



February 14, 2022

**TESTIMONY BEFORE THE SENATE COMMITTEE ON HEALTH  
ON SB 2749 RELATING TO NOISE**

Aloha Chair Keohokalole, and committee members. I am Gareth Sakakida Managing Director of the Hawaii Transportation Association (HTA) with over 350 members involved with the commercial ground transportation industry.

HTA opposes this bill.

The bulk of activity during the early morning hours involves food distribution. This is so product is available when schools, supermarkets, stores, restaurants, etc. open for business.

In the case of schools, cafeteria managers accept deliveries and request them in the dark hours of the morning since they are focused on preparing breakfasts hours before students arrive on campus. Breakfast clean up and lunch preparation locks in their attention throughout the day.

Supermarkets want fresh deliveries before customers arrive in the morning. Many food purveyors also serve as merchandisers who stock the shelves and stage products on the floor. This takes place while the store is still closed because of the volume of activity.

Hotel and restaurant operations demand top quality, fresh produce. Delivery times directly affect the quality and freshness of perishable products, so delivery even the night before is not acceptable. Our clients have their staffs on hand very early in the morning to receive deliveries, QC product, load their refrigerators, and start prepping for food service.

Making deliveries when establishments are open creates a great deal of congestion in the parking lots and within the establishments themselves. It is extremely difficult to maneuver tractor trailers in conflict with customers' vehicles, especially when backing into loading docks. Many establishments stop accepting deliveries before noon. There are not enough trucks or drivers in the state to service those establishments in five hours.

Trucks begin moving out from Campbell through Pearl City from 4:00 a.m. on delivery runs to stay out of the peak morning commuter traffic. If deliveries cannot begin until 7:00 a.m. then you will get to see hundreds of trucks entering the traffic stream from 6:00 a.m.

Congestion, whether on the roads or within parking lots are prime environments for vehicular conflict. Concentrating more delivery vehicles within those environments increases conflicts and the probability of accidents.

Mahalo.



KAILUA NEIGHBORHOOD BOARD NO. 31

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February 12, 2022

Senator Jarrett Keohokalole  
Chairman, Senate Health Committee

Submitted via Hawaii State Legislature Testimony for the Health Committee February 14, 2022 meeting

Subject: Support for Senate Bill 2749 Relating to Noise

Aloha Senator Keohokalole and members of the Senate Health Committee,

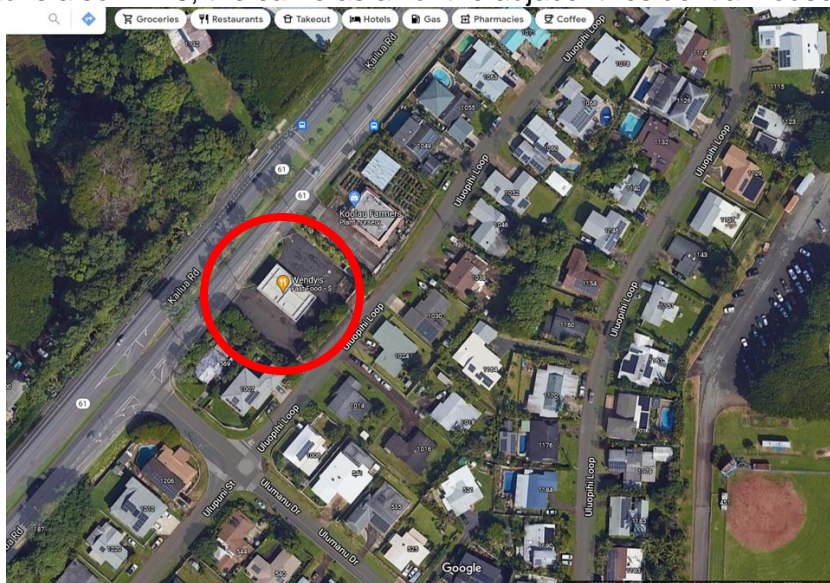
I am the Chairman of the Kailua Neighborhood Board. The intent of Senate Bill 2749 strongly compliments previous positions taken by the Kailua Neighborhood Board for noise reduction and security measures to protect neighbors from activities related to the Wendy's at 1143 Kailua Road, which is directly adjacent to single-family residential homes. I can therefore convey very strong support for Senate Bill 2749, but I also recommend an amendment to better achieve the intent of the bill.

