

CHAPTER 342F
NOISE POLLUTION

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Note

Department of transportation's bridge rehabilitation and replacement program; temporary exemption from certain construction requirements of this chapter through June 30, 2017 or until completion. L 2012, c 218.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

Law Journals and Reviews

Liability Insurance Coverage for Pollution Claims. 12 UH L. Rev. 83.

Case Notes

Neither this chapter nor rules promulgated under §342-42 for "vehicular noise" extend to sounds reproduced by an automobile's stereo and regulated under Revised Ordinances of Honolulu §41-31.1. 81 H. 156 (App.), 914 P.2d 549.

"PART I. DEFINITIONS AND GENERAL PROVISIONS

§342F-1 Definitions. As used in this chapter, unless the context otherwise requires:

"Complaint" means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule or order adopted pursuant to this chapter.

"dBA" means the A-weighted sound level or unit of measurement describing the total sound level of all noises as measured with a sound level meter using the "A" weighting network.

"dBC" means the C-weighted sound level or unit of measurement describing the total sound level of all noises as measured with a sound level meter using the "C" weighting network.

"Decibel" means the unit for measuring the volume of sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (0.0002 dynes per square centimeter).

"Department" means the department of health.

"Director" means the director of health.

"Excessive noise" means the presence of sound as measured by standard testing devices as established by the noise rules adopted by the department of a volume or in quantities and for durations which endangers human health, welfare or safety, animal life, or property or which unreasonably interferes with the comfortable enjoyment of life and property in the State or in such areas of the State as are affected thereby.

"Off-hour roadwork" means any roadway construction between the hours of 6 p.m. and 7 a.m., which would require a variance from the committee on noise rules in the department of health.

"Party" means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.

"Permit" means written authorization from the director to construct, modify, or operate any excessive noise source. A permit authorizes the grantee to cause or emit excessive noise in a manner or amount, or to do any act, not forbidden by this chapter or by rules adopted under this chapter, but requiring review by the department.

"Person" means any individual, partnership, firm, association, public or private corporation, federal agency, the State or any of its political subdivisions, trust, estate, or any other legal entity.

"Pollution" means excessive noise.

"Variance" means special written authorization from the director to cause or emit excessive noise in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules adopted under this chapter.

"Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn, including boats and ships. [L 1989, c 212, pt of §3; am L Sp 2009, c 25, §4]

Note

The amendment made by L 2014, c 218, §8 is not included in this section.

" **[§342F-2] Administration.** The department shall administer this chapter through the director. The director may delegate to any person such power and authority vested in the director by this chapter as the director deems reasonable and proper for the effective administration of this chapter, except the power to make rules. [L 1989, c 212, pt of §3]

" **[§342F-3] Duties, rules, powers, appointment of hearings officers.** (a) In addition to any other power or duty

prescribed by law and in this chapter, the director shall prevent, control, and abate noise pollution in the State. In the discharge of this duty, the director may make, amend, and repeal state rules controlling and prohibiting noise pollution. All rules shall be adopted pursuant to chapter 91. Any person heard at the public hearing shall be given written notice of the action taken by the department with respect to the rules.

(b) In addition to other specific powers provided in this chapter, the director may appoint without regard to chapter 76, hearings officers to conduct public participation activities including public hearings and public informational meetings. [L 1989, c 212, pt of §3; am L 2000, c 253, §150]

" **§342F-4 Permits; procedures for.** (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary in order for it to determine whether the proposed installation, alteration, or use will be in accord with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that such will be in the public interest; provided that the permit may be subject to such reasonable conditions as the director may prescribe. The director, on application, shall renew a permit from time to time for a term not exceeding five years if the director determines that such is in the public interest. The director shall not deny an application for the issuance or renewal of a permit without affording the applicant an opportunity for a hearing in accordance with chapter 91.

The director, on the director's own motion or the application of any person, may modify, suspend, or revoke any permit if, after affording the permittee an opportunity for a hearing in accordance with chapter 91, the director determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts;
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted emission; or
- (4) Such is in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action,

the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director may by rule prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

(d) Except for applications for which the director deems a public informational meeting, hearing, or notice is appropriate, the director shall act on an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within thirty days of the receipt of a properly completed application.

For applications for which the director deems a public informational meeting, hearing, or notice is appropriate, the director shall act on the application within ninety days of the receipt of a properly completed application.

