

JAN 25 2023

A BILL FOR AN ACT

RELATING TO NOISE POLLUTION.

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

1 SECTION 1. The legislature finds that noise control is a
2 serious issue for residents and businesses that must coexist
3 closely in our State's urban areas. The United States
4 Environmental Protection Agency, which regulates certain noise
5 sources, has observed that millions of people nationwide are
6 negatively affected by noise and that studies show a direct link
7 between excessive noise and health issues, such as stress-
8 related illnesses, high blood pressure, speech interference,
9 hearing loss, sleep disruption, and lost productivity.

10 The legislature also finds that quality of life can be
11 enhanced through improved monitoring and enforcement of
12 applicable noise regulations; however, enforcement of noise
13 controls has been challenging for various reasons. The State's
14 noise pollution law prohibits, with certain exceptions, any
15 person from engaging in activity that produces excessive noise
16 without first securing written approval from the director of
17 health. Existing law also requires the department of health to



1 adopt rules for community noise control; however, due to lack of
2 resources, including the number of inspectors to enforce the
3 regulation, the community noise control rules adopted by the
4 department of health only apply to stationary mechanical noise
5 sources and equipment related to agricultural, construction, and
6 industrial activity. Therefore, the department's noise control
7 enforcement activities are primarily focused on noise emitted
8 from these noise sources and equipment.

9 The legislature finds that in 2021, the city council of
10 Honolulu passed a bill to regulate amplified sound from public
11 sidewalks in the Waikiki special district that was subsequently
12 vetoed by the mayor. The legislature notes that during the city
13 council's hearing process, the Honolulu police department and
14 the department of the prosecuting attorney for the city and
15 county raised concerns over the bill, including the lack of
16 sound monitoring devices to enforce the measure.

17 Accordingly, the purpose of this Act is to protect the
18 health and improve the quality of life of residents who must
19 coexist closely in the State's urban areas, by:

- 20 (1) Beginning July 1, 2025, prohibiting with certain
21 exceptions, the emission of excessive amplified noise



1 during night time on public sidewalks at certain
2 locations in areas zoned as mixed-use or residential
3 without obtaining prior written approval from the
4 director of health;

5 (2) Establishing a two-year pilot program to require the
6 department of health to implement the excessive
7 amplified noise control regulation in the Waikiki
8 special district and report to the legislature on
9 whether the pilot program should be continued;
10 modified, expanded to areas outside of the Waikiki
11 special district, or terminated; and the feasibility
12 of statewide implementation of the excessive amplified
13 noise control regulation on July 1, 2025;

14 (3) Requiring the department of health to adopt rules to
15 carry out the purposes of this Act; and

16 (4) Appropriating funds.

17 PART I

18 SECTION 2. Chapter 342F, Hawaii Revised Statutes, is
19 amended by adding a new part to be appropriately designated and
20 to read as follows:

21 "PART . EXCESSIVE AMPLIFIED NOISE CONTROL



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

3 "Ambient noise" means the totality of sounds in a given
4 place and time, independent of the sound contribution of any
5 specific source of sound being measured.

6 "Amplified sound" means any sound created by use of a sound
7 amplifier.

8 "Detached dwelling" means a building containing one or two
9 dwelling units that is surrounded entirely by yards or other
10 separation from buildings on adjacent lots. Dwelling units in a
11 two-family detached dwelling may be either on separate floors or
12 attached by a carport, garage, or other similar connection, or
13 attached solid wall without openings.

14 "Dwelling unit" means a room or rooms connected together
15 that constitute an independent housekeeping unit for a family
16 and contains a single kitchen. Two or more essentially separate
17 structures, except for a token connection, such as a covered
18 walkway or a trellis, do not constitute a single dwelling unit.

19 "Dwelling unit" does not include a unit used for time sharing or
20 a transient vacation unit.



1 "Enforcement officer" means an employee of the department
2 or third-party entity contracted by the department pursuant to
3 section 342F-E, who is authorized by the director to enforce
4 this part and any rules adopted by the department pursuant to
5 this part.