Senate Bill 2749 reads in part: “§291C- Noise; commercial vehicles; penalties. (a) Notwithstanding any law to the contrary, no person shall operate any commercial vehicle for the purpose of making a pickup from, or delivery to, a business establishment, where:

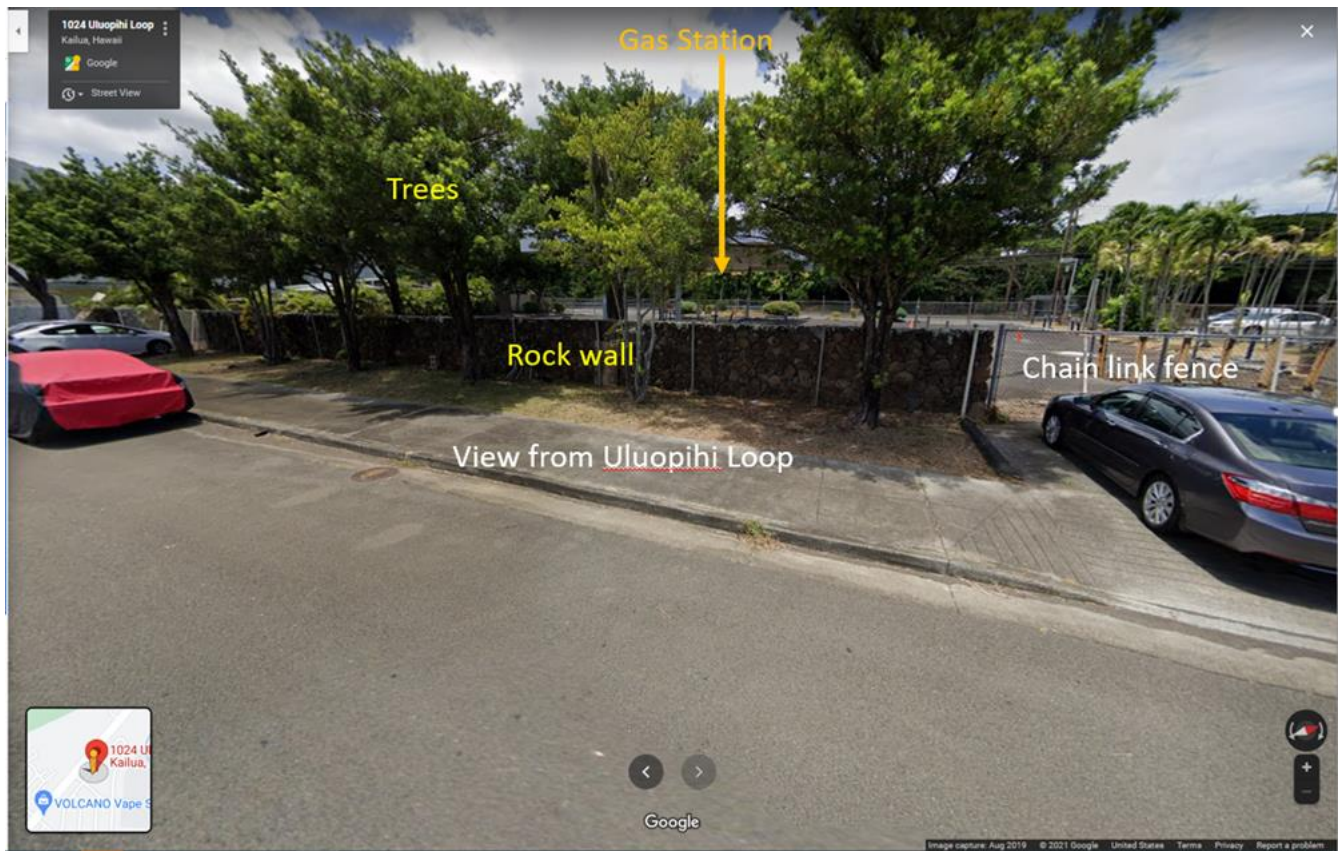
- (1) The pickup or delivery is made between the hours of 10:00 p.m. and 7:00 a.m. on any day; and
- (2) The commercial vehicle, while traveling on a roadway, parking lot, or other property owned or under the control of a business establishment, passes within fifty feet of any single-family residence in the performance of the pickup from, or delivery to, the business establishment.”

Businesses which operate alongside residential houses should respect their neighbors’ legitimate needs for peace and quiet at night.

