

1 "Motor vehicle" has the same meaning as defined in section
2 291C-1.

3 "Owner" or "registered owner" has the same meaning as used
4 in section 286-2.

5 "Photo noise violation monitoring system" means a mobile or
6 fixed vehicle sensor installed to work in conjunction with a
7 noise measuring device such as a decibel reader that
8 automatically produces two or more photographs, two or more
9 microphotographs, a videotape, or other recorded images of each
10 vehicle at the time it is used or operated in violation of the
11 motor vehicle noise limits pursuant to section 342F-30.5.

12 "Traffic-control signal" has the same meaning as defined in
13 section 291C-1.

14 **§ -2 Photo noise violation monitoring system program;**
15 **established.** There is established a photo noise violation
16 monitoring system program to monitor vehicle noise limits under
17 the state community noise control code pursuant to section
18 342F-30.5, which may be implemented by the State, on any state
19 or county highways within the respective county. Nothing in
20 this chapter shall be deemed to supersede or override any
21 provision of chapter 291D.



1 § -3 **State powers and duties.** (a) The State shall
2 establish and implement, in accordance with this chapter, a
3 photo noise violation monitoring system imposing monetary
4 liability on the registered owner of a motor vehicle for failure
5 to comply with the state community noise control code pursuant
6 to section 342F-30.5. The State shall provide for the:

- 7 (1) Procurement, location, and oversight of a photo noise
8 violation monitoring system; and
9 (2) Installation, operation, maintenance, and repair of
10 the photo noise monitoring system through a third
11 party contractor.

12 (b) If the State establishes a photo noise violation
13 monitoring system under this chapter, the compensation paid by
14 the State to a manufacturer or vendor of the equipment used
15 shall be based upon the value of the equipment and services
16 provided or rendered in support of the photo noise violation
17 monitoring system and shall not be based upon a portion of the
18 fine or civil penalty imposed or the revenue generated by the
19 equipment.

20 (c) Prior to the installation and operation of any photo
21 noise violation monitoring system, for each intersection



1 considered for enforcement via the photo noise monitoring
2 system, the State shall:

3 (1) Conduct a comprehensive engineering review and study
4 of each intersection and implement all necessary and
5 appropriate engineering, design, and traffic-control
6 signal measures; and

7 (2) Conduct a study to acquire a baseline average of the
8 number of motor vehicles violating the state community
9 noise control code pursuant to section 342F-30.5, over
10 a period of not less than one week; provided that the
11 baseline average shall be determined prior to the
12 installation of any signs or other official traffic-
13 control devices that indicate that an intersection is
14 being considered for a photo noise violation
15 monitoring system.

16 (d) At least sixty days prior to the photo noise violation
17 monitoring system becoming operational, the department, in
18 conjunction with any county that implements a photo noise
19 violation monitoring system program pursuant to this chapter,
20 shall conduct a comprehensive informational and educational



1 campaign to inform motorists and the general public about the
2 program.

3 (e) During the first thirty days of operation of an
4 individual photo noise violation monitoring system at a
5 particular intersection, a warning shall be issued for any
6 violation and mailed to the registered owner of the motor
7 vehicle at the address on record at the vehicle licensing
8 division in lieu of a summons or citation pursuant to
9 section -7.

10 **§ -4 Photo noise violation monitoring system**

11 **requirements.** (a) Photo noise violation monitoring system
12 detector equipment may be operated from a fixed pole, post, or
13 other fixed structure on a state or county highway.

14 (b) Signs or other traffic-control signal devices
15 indicating that traffic signal laws are enforced by a photo
16 noise violation monitoring system shall be posted on major
17 routes entering the area in question to provide, as far as
18 practicable, notice to drivers of the existence and operation of
19 the system.

20 (c) Proof of a violation of section 291C-31 shall be as
21 evidenced by information obtained from the photo noise violation



1 monitoring system authorized pursuant to this chapter. A
2 certificate, sworn to or affirmed by the reviewing county police
3 department, or a facsimile thereof, based upon inspection of any
4 photograph, microphotograph, videotape, or other recorded image
5 evidencing a violation shall be available for inspection in any
6 proceeding to adjudicate the liability for that violation.

7 (d) The State shall maintain a daily camera log report for
8 each photo noise violation monitoring system that:

- 9 (1) States the date and time when, and the location where,
10 the system was set up; and
- 11 (2) States that the photo noise violation monitoring
12 system passed the self-tests of the system before
13 producing a recorded image that day. The State shall
14 retain each daily camera log report until the date on
15 which the photo noise violation monitoring system to
16 which it applies has been permanently removed from use
17 or the final resolution of all cases involving notices
18 of violation issued based on any photograph,
19 microphotograph, video, or other recorded image
20 produced by the system, whichever is later.



