A BILL FOR AN ACT

RELATING TO NOISE CONTROL.

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

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

Fortunately, quality of life can be enhanced through improved monitoring and enforcement of applicable noise regulations.

An often overlooked source of noise pollution is lower frequency sound commonly thought of as "bass" that can permeate walls and windows and cause disruptive and harmful vibrations even when not heard by the human ear. This lower frequency sound is best detected by use of a dBC sound level measurement
system rather than a dBA system that understates the lower
frequencies.

The purpose of this Act is to enhance community noise
control as regulated by county liquor commissions in counties
with a large population by:

(1) Clarifying that it may be a noise violation for an
establishment requiring a liquor license to exceed the
dBC sound level measurements addressed by this Act;

(2) Allowing the employment and enforcement of a dBC sound
level measurement system for investigating noise
levels from establishments requiring liquor licenses;

and

(3) Allowing the revocation, suspension, or denial of
application, renewal, or transfer of a liquor license,
or withholding of the issuance of the license, if the
applicant or licensee fails to take corrective action
to address noise complaints or violations for an
establishment for which a license has been issued or
is requested to be issued, renewed, or transferred.
SECTION 2. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§281- Noise violations and enforcement in a county with a population of seven hundred thousand or more. (a) In a county with a population of seven hundred thousand or more, the licensee of an establishment may be in violation of this section when the dBC sound level of the establishment is in excess of the following levels:

(1) In zoning districts that include all areas equivalent to lands zoned for:

(A) Residential, conservation, preservation, public space, open space, or similar type, the maximum dBC sound level shall not exceed fifty-five from 7:00 a.m. to 10:00 p.m. and shall not exceed forty-five from 10:00 p.m. to 7:00 a.m.;

(B) Multi-family dwellings, apartment, business, commercial, hotel, resort, or similar type, the maximum dBC sound level shall not exceed sixty from 7:00 a.m. to 10:00 p.m. and shall not exceed fifty from 10:00 p.m. to 7:00 a.m.; or
(C) Agriculture, country, industrial, or similar type, the maximum dBC sound level shall not exceed seventy at any time; and

(2) In any zoning district listed in paragraph (1), the maximum dBC sound level shall not be louder than three decibels above the ambient noise level for:

(A) Any two-minute segment within a measurement taken for a duration of at least ten minutes; or

(B) Any time segment, within a measurement taken for more than ten minutes, that is at least twenty per cent as long as the total duration of the measurement.

(b) The county liquor commission may enforce compliance with the maximum sound levels established in this section and may employ a dBC sound level measurement system for investigating noise levels.

(c) When measuring the dBC sound level of an establishment, the measurement may be taken within three meters of the perimeter of the exterior of the establishment. If the initial sound measurement taken in response to a complaint does not establish a violation, upon the complainant's request, an
additional measurement may be taken at the complainant's site
where the complainant alleges to have heard noise levels that
exceed the maximum dBC sound levels established by this section.

(d) Notwithstanding any other provision to the contrary,
the county liquor commission may revoke or suspend a license, or
deny the application, renewal, or transfer of a license, or
withhold the issuance of the license, if the licensee or
applicant, as applicable, fails to take corrective action
meeting the county liquor commission's approval to address:

(1) Complaints from the public;

(2) Reports from the county liquor commission's
investigators; or

(3) Adjudications of the county liquor commission or the
liquor control adjudication board,

that indicate that noise created by the establishment or patrons
departing from the establishment disturbs residents on the
street or of the neighborhood in which the establishment is
located, or that noise from the premises or adjacent related
outdoor areas such as parking lots or lanais exceeds standards
contained in state or county noise codes or intrudes into nearby
residential units.
(e) As used in this section:

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

"County liquor commission" means a liquor commission in a county with a population of seven hundred thousand or more.

"dBC" shall have the same meaning as provided in section 342F-1.

SECTION 3. Section 281-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The liquor commission, within its own county, shall have the jurisdiction, power, authority, and discretion, subject only to this chapter:

(1) To grant, refuse, suspend, and revoke any license for the manufacture, importation, and sale of liquors;

(2) To take appropriate action against a person who, directly or indirectly, manufactures, sells, or purchases any liquor without being authorized pursuant to this chapter; provided that in counties that have established by charter a liquor control adjudication board, the board shall have the jurisdiction, power,
authority, and discretion to hear and determine
administrative complaints of the director regarding
violations of the liquor laws of the State or of the
rules of the liquor commission, and impose penalties
for violations thereof as may be provided by law;

(3) To control, supervise, and regulate the manufacture,
importation, and sale of liquors by investigation,
enforcement, and education; provided that any
educational program shall be limited to the commission
staff, commissioners, liquor control adjudication
board members, and licensees and their employees, and
shall be financed through the money collected from the
assessment of fines against licensees; provided that
fine moneys, not to exceed ten per cent a year of
fines accumulated, may be used to fund public liquor-
related educational or enforcement programs;

(4) From time to time to make, amend, and repeal rules,
not inconsistent with this chapter, as in the judgment
of the commission are deemed appropriate for carrying
out this chapter and for the efficient administration
thereof, and the proper conduct of the business of all
licensees, including every matter or thing required to
be done or which may be done with the approval or
consent, by order, under the direction or supervision
of, or as prescribed by the commission; which rules,
when adopted as provided in chapter 91 shall have the
force and effect of law;

(5) Subject to chapter 76, to appoint and remove an
administrator, who may also be appointed an
investigator and who shall be responsible for the
operations and activities of the staff. The
administrator may hire and remove hearing officers,
investigators, and clerical or other assistants as its
business may from time to time require, prescribe
their duties and fix their compensation, and engage
the services of experts and persons engaged in the
practice of a profession, if deemed expedient. Every
investigator, within the scope of the investigator's
duties, shall have the powers of a police officer;

(6) To limit the number of licenses of any class or kind
within the county, or the number of licenses of any
class or kind to do business in any given locality,
when in the judgment of the commission such
limitations are in the public interest;

(7) To prescribe the nature of the proof to be furnished,
the notices to be given, and the conditions to be met
or observed in case of the issuance of a duplicate
license in place of one alleged to have been lost or
destroyed, including a requirement of any indemnity
deemed appropriate to the case;

(8) To fix the hours between which licensed premises of
any class or classes may regularly be open for the
transaction of business, which shall be uniform
throughout the county as to each class respectively;

(9) To prescribe all forms to be used for the purposes of
this chapter not otherwise provided for in this
chapter, and the character and manner of keeping of
books, records, and accounts to be kept by licensees
in any matter pertaining to their business;

(10) To investigate violations of this chapter, chapter-
244D and, notwithstanding any law to the contrary,
violations of the applicable department of health's
allowable noise levels, through its investigators or
otherwise, to include covert operations, and to report
violations to the prosecuting officer for prosecution
and, where appropriate, the director of taxation to
hear and determine complaints against any licensee;
(11) To prescribe, by rule, the terms, conditions, and
circumstances under which persons or any class of
persons may be employed by holders of licenses;
(12) To prescribe, by rule, the term of any license or
solicitor's and representative's permit authorized by