If the director determines that extraordinary circumstances exist on an application, the director shall extend the ninety-day period up to an additional ninety days.

(e) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant's application provided that the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as a part thereof. [L 1989, c 212, pt of §3; am L 1990, c 298, §4; am L 1999, c 58, §2]

" **[§342F-4.5] Projects exempt from noise permit**

requirements. (a) Except as provided in subsection (b), any construction project:

- (1) For a dwelling; or
- (2) With a total cost of less than \$250,000 based on the value of the project listed on the building permit, shall be exempt from the noise permit requirements of section 342F-4; provided that written notification of the intent to construct shall be submitted to the department by the person responsible for the construction project. The notification shall include information concerning the person responsible for the construction project, type of construction, location, and estimated duration of the construction project. The notification also shall include an acknowledgment that the construction project shall be subject to operational times and a maximum noise level of seventy-eight decibels when measured at any point at or beyond the property line of the construction premises.

(b) The exemption in subsection (a) shall not apply to any construction project which:

(1) Emits noise in excess of the maximum permissible sound levels established under the state community noise code adopted by the department which occur:

(A) Before 7:00 a.m. and after 6:00 p.m. on Monday to Friday;

(B) Before 9:00 a.m. and after 6:00 p.m. on Saturday; and

(C) On Sunday and holidays; or

(2) Uses hoe-rams or pile drivers;

provided that subsection (a) shall not apply to a construction project that emits noise exceeding seventy-eight decibels, regardless of the time of occurrence of the noise.

(c) Violation of this section shall be subject to a fine not exceeding \$100 per violation; provided that each day of a violation shall constitute a separate offense; and provided further that a violation exceeding five days shall be subject to the penalties under section 342F-9(b).

(d) As used in this section:

"Construction" means any or all activities including those activities necessary or incidental to the erection, demolition, renovation, or alteration of buildings.

"Dwelling" means a room or rooms connected together constituting an independent housekeeping unit for an individual or a family, and containing facilities for bathing, cooking, or both.

"Notification" means a formal notice to the department of the intent to construct a project exempt from noise permit requirements under subsection (a). [L 1999, c 57, pt of §1]

" **§342F-5 Variances.** (a) Every application for a variance shall be made on forms furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the department may by rule prescribe.

(b) Each application for a variance shall be reviewed in light of the descriptions, statements, plans, histories, and other supporting information submitted with the application, such additional information as may be submitted upon the request of the department, and the effect or probable effect upon the noise level standards established pursuant to this chapter.

(c) Whenever an application is approved, the department shall issue a variance authorizing the emission of noise in excess of applicable standards. No variance shall be granted by

the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the emission occurring or proposed to occur by the granting of the variance is in the public interest as defined in section 342F-4;
 - (2) The emission occurring or proposed to occur does not substantially endanger human health or safety; and
 - (3) Compliance with the rules or standards from which variance is sought would produce serious hardship without equal or greater benefits to the public.
- (d) Any variance or renewal thereof shall be granted

within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control, or abatement of the excessive noise involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of a variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the excessive noise involved.
- (2) The director may issue a variance for a period not exceeding five years.
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform noise sampling and report the results of such sampling to the department.

(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding five years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided further that the renewal, and the variance issued in pursuance thereof, shall provide for emission not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance. The director shall act on an application for renewal within one hundred eighty days of the receipt of such application.

(f) The director may afford a hearing in accordance with chapter 91 in relation to an application for the issuance, renewal, or modification of a variance.

(g) No variance granted pursuant to this chapter shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(h) Any application for a variance, submitted pursuant to this chapter, shall be subject to the public participation requirements listed below.

- (1) Public notices of every completed application for a variance, except an application for off-hour road work, shall be given in a manner designed to inform interested and potentially interested persons of the proposed emission. Procedures for giving public notice shall include at least the following:
 - (A) Notice shall be given within the geographical areas of the proposed emission;
 - (B) Notice shall be mailed to any person or group upon request; and
 - (C) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area;
- (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director;
- (3) The contents of public notice of applications for variances shall include at least the following:
 - (A) Name, address, and phone number of agency issuing the public notice;
 - (B) Name and address of each applicant;
 - (C) Brief description of each applicant's activities or operations which result in the emission described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, or pineapple cannery);
 - (D) A short description of the location of each emission indicating whether the emission is new or existing;
 - (E) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by

paragraph (2), and any other means by which interested persons may influence or comment upon those determinations; and

