

STAND. COM. REP. NO.

564

Honolulu, Hawaii

MAR 06 2009

RE: S.B. No. 605

S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Energy and Environment, to which was referred S.B. No. 605 entitled:

"A BILL FOR AN ACT RELATING TO NOISE,"

begs leave to report as follows:

The purpose of this measure is to require the Department of Health to change its decibel weighting system from the A-weighted system (dBA) system to the C-weighted system (dBC) for purposes of community noise control.

Testimony in support of this measure was submitted by one private organization and three individuals. Testimony in support, with comments or amendments, was submitted by the Honolulu Liquor Commission and one private organization. Testimony in opposition to this measure was submitted by the State Department of Health. Written testimony presented to your Committee may be reviewed on the Legislature's website.

The Department of Health submitted testimony conveying concerns regarding the funding that would be required to adopt administrative rules for the use of the dBC weighting system and to obtain sound level meters that utilize the dBC system. The Department of Health also expressed opposition to substituting the dBA system with the dBC system.

The Honolulu Liquor Commission testified that the county liquor commissions have the authority to investigate violations of the applicable Department of Health's allowable noise levels.

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Although its investigators have responded to and attempted to enforce complaints regarding low-frequency noise, the Commission is required to follow the Department of Health's standards, which do not adequately address low-frequency noise. Additionally, the Commission expressed concerns that the current maximum noise level, 70 decibels, may be too loud when measuring low-frequency sound using the dBC system. However, the Commission indicated that it did not have the expertise to recommend an appropriate decibel level to your Committee. The Commission also recommended adding the dBC scale to the existing dBA scale.

Subsequent to the hearing on this measure, the Commission and the Department of Health developed recommendations to address these concerns.

Your Committee finds that the current decibel weighting system, the dBA system, measures high-frequency sound (i.e., treble) but does not take into account the low-frequency sound (i.e., heavy bass sounds) that are particularly troublesome to the public. These sounds apparently penetrate buildings and get into the building structures (walls, floors, furniture), which disturbs residents who are trying to sleep. As more late-night liquor establishments are opening in or near mixed-use or residential areas, late-night low-frequency noise is becoming an increasing problem. Although enforcement of sound restrictions using the dBC weighting system would alleviate these particular concerns, your Committee finds that replacing the dBA system would not be beneficial because high-frequency noise should still be regulated.

Adopting the recommendations from the Liquor Commission and the Department of Health, your Committee has amended this measure by:

- (1) Defining "dBA", "dBC", and "decibels" for purposes of chapter 342F, Hawaii Revised Statutes;
- (2) Requiring the Department of Health to add the dBC decibel weighting system to the current dBA decibel weighting system for purposes of community noise control;
- (3) Deeming 60 decibels for bass sound (using the dBC weighting system) as the maximum sound level permissible at nighttime, and, where a complainant's site is located in close proximity to an area zoned mixed-use or



residential, then the maximum permissible sound at nighttime shall be 50 decibels dBC;

- (4) Granting to the Department of Health and the county liquor commissions the discretion to enforce nighttime noise levels between 50 and 60 decibels dBC; and
- (5) Directing the county liquor commissions, with the assistance of the Department of Health and the Department of Labor and Industrial Relations, to develop recommendations for a permanent maximum sound level, in decibels.

As affirmed by the record of votes of the members of your Committee on Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 605, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 605, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Energy and
Environment,



MIKE GABBARD, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Energy and Environment
ENE

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|--|-----------------------------------|------------------------|---|---------------------------------------|---|
| Bill / Resolution No.:* SB 605 | Committee Referral: ENE | Date: 3/3/09 | | | |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | | |
| The Recommendation is: | | | | | |
| <input type="checkbox"/> Pass, unamended 2312 | | | <input checked="" type="checkbox"/> Pass, with amendments 2311 | <input type="checkbox"/> Hold 2310 | <input type="checkbox"/> Recommit 2313 |
| Members | Aye | Aye (WR) | Nay | Excused | |
| GABBARD, Mike (C) | / | | | | |
| ENGLISH, J. Kalani (VC) | / | | | | |
| GREEN, M.D., Josh | | | | / | |
| HOOSER, Gary L. | / | | | | |
| IHARA, Jr., Les | / | | | | |
| KOKUBUN, Russell S. | | | | / | |
| HEMMINGS, Fred | | | | / | |
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| TOTAL | 4 | | | 3 | |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | | |
| Chair's or Designee's Signature: <i>J. Kalani English</i> | | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | | |

*Only one measure per Record of Votes