6 "Excessive amplified noise" means any amplified sound that:

7 (1) Is emitted at a sound level that is detectable at a
8 distance of thirty feet or more from the sound
9 amplifier; or

10 (2) Is emitted continually at a sound level that exceeds
11 eighty decibels (dBC) for a combined total of one
12 minute or more in any five-minute period from a
13 distance no farther than eight feet from the sound
14 amplifier;

15 measured in accordance with the method prescribed in section
16 342F-B(b).

17 "Hotel" means a building or group of buildings containing
18 lodging or dwelling units offering transient accommodations, a
19 lobby, clerk's desk or counter with twenty-four-hour clerk
20 service, and facilities for registration and keeping of records
21 relating to hotel guests. "Hotel" includes accessory uses and



1 services intended primarily for the convenience and benefit of
2 the hotel's guests, including restaurants, shops, meeting rooms,
3 and recreational and entertainment facilities.

4 "Lodging unit" means a room or rooms connected together
5 that constitute an independent living unit for a family and does
6 not contain a kitchen. "Lodging unit" does not include a unit
7 used for time sharing or a transient vacation unit.

8 "Multi-family dwelling" means a building containing three
9 or more dwelling or lodging units that is not a hotel.

10 "Nighttime" means the time between the hours of 7:00 p.m.
11 of one day and 6:00 a.m. of the following day.

12 "Public safety agency" shall have the same meaning as
13 defined in section 138-1.

14 "Public sidewalk" means a publicly owned or maintained
15 "sidewalk" as defined in section 291C-1.

16 "Sound amplifier" means a device used for the reproduction
17 or amplification of sound, including microphones, loudspeakers,
18 phonograph players, compact disc players, tape decks,
19 smartphones, tablets, laptop computers, and musical instruments.

20 **§342F-B Excessive amplified noise; mixed-use or**
21 **residential areas; nighttime prohibition; sound level**



1 measurement method; violation; exemptions. (a) Notwithstanding
2 any other law to the contrary and except as provided in
3 subsection (d), beginning July 1, 2025, no person, including any
4 public body, shall, without previous written approval by the
5 director, engage in or cause or permit any other person to
6 engage in any activity that produces during nighttime, excessive
7 amplified noise on a public sidewalk within thirty feet of a
8 hotel, single- or two-family detached dwelling, or a multi-
9 family dwelling located within an area zoned mixed-use or
10 residential.

11 (b) For the purposes of establishing a violation of
12 subsection (a), sound level measurement shall be taken by
13 employing a sound level meter using the dBC weighting system.
14 If the initial sound measurement taken does not establish a
15 violation, an additional measurement may be taken upon the
16 request of a complainant at the site where the complainant
17 alleges to have heard excessive amplified noise.

18 (c) A person shall be in violation of this section if the
19 sound level measurement of the alleged excessive amplified noise
20 taken in accordance with the method prescribed in subsection (b)



1 is more than three decibels (dBC) louder than the ambient noise
2 level.

3 (d) The restriction in subsection (a) shall not apply to
4 sound emitted by:

5 (1) Any person to alert persons of an existence of a
6 public or personal emergency; or

7 (2) A public safety agency or an employee thereof in the
8 provision of firefighting, law enforcement, ambulance,
9 medical, or other emergency services.

10 **§342F-C Penalties.** (a) Any person who violates this part
11 or any rule adopted by the department pursuant to this part
12 shall be guilty of a petty misdemeanor, and upon conviction
13 thereof, shall be punished as follows:

14 (1) For a first conviction, by a mandatory fine of \$100;

15 (2) For a second conviction within one year of a previous
16 conviction, by a mandatory fine of \$250; and

17 (3) For a third or subsequent conviction within one year
18 of the first two or more convictions, by:

19 (A) A mandatory fine of not less than \$500 nor more
20 than \$1,000;

21 (B) Imprisonment of not more than thirty days;



1 (C) Forfeiture of the sound amplifier used to emit
2 the excessive amplified noise, which shall be
3 disposed of by the State; or

4 (D) Any combination of the foregoing penalties.