- (F) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents; and
- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2), the director determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed emission or other appropriate area, at the discretion of the director. [L 1989, c 212, pt of §3; am L 1998, c 2, §89]

" **[§342F-6] Inspection of premises.** The director, in accordance with law, may enter and inspect any building or place to investigate an actual or suspected source of excessive noise, to ascertain compliance or noncompliance with this chapter, any rule or standard adopted by the department pursuant to this chapter, or any permit or other approval issued by the department pursuant to this chapter, and to make reasonable tests in connection therewith. No confidential information secured pursuant to this section by any official or employee of the department within the scope and course of the official's or employee's employment in the prevention, control, or abatement of excessive noise shall be disclosed by the official or employee except as it relates directly to excessive noise and then, only in connection with the official's or employee's official duties and within the scope and course of the official's or employee's employment. [L 1989, c 212, pt of §3]

" **§342F-7 Enforcement.** (a) If the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take any measures that may be necessary to correct the violation and to give periodic progress reports;
- (2) May require that the alleged violator or violators appear before the director for a hearing at a time and

place specified in the notice and answer the charges complained of; and

- (3) May impose penalties as provided in section 342F-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter after having been served notice of violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring that person to submit a written schedule within thirty days specifying the measures to be taken and the time within which the measures shall be taken to bring that person into compliance with this chapter, any rule adopted pursuant to this chapter, or the conditions of a permit or variance issued pursuant to this chapter;
- (2) Shall accept or modify the submitted schedule within thirty days of receipt of the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director;
- (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until the director accepts the written schedule; and
- (4) May impose penalties as provided in section 342F-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.

(c) If the director determines that any person has violated the provisions of an accepted schedule or has violated an order issued under this section the director shall impose penalties by sending a notice in writing, either by certified mail or by personal service, to that person, describing such nonadherence or violation with reasonable particularity.

(d) Any order issued under this chapter shall become final, unless no later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed

under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of.

(e) Any hearing conducted under this section shall be conducted as a contested case under chapter 91. If after a hearing held pursuant to this section, the director finds that a violation or violations have occurred, the director shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the violation or discharges involved, or for the taking of such other corrective action as may be appropriate. If, after a hearing on an order or penalty contained in a notice, the director finds that no violation has occurred or is occurring, the director shall rescind the order or penalty. Any order issued after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or discharges.

(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to collect the administrative penalty which shall be a government realization.

In any proceeding to collect the administrative penalty imposed, the director need only show that:

- (1) Notice was given;
- (2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;
- (3) The administrative penalty was imposed; and
- (4) The penalty remains unpaid.

(g) In connection with any hearing held pursuant to this section, the director shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties. [L 1989, c 212, pt of §3; am L 1990, c 298, §5; am L 1995, c 180, §16]

" **[§342F-8] Emergency powers; procedures.** (a) Notwithstanding any other law to the contrary, if the director

determines that an imminent peril to the public health and safety is or will be caused by excessive noise, which requires immediate action, the director, with the approval of the governor and without public hearing, may order any person causing or contributing to the excessive noise to immediately reduce or stop such emission, or the director may take any and all other actions as may be necessary. Such order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.

(b) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision, or inheres in the office. [L 1989, c 212, pt of §3]

" **§342F-9 Penalties.** (a) Violation of the vehicular noise control rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each separate offense. Each day of violation shall constitute a separate offense.

(b) Any person who violates this chapter, any rule adopted pursuant to this chapter, other than vehicular noise control rules, or any permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in environmental court to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control rules, shall be considered a civil action.

(c) Any person who denies, obstructs, or hampers the entrance or inspection by any duly authorized officer or employee of the department of any building, place, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken in environmental court to impose or collect the penalty provided for in this subsection shall be considered a civil action. [L 1989, c 212, pt of §3; am L 1991, c 157, §14; am L 1995, c 180, §17; am L 2014, c 218, §8]

" **[§342F-10] Citation.** Any person who commits a violation of the noise control rules adopted by the department pursuant to this chapter may be issued a summons or citation for such violation by any person authorized to enforce such rules, hereinafter referred to as enforcement officer. The summons or citation shall be printed in the form hereinafter described,

warning such person to appear and answer to the charge against the person at a certain place and at a time within seven days after the issuance of such summons or citation.

The summons or citation shall be designed to provide for all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district environmental courts.

The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district environmental courts; provided that the district environmental courts may prescribe alternative methods of distribution of the original and any other copies.

Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

In the event any person fails to comply with a summons or citation issued to such person, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for the person's arrest. Failure to comply with a summons or citation is a misdemeanor. [L 1989, c 212, pt of §3; am L 2014, c 218, §8]

" **§342F-11 Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342F-9(b) and (c).

(b) Factors to be considered in imposing an administrative penalty include:

- (1) The nature and history of the violation and of any prior violations;
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action;
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

(c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary shall be on the violator. [L 1989, c 212, pt of §3; am L 1995, c 180, §18]

" **[§342F-11.5] Disposition of collected fines and penalties.** Fines and penalties collected under sections 342F-9 and 342F-11 shall be deposited into the environmental response revolving fund established by section 128D-2. [L 1991, c 157, §3]

" **§342F-12 Injunctive and other relief.** The director may institute a civil action in any environmental court of competent jurisdiction for injunctive and other relief to prevent any violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance, to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The environmental court shall have power to grant relief in accordance with the Hawaii rules of civil procedure. [L 1989, c 212, pt of §3; am L 1995, c 180, §19; am L 2014, c 218, §8]

Rules of Court

Injunctions, see HRCPC rule 65.

" **[§342F-13] Appeal.** If any party is aggrieved by the decision of the director, the party may appeal in the manner provided in chapter 91 to the circuit environmental court of the circuit in which the party resides or has the party's principal place of business or in which the action in question occurred; provided that the operation of a cease and desist order will not be stayed on appeal unless specifically ordered by [an] environmental court of competent jurisdiction. [L 1989, c 212, pt of §3; am L 2014, c 218, §8]

" **§342F-14 Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof and for the implementation and enforcement of the terms and conditions of permits and variances (not including court costs or other costs associated with any formal enforcement action). All fees collected pursuant to this section shall be deposited into the noise, radiation, and indoor air quality special fund established pursuant to section 342P-7. [L 1989, c 212, pt of §3; am L 1994, c 169, §§5, 9; am L 1996, c 164, §1; am L 1998, c 311, §§16, 19]

Note

The amendment made by L 2014, c 218, §8 is not included in this section.

" **[§342F-14.5] Fees for notification.** The director may establish reasonable fees for notifications and to cover the cost of implementation, recordkeeping, and any necessary

inspections to ascertain compliance with the provisions of the state community noise rules. [L 1999, c 57, pt of §1]

" **[§342F-15] Public records; confidential information; penalties.** Reports submitted to the department on the emission of excessive noise shall be made available for inspection by the public during established office hours unless such reports contain information of a confidential nature concerning secret processes or methods of manufacture. Any officer, employee, or agent of the department acquiring confidential information from the inspection authorized by section 342F-6 who divulges information except as authorized in this chapter or except as ordered by a court or at an administrative hearing regarding an alleged violation of this chapter or of any rule or standard adopted pursuant to this chapter shall be fined not more than \$1,000. [L 1989, c 212, pt of §3]

Note

The amendment made by L 2014, c 218, §8 is not included in this section.

" **[§342F-16] Nonliability of department personnel.** Notwithstanding any other law to the contrary, no member, officer, or employee of the department shall be criminally liable or responsible under this chapter for any acts done by the member, officer, or employee in the performance of the member's, officer's, or employee's duties; provided that this section shall not apply to violations of section 342F-15. [L 1989, c 212, pt of §3]

" **[§342F-17] Other action not barred.** No existing civil or criminal remedy for any wrongful action which is a violation of any statute or any rule of the department or the ordinance of any county shall be excluded or impaired by this chapter. [L 1989, c 212, pt of §3]

" **[§342F-18] Enforcement by state and county authorities.** All state and county health authorities and police officers shall enforce this chapter and the rules and orders of the department. [L 1989, c 212, pt of §3]

" **[§342F-19] Other powers of department not affected.** The powers, duties, and functions vested in the department under this chapter shall not be construed to affect in any manner the powers, duties, and functions vested in the department under any other law. [L 1989, c 212, pt of §3]

" **§342F-20 Effect of laws, ordinances, and rules.** Any county may adopt ordinances and rules governing any matter relating to excessive noise control as provided in section 46-17, and any conflict between state and county law shall be resolved as provided in section 46-17. [L 1989, c 212, pt of §3; am L 1999, c 265, §3]

" **[§342F-21] Priority in courts.** All actions brought pursuant to this chapter or pursuant to the rules adopted under this chapter shall in the discretion of the court receive priority in the courts of the State. [L 1989, c 212, pt of §3]

Note

The amendment made by L 2014, c 218, §8 is not included in this section.