In Kailua, this Wendy’s is an example of a business which is adjacent to residential single-family houses where nighttime noise pollution is causing significant harm to nearby residents. Wendy’s is located at 1143 Kailua Road on property that is zoned B-1 Neighborhood Business District, however all adjacent properties are zoned R-7.5 Residential District. (Interestingly, next door Koolau Farmers at 1157 Kailua Road is also R-7.5, the same as all of the adjacent residential houses.)



This Wendy's site was previously used as a gas station (Gas Express then Tesoro), which for 30 years had a lava rock wall and a peaceful co-existence with the neighbors.



Wendy's removed the lava rock wall and routinely conducts loud food delivery and trash removal operations between midnight and 6 AM.



At the Kailua Neighborhood Board meeting on February 6, 2020 the following resolution received unanimous approval: “The Kailua Neighborhood Board requests the City and County of Honolulu Department of Planning and Permitting (DPP) to require a solid wall/barrier at least 6 feet high along the entirety of the property (TMK: 4-2-033-051-0000) facing the Pohakupu residential neighborhood to clearly delineate residential and commercial activities and to minimize disruptions (noise, traffic, etc.) and to protect the safety and public health of the residential neighborhood.” This was communicated to DPP in a letter dated February 7, 2020. There is still no wall there.

At 8:30 PM on November 30, 2021, I measured the noise coming from this Wendy's from the driveway across the street at 1014 Uluopihī Loop for a 10-minute period. There were typically about 3 cars waiting in the Wendy's drive-through lane placing orders. The sound level averaged 54 dB over 10 minutes, with a low of 49 dB and a high of 72 dB recorded. Although this level of routine customer noise would exceed the state's maximum permissible nighttime noise level, the middle of the night noise generated by commercial delivery and trash pick-up trucks is much louder than that.

The purpose of Hawaii Administrative Rules Chapter 11 Section 46 is to “...define the maximum permissible sound levels, and to provide for the prevention, control, and abatement of noise pollution in the State from the following excessive noise sources: stationary noise sources; and equipment related to agricultural, construction, and industrial activities. It is also the purpose of this chapter to establish noise quality standards to protect public health and welfare, and to prevent the significant degradation of the environment and quality of life”. It goes on to state:

Maximum permissible sound levels in dBA.

(a) The maximum permissible sound levels specified in Table 1, as provided in this subsection and in section 11-46-3, shall apply to the following excessive noise sources: stationary noise sources; and equipment related to agricultural, construction, and industrial activities.

Zoning Districts	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
Class A	55 dBA	45 dBA
Class B	60 dBA	50 dBA

Class A zoning districts include all areas equivalent to lands zoned residential, conservation, preservation, public space, open space, or similar type.

Class B zoning districts include all areas equivalent to lands zoned for multi-family dwellings, apartment, business, commercial, hotel, resort, or similar type.

(b) The maximum permissible sound levels in Table 1, as provided in subsection (a), shall apply to any excessive noise source emanating within the specified zoning district, and at any point at or beyond (past) the property line of the premises in a manner deemed appropriate by the director.

(c) Noise levels shall not exceed the maximum permissible sound levels for more than ten per cent of the time within any twenty-minute period, except by permit or variance issued under sections 11-46-7 and 11-46-8.

Please note that the permissible Nighttime levels are 10 dB lower than the Daytime levels. This is largely because sound is louder and travels further at night than during the day. Also note that a 10 dB difference is the same as 10 times as loud, i.e., daytime permitted noise is 10 dB or 10 times as loud as permitted nighttime noise.

Furthermore, the noise generated 50 feet away from a noise source in the daytime would be equivalent to 250 feet away from the same noise source at night, given that a 10 dB noise reduction is needed at night and the noise attenuation factor for distance is 6 dB for every doubling of distance (because 10 dB is 2.5 times 6 dB, 5 times the distance from the source is needed to achieve a 10 dB noise reduction).

For this reason, I submit that the 50 feet criterion specified in SB 2749 is inadequate. To better achieve the intent of this bill to provide neighboring residents with relief from excessively loud nighttime noise between 10 PM and 7 AM, I recommend that this bill be amended to read 250 feet instead of 50 feet.

Mahalo for your consideration.

Aloha,

/signed/

William M. Hicks  
Chairman, Kailua Neighborhood Board



**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
February 14, 2022  
Re: SB 2749 RELATING TO NOISE.**

Good afternoon, Chairperson Keohokalole and members of the Senate Committee on Health. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are opposed to SB 2749 Relating to Noise. This measure prohibits commercial vehicles from making pickups from, or deliveries to, business establishments during certain times of the day and within a certain proximity of single-family residences in the performance of the vehicles' pickup or delivery. Establishes fines.