5 (b) For the purposes of this section, "one-year period"
6 begins on the date the enforcement officer finds the person to
7 be in violation of section 342F-B and ends on the same day and
8 month of the following calendar year."

9 PART II

10 SECTION 3. (a) There is established within the department
11 of health, a two-year pilot program to be known as the "Waikiki
12 excessive amplified noise control pilot program", to implement
13 the excessive amplified noise control regulation established in
14 section 2 of this Act within the Waikiki special district.

15 (b) For the purposes of enforcing and operating the pilot
16 program, the department may:

17 (1) Hire additional inspectors and purchase equipment, as
18 necessary; or

19 (2) Enter into a contract with a third party, including
20 the Honolulu police department; provided that existing
21 department personnel shall be assigned to fulfill



1 administrative responsibilities of the pilot program,
2 including the preparation and submittal of reports
3 pursuant to subsection (c).

4 (c) The department shall submit a report of its findings
5 and recommendations pertaining to the noise control pilot
6 program to the legislature no later than twenty days prior to
7 the convening of the regular session of 2025. The report shall
8 include:

- 9 (1) An assessment of the effectiveness of the pilot
10 program, including quarterly records of:
- 11 (A) The number of complaints received by the program;
 - 12 (B) The number of violations found;
 - 13 (C) The amount of penalties assessed and collected;
 - 14 and
 - 15 (D) Any other information the department deems useful
16 in assessing the pilot program's effectiveness;
- 17 (2) A recommendation of whether the pilot program should
18 be continued, modified, expanded to areas outside of
19 the Waikiki special district, or terminated; and
20 whether the statewide implementation of the excessive



1 amplified noise control regulation on July 1, 2025, is
2 feasible; and

3 (3) Any proposed legislation.

4 (d) As used in this section:

5 "Pilot program" means the Waikiki excessive amplified noise
6 control pilot program established pursuant to this section.

7 "Waikiki special district" means the Waikiki area of Oahu,
8 the boundaries of which are delineated in the land use ordinance
9 as amended, establishes the "Waikiki Special District".

10 PART III

11 SECTION 4. The department shall adopt rules in accordance
12 with chapter 91 to carry out the purposes of this Act.

13 SECTION 5. 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 establish, implement, and enforce the Waikiki
18 excessive amplified noise control pilot program.

19 The sums appropriated shall be expended by the department
20 of health for the purposes of this Act.

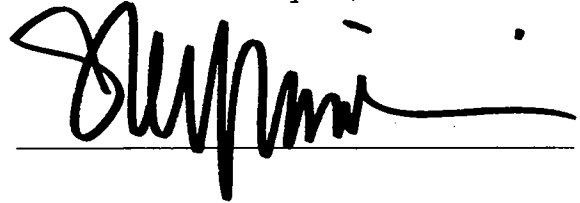


1 SECTION 6. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 7. This Act shall take effect on July 1, 2023.

8

INTRODUCED BY: _____

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be 'J. Murphy'.

S.B. NO. 1418

Report Title:

Excessive Amplified Noise Control; Public Sidewalks; Mixed-Use and Apartment Areas; Penalties; Pilot Program; Waikiki Special District; Department of Health; Honolulu Police Department; Report; Appropriation

Description:

Beginning July 1, 2025, prohibits with certain exceptions, the emission of excessive amplified noise during certain hours on public sidewalks near certain locations in areas zoned as mixed-use or residential without obtaining prior written approval from the Director of Health. Establishes penalties for violations. Establishes a two-year pilot program to require the Department of Health to implement the excessive amplified noise control regulation in the Waikiki Special District and submit reports to the Legislature. Requires the Department of Health to adopt rules. 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.

