section ~~[46-~~  
7 ~~17]~~ 46-17(a) shall govern."

8           SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:




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JAN 22 2013



# H.B. NO. 754

**Report Title:**

Health; Air Pollution; Nuisance

**Description:**

Requires a county to investigate and notify the Department of Health if a report is made about a possible nuisance involving air pollution. Defines air-polluting nuisances. Gives the Director of Health the authority to enter and investigate reports of air-polluting nuisances.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