Many town centers / community shopping centers are in and around single-family homes for convenience. Deliveries are often made at night when there is less traffic on the roads and businesses are less full of customers or at closing when the parking lots and street parking are more open and available if there is no loading dock. These include grocery and convenience stores, apparel stores, home improvement, electronic and more. Stores like to receive their products prior to the stores openings to restock their shelves before the customer arrives or when they are running low on products.

By limiting the times trucks are allowed to deliveries, trucking companies will have to choose between turning down work/contracts if they cannot make the delivery window or not be in compliance. We are all too aware that even scheduled deliveries are sometime off schedule – traffic, truck breaks down, taking longer to on or off load goods... We don't want the truck drivers to rush their deliveries in an effort to avoid a penalty and/or cause an accident.

We must also consider that some deliveries have inflexible time as certain goods have an expiration date and may need to be delivered within strict timeframes. This includes but is not limited to perishables delivered fresh in the morning for the customer on their way to work like pastries, spam musubi, bentos, and sandwiches.

Furthermore, like many other industries there are a shortage of workers and that includes truck drivers. The routes that they drive are not just in one community but can be island wide in their deliveries. We also have stores that are open 24 hours for the convenience of customers – many whom work early or late shifts.

We ask that you please hold this measure.

Mahalo again for this opportunity to testify.

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI  
MAYOR



ALEX KOZLOV, P.E.  
DIRECTOR

HAKU MILLES, P.E.  
DEPUTY DIRECTOR

February 11, 2022

The Honorable Jarrett Keohokalole, Chair  
The Honorable Rosalyn H. Baker, Vice-Chair  
and Members of the Committee on Health  
The Senate  
State Capitol, Via Videoconference  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Keohokalole, Vice-Chair Baker, and Members:

SUBJECT: Senate Bill No. 2749  
Relating to Noise

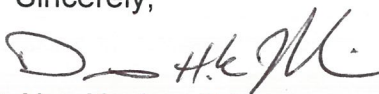
The Department of Design and Construction (DDC) respectfully requests Senate Bill No. 2749 be **amended** to exempt commercial vehicles operating in response to an emergency. The bill proposes to prohibit commercial vehicles from making pickups from, or deliveries to, business establishments during certain times of the day and within a certain proximity of single-family residences in the performance of the vehicles' pickup or delivery.

One example would be when a road is severed by a landslide, commercial vehicles might need to perform deliveries and pickups during nighttime hours in support of construction activities to reopen the road.

Based on the above consideration, DDC respectfully requests Senate Bill No. 2749 be amended to exempt commercial vehicles operating in response to an emergency.

Thank you for the opportunity to comment on this bill.

Sincerely,

  
Alex Kozlov, P.E.  
Director

Rowe  
1030 Uluopihl Loop  
Kailua ,HI 96734

February 2-14-22 ( resubmission of testimony submitted 2-13-22 )

Senator Jarrett Keohokalole  
Chairman, Senate Health Committee

Subject: Support for Senate Bill 2749 Relating to noise.

Aloha Senator and Committee members,

My name is Benjamin Rowe, and I am a life long Kailua resident. I am recreating a testimony that I submitted digitally yesterday at approximately 10:30 am. I am hopeful that my original will be found in the system as it was possibly better thought out than this recreation. However, please accept this in lieu of if my previous testimony is not retrieved on the State end.

I am in favor of SB 2749 as it relates to commercial noise. We live behind the development that is located at 1143 Kailua Road known as Kailua Wendys restaurant. Since word of this development broke, we have as a community tried to engage with the developers as well as elected officials, neighborhood boards and all proper channels to achieve balance with regard to the disruptions this type of establishment would potentially cause a residential community. The realities of what this development is causing to our community is way beyond what we could have imagined. For the purposes of this testimony, I am addressing the commercial noise impacts that disrupt our peace and are causing issues to our health.

The commercial noises that are attached to the servicing of this establishment have caused tremendous disruption to the immediate and surrounding neighbors that are in reasonable proximity to the Kailua Wendys. The commercial services that are impacting us are but not limited to Food delivery, produce delivery, Gas company gas delivery, Refuse collection and Grease trap servicing.