1 (e) It shall be a defense to any prosecution for a
2 violation of motor vehicle noise limits pursuant to this chapter
3 that the photo noise violation monitoring system was
4 malfunctioning at the time of the alleged violation.

5 (f) The conditions specified in this section shall not
6 apply when the information gathered is used for highway safety
7 research or to issue warning citations not involving a fine or
8 court appearance.

9 § -5. **Annual calibration of systems.** Each photo noise
10 violation monitoring system shall undergo an annual calibration
11 check performed by an independent calibration laboratory, which
12 shall issue a signed certificate of calibration. The State
13 shall keep each annual certificate of calibration on file until
14 the final resolution of all cases involving a notice of
15 violation issued during that year, which were based on any
16 photograph, microphotograph, videotape, or other recorded image
17 produced by the photo noise violation monitoring system.

18 § -6 **Recorded images; retention; deletion.** (a) Any
19 photograph, microphotograph, videotape, or other recorded image
20 from a photo noise violation monitoring system shall be for the
21 exclusive use of the State or county for the purpose of the



1 adjudication of liability imposed pursuant to section -8, and
2 of the motor vehicle owner receiving a notice of violation, and
3 shall be destroyed by the State upon the final resolution of the
4 notice of violation to which any photograph, microphotograph,
5 videotape, or other recorded image relate, or one year following
6 the date of issuance of notice of violation, whichever is later.

7 (b) Notwithstanding any law to the contrary, any
8 photograph, microphotograph, videotape, or any other recorded
9 image from a photo noise violation monitoring system shall not
10 be available to the public, nor subject to civil or criminal
11 process or discovery, nor used by any court or administrative or
12 adjudicatory body in any action or proceeding therein except
13 that which is necessary for the adjudication of a notice of
14 violation; provided that any photograph, microphotograph,
15 videotape, or other recorded image from such systems shall:

16 (1) Be available for inspection and copying and use by the
17 registered owner for so long as any photograph,
18 microphotograph, videotape, or other recorded image is
19 required to be maintained or is maintained by any
20 public entity, employee, officer or agent; and



- 1 (2) Be furnished when described in a search warrant issued
2 by a court authorized to issue a search warrant where
3 the search warrant states that there is reasonable
4 cause to believe the information constitutes evidence
5 of, or tends to demonstrate that, a misdemeanor or
6 felony offense was committed in the State or county,
7 or that a particular person participated in the
8 commission of a misdemeanor or felony offense in the
9 State; provided that the court shall only issue a
10 warrant if the conduct comprising the offense would,
11 if occurring in the State or county, constitute a
12 misdemeanor or felony against the laws of the State;
13 and
- 14 (3) Be furnished in response to a subpoena duces tecum
15 signed by a judge of competent jurisdiction, or a
16 judge or magistrate of a federal court authorized to
17 issue a subpoena duces tecum under federal law, where
18 the judge finds and the subpoena duces tecum under
19 reasonable cause to believe the information is
20 relevant and material to the prosecution, or the
21 defense, or the investigation by an authorized law



1 enforcement official, of the alleged commission of a
2 misdemeanor or felony.

3 (c) The department shall utilize necessary technologies to
4 ensure, to the extent practicable, that any photograph,
5 microphotograph, videotape, or other recorded image produced by
6 a photo noise violation monitoring system shall not include any
7 image that identifies the driver, the passengers, or the
8 contents of the vehicle; provided that no summons or citations
9 issued pursuant to this chapter shall be dismissed solely
10 because any photograph, microphotograph, videotape, or other
11 recorded image allows for the identification of the driver, the
12 passengers, or the contents of the vehicles where the department
13 shows that it made reasonable efforts to comply with the
14 provisions of this chapter.

15 § -7 Summons or citations. (a) Notwithstanding any law
16 to the contrary, beginning July 1, 2024, whenever any motor
17 vehicle is determined, by means of a photo noise violation
18 monitoring system, to have violated the state community noise
19 control code pursuant to section 342F-30.5, the State's third
20 party contractor shall cause a summons or citation, as described
21 in this section, to be sent by first class mail, that is



1 postmarked within ten-calendar days after the date of the
2 incident, to the registered owner of the motor vehicle at the
3 address on record at the vehicle licensing division. If the end
4 of the ten-calendar day period falls on a Saturday, Sunday, or
5 holiday, then the ending period shall run until the end of the
6 next day that is not a Saturday, Sunday, or holiday.