"PART II. NOISE CONTROL

[§342F-30] Prohibition. No person, including any public body, shall engage in activity which produces excessive noise without first securing approval in writing from the director; provided that this section shall not apply to any school activity which is approved by school authorities. For purposes of this section, "school activity" means a public or private school function for students up through the twelfth grade which is approved by the school principal or an authorized representative. These activities shall be limited to the hours of 7:00 a.m. to 10:00 p.m. [L 1989, c 212, pt of §3]

Cross References

Noise and climate control at school facilities, see §302A-1501.

" **[§342F-30.5] Noise control.** By June 30, 1996, the department shall adopt a state community noise code pursuant to chapter 91, which recognizes differences in noise level standards in urban and non-urban areas of the State and noise level standards of each county. In the event of any conflict between this section and section 46-17, section 46-17 shall govern. [L 1995, c 200, §2]

" **[§342F-30.8] Leaf blowers; restrictions.** (a) In any urban land use district, as designated pursuant to section 205-2, it shall be unlawful for any person to operate a leaf blower

within a residential zone or within one hundred feet of a residential zone in the State, except between the hours of 8:00 a.m. and 6:00 p.m. on any day except Sunday or a state or federal holiday, and between the hours of 9:00 a.m. and 6:00 p.m. on Sunday or any state or federal holiday.

(b) Violators shall be fined \$50 for the first violation, \$100 for the second violation, \$200 for the third violation, and \$500 for each subsequent violation.

(c) Government entities, and agents acting on behalf of government entities, shall not be subject to this section.

(d) Any county may adopt a rule or ordinance that places stricter limitations on the use of leaf blowers than are in this section. In case of a conflict between the requirements or limitations of this section and any county rule or ordinance regarding the use of leaf blowers, the more restrictive requirements shall apply.

(e) For the purposes of this section:

"Leaf blower" means any machine used to blow leaves, dirt, or other debris off sidewalks, driveways, lawns, and other surfaces.

"State holiday" means any day established as a state holiday in section 8-1. [L 2010, c 206, §1]

" **[\$342F-31] Rules; specific.** The director may establish by rule:

- (1) The control of vehicular noise; and
- (2) Other specific areas for control of excessive noise, thereby allowing for varying conditions. [L 1989, c 212, pt of §3]

Case Notes

Neither this chapter nor rules promulgated under §342-42 for "vehicular noise" extend to sounds reproduced by an automobile's stereo and regulated under Revised Ordinances of Honolulu §41-31.1. 81 H. 156 (App.), 914 P.2d 549.

" **[\$342F-31.5] Noise measurement; rules.** (a) The department shall adopt rules in accordance with chapter 91 that shall use both the dBC and the dBA sound level measurement systems for community noise control. The department and the county liquor commissions may enforce nighttime noise levels in any urban land use district measured from over fifty to sixty decibels, measured using the dBC weighting system, in certain areas they deem appropriate and not adversely affecting public health and safety.

(b) In any urban land use district, a sound level of more than sixty decibels for bass sound (using the dBC weighting system), measured at a complainant's site, shall be deemed to exceed the maximum permissible sound at nighttime; provided that, where the complainant's site is within or in close proximity to an area zoned mixed-use or residential, the maximum permissible sound at nighttime shall be fifty decibels dBC.

(c) For purposes of this section:

"Nighttime" means the time between the hours of 10:00 p.m. and 7:00 a.m.; and

"Urban land use district" means property designated as such pursuant to section 205-2. [L Sp 2009, c 25, §3]

" **[§342F-32] Complaints; hearings; appointment of masters.**

The director may:

- (1) Receive or initiate complaints of excessive noise, hold hearings in connection with excessive noise, and institute legal proceedings in the name of the State for the prevention, control, or abatement of excessive noise; and
- (2) Appoint a master or masters to conduct investigations and hearings. [L 1989, c 212, pt of §3]

" **[§342F-33] Research, educational, and training programs.**

The director may:

- (1) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of excessive noise and the means whereby noise may be monitored, controlled, or abated;
- (2) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State or from private sources for the study and control of excessive noise; and
- (3) Conduct or commission and supervise state educational and training programs on noise prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise and its effect on people. [L 1989, c 212, pt of §3]