All of these above-mentioned services are taking place in the late evening and early morning hours at this location. We have attempted through all proper channels including communications directly with the operator Cotti Foods, Your communication with the company, Council Member Kia aina's communication, Representative Martens communication, Mayor Rick Blagiardi as well. On all occasions both verbally and in writing the operator has attempted to indicate that these concerns have been addressed and are no longer happening. All of which is untrue.



The tremendously loud banging of trash collection happens more than 4 times a week and primarily happens well before 6 am. Additionally the food delivery happens very early in the am, many times between 1:30 am and 4 am . This operation is loud and consistently disruptive for more than an hour in duration, several times a week. The grease trap collection also typically happens early in the morning and involves a truck that must rev up its engine to have the pump activate and this is loud and disruptive and also sometimes smelly. The gas company pump truck also needs to rev up its engine to pump the gas into the tank that is located on the property closest to my home.

All of these occurrences that are happening in what is normal peace and sleep time are happening sometimes back-to-back, sometimes at the same time and some spread out throughout the entire week including weekends. This causes consistent disruption in our sleep and does not allow us to have a consistent good night sleep. This affects our ability to be well rested and face the work week. For other neighbors, the noises affect them so much that they have had to adjust sleeping patterns and begin the process of getting enough sleep at 6 pm knowing that they will be awakened after 11:30 by service vehicles and again at 1:30 and then again at 4:30 or 5 am. ALL of these services can and should be done during normal day time business hours. There is NO reason that they cannot happen during the slow times of the operation.

In reading a copy of Chair Hicks testimony submitted on this same issue. He has elaborated on this issue as he is very familiar with our communities ongoing issues and concerns with this development. Chair Hicks makes a good point in the fact that the bill should be amended to extend the distance of impact so that it ensures our communities and other communities facing similar issues will indeed find relief from the proposed bill. Further Chair Hicks testimony should be accepted with the weight of our community as he has heard from many and has been listening to MANY members in our community that have taken issues to the Kailua neighborhood board regarding this issue.

I would like it noted that we have tried to solve this issue with this neighbor many many times through proper channels as listed above and have tried solving this at the lowest level. In our case we are working with big business that has no willingness to be a good neighbor.

This bill once passed will provide our community and other communities with similar issues the restoration of peace during the late night and early hours and will enable residents in the community to get a good night's rest and not have to deal with the stresses of loud noises that do not allow us to get a proper night's sleep.

If there is additional room for modification of the bill, I personally would hope that the time frame of quiet could be extended until 7 am at the least.

I hope that you will pass this bill in an effort to restore the health and well being of our community. Further I hope you find my original testimony. If you would like to speak with me, have copies of hours of video evidence or visit my community please do not hesitate to call on me anytime.

Thank you,

Benjamin Rowe (808) 479-3540

**LATE**

Testimony of Matson Navigation Company, Inc.  
Opposition to SB2749  
Before the Committee on Health  
February 14, 2022

Dear Chair Keohokalole, Vice Chair Baker, and Members of the Committee,

Matson Navigation Company, Inc. (Matson) respectfully opposes SB2749, which prohibits any commercial vehicle from making a pickup from or delivery to a business establishment between the hours of 10:00 p.m. and 7:00 a.m. if the vehicle passes within fifty feet of any single-family residence in the performance or delivery to the business establishment.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Matson's operations run twenty-four hours a day, seven days a week and our terminal is at full capacity. Prohibiting deliveries to and from business establishments at night would severely impact Matson's ability to out-gate and in-gate cargo on time and would likely lead to delays of goods to Hawaii's shelves as delivery trucks would be restricted to delivering the containers during daytime hours. This measure would also likely adversely impact our ability to sail our vessels on time because delivery trucks would be restricted to returning containers and chassis during daytime hours, which would cause additional shipping delays.

Furthermore, this measure will require truckers to haul containers to make deliveries *only* during the hours when our streets and highways are at their busiest and will cause increased congestion on our roadways.

Finally, we offer two questions of fairness for your Committee to consider:

- (1) Is it fair to prohibit a business currently relying on evening deliveries from accepting its nighttime deliveries if it existed on the property before a residence was built within the 50-foot proposed boundary?
- (2) If the noise pollution can have adverse impacts on the quality of life in communities, why does the measure specifically exclude from noise control measures our residents who are only able to afford to live in multiple-family residences such as apartment buildings?

Thank you for the opportunity to provide testimony.