7 (b) The form and content of the summons or citation shall
8 be as adopted or prescribed by the administrative judge of the
9 district courts and shall be printed on a form commensurate with
10 the form of other summonses or citations used in modern methods
11 of arrest, so designed to include all necessary information to
12 make the summons or citation valid within the laws of the State;
13 provided that any summons or citation pursuant to the photo
14 noise violation monitoring systems program shall contain a clear
15 and unobstructed photographic, digital, or other visual image of
16 the motor vehicle license plate, and decibel units measured by
17 the decibel reader, which shall be used as evidence of the
18 violation.

19 (c) Every summons or citation shall be consecutively
20 numbered and each copy thereof shall bear the number of its
21 respective original.



1 (d) Prior to the mailing of the summons or citation for a
2 traffic infraction pursuant to subsection (a), the applicable
3 county police department shall review and verify the validity of
4 the clear and unobstructed photographic, digital, or other
5 visual image of the license plate of the motor vehicle required
6 under this section.

7 (e) Upon receipt of the summons or citation the registered
8 owner shall respond as provided for in chapter 291D. A record
9 of the mailing of the summons or citations prepared in the
10 ordinary course of business is prima facie evidence of
11 notification. The registered owner shall be determined by the
12 identification of the motor vehicle license plate.

13 **§ -8 Registered owner's responsibility for a summons or**
14 **citation.** (a) In any proceeding for a violation of this
15 chapter, the information contained in the summons or citation
16 mailed in accordance with section -7 shall be deemed prima
17 facie evidence that a violation of section 291C-32(c) occurred.
18 If the registered owner does not rebut the evidence presented in
19 this subsection by presenting one or more of the defenses listed
20 in subsection (b), the registered owner shall be strictly liable
21 for a violation of section 291C-31.



1 (b) The registered owner of the motor vehicle may present
2 evidence to rebut the evidence in subsection (a) by any one of
3 the following:

4 (1) Submitting a written statement as provided in section
5 291D-6(b)(2);

6 (2) Testifying in open court under oath that the person
7 named in the summons or citation was not the
8 registered owner of the motor vehicle at the time of
9 the alleged violation;

10 (3) Calling witnesses to testify in open court under oath
11 that the person named in the summons or citation was
12 not the registered owner of the motor vehicle at the
13 time of the alleged violation; or

14 (4) Submitting to the court adjudicating the alleged
15 violation, prior to the return date established on the
16 citation or summons issued pursuant to this chapter, a
17 letter of verification of loss from the county police
18 department indicating that the motor vehicle or the
19 motor vehicle license plates had been reported stolen.

20 § -9 Failure to comply with summons or citation. If the
21 registered owner of the motor vehicle fails to respond to a



1 summons or citation within thirty days from the date of the
 2 mailing of the summons or citation, the district court shall
 3 issue, pursuant to section 291D-7(e), a notice of entry of
 4 judgment of default to the registered owner of the motor
 5 vehicle.

6 **§ -10 Liability for rental or U-drive motor vehicle.**

7 Notwithstanding any law to the contrary, any registered owner of
 8 record who is the lessor of a rental or U-drive motor vehicle,
 9 including those defined in section 286-2, shall be liable for
 10 any summons or citation issued pursuant to this chapter. The
 11 registered owner shall not be precluded from pursuing
 12 reimbursement from any applicable renter or lessee.

13 **§ -11 Penalty.** (a) It shall be a violation for any
 14 person to violate any of the provisions of this chapter, unless
 15 the violation is by other law of the State declared to be a
 16 felony, misdemeanor, or petty misdemeanor.

17 (b) Every person who is determined to have violated any
 18 provision of this chapter for which another penalty is not
 19 provided shall be fined:

- 20 (1) Not more than \$ for a first violation
- 21 thereof;



1 (2) Not more than \$ for a second violation
2 committed within one year after the date of the first
3 violation; and

4 (3) Not more than \$ for a third or subsequent
5 violation committed within one year after the date of
6 the first violation.

7 (c) Any summons or citations issued or convictions
8 resulting from this chapter shall not be recorded on a person's
9 traffic abstract and shall not be used for insurance purposes in
10 the provision of motor vehicle insurance coverage.

11 § -12 **Fines for unauthorized disclosure.** All personal
12 and confidential information made available by a photo noise
13 violation monitoring system to an officer, employee, or agent of
14 the State or any county, including third party contractors,
15 shall be kept confidential and shall be used only for the
16 purposes for which the information was furnished. Any officer,
17 employee, or agent of the State or any county, including a third
18 party contractor, who intentionally discloses or provides a copy
19 of personal and confidential information obtained from a photo
20 noise violation monitoring system to any person or agency
21 without authorization shall be fined not more than \$500;



1 provided that the fine shall not preclude the application of
2 penalties or fines otherwise provided for by law.

3 **§ -13 Rules.** The department shall adopt rules pursuant
4 to chapter 91 as may be necessary to implement this chapter.

5 **§ -14 Report to the legislature.** The department shall
6 submit an annual report to the legislature no later than twenty
7 days prior to the convening of each regular session, including:

- 8 (1) The locations and dates when photo noise violation
9 monitoring systems were used;
- 10 (2) The number of violations recorded within the State and
11 county, in the aggregate on a daily, weekly, and
12 monthly basis;
- 13 (3) The total number of summons or citations issued for
14 violations recorded by the photo noise violation
15 monitoring system;
- 16 (4) The number of fines levied and total amount of fines
17 paid for violations recorded by the photo noise
18 violation monitoring system;
- 19 (5) The number of violations adjudicated and the results
20 of such adjudications, including a breakdown of



- 1 dispositions made for violations recorded by the photo
2 noise violation monitoring system;
- 3 (6) The total amount of revenue realized by the department
4 in connection with the program;
- 5 (7) The expenses incurred by the State in connection with
6 the program; and
- 7 (8) The quality of the adjudication process and its
8 results.

9 § -15 Photo noise violation monitoring system program
10 special fund; established. (a) There is established in the
11 state treasury a photo noise violation monitoring system program
12 special fund to be administered by the department, into which
13 shall be paid the revenues collected pursuant to this chapter.

14 (b) All fines collected under this chapter shall be
15 deposited into the photo noise violation monitoring system
16 program special fund. Moneys in the fund shall be expended by
17 the department in the county in which the fine was imposed, for
18 the purposes that include the establishment, implementation,
19 operation, oversight, repair, and maintenance of a photo noise
20 violation monitoring system."



1 SECTION 2. Section 291-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§291-23 Penalty. Whoever is convicted of violating any
4 of the provisions of section 291-22 shall be fined not more than
5 [~~\$100.~~] \$300."

6 SECTION 3. Section 342F-30.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~§~~342F-30.5[~~]~~] **Noise control.** (a) By June 30, 1996,
9 the department shall adopt a state community noise code pursuant
10 to chapter 91, which recognizes differences in noise level
11 standards in urban and non-urban areas of the State and noise
12 level standards of each county.

13 (b) By June 30, 2024, the department shall adopt rules
14 pursuant to chapter 91 for the control, prevention, and
15 abatement of noise pollution emitted by vehicles in the State.
16 The rules shall regulate the emission of noise by the measure of
17 decibels, and shall include provision that state the following:

18 (1) No person shall operate a vehicle that emits noise in
19 excess of the decibel limitation or limitations
20 adopted pursuant to this subsection;



1 (2) No owner of a vehicle shall allow a vehicle to emit
 2 noise in excess of the decibel limitation or
 3 limitations adopted pursuant to this subsection; and

4 (3) No person shall sell or offer for sale a vehicle that
 5 emits noise in excess of the decibel limitation or
 6 limitations adopted pursuant to this subsection.

7 Any county may adopt a rule or ordinance that places stricter
 8 limitations on vehicles than are promulgated by the department
 9 pursuant to this subsection. To the extent of a conflict, the
 10 more restrictive requirement shall apply.

11 (c) In the event of any conflict between this section and
 12 section 46-17, section 46-17 shall govern."

13 SECTION 4. There is appropriated out of the general
 14 revenues of the State of Hawaii the sum of \$ or so
 15 much thereof as may be necessary for fiscal year 2023-2024 and
 16 the same sum or so much thereof as may be necessary for fiscal
 17 year 2024-2025 to be deposited into the photo noise violation
 18 monitoring system special fund.

19 SECTION 5. There is appropriated out of the photo noise
 20 violation monitoring system special fund the sum of
 21 \$ or so much thereof as may be necessary for fiscal

1 year 2023-2024 and the same sum or so much thereof as may be
2 necessary for fiscal year 2024-2025 for establishment and
3 implementation of the photo noise violation monitoring system.

4 The sums appropriated shall be expended by the department
5 of transportation for the purposes of this Act.

6 SECTION 6. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2023.

12

INTRODUCED BY:

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Report Title:

Noise Violation Monitoring System Program; Established; State Community Noise Code; Vehicles; Noise Pollution; Fines; Report; Appropriation

Description:

Establishes the photo noise violation monitoring system law. Establishes the Photo Noise Violation Monitoring System Program to enforce the State Community Noise Code, implemented by the State on any state or county highways within the respective county. Allows the State to establish and implement a photo noise violation monitoring system imposing monetary liability on the registered owner of a motor vehicle for failure to comply with the State Community Noise Code. Establishes fines. Establishes the Photo Noise Violation Monitoring System Program Special Fund. Requires annual reports to the Legislature. Prohibits the use, ownership, and sale of excessively loud vehicles. Increases maximum fines. Appropriates funds.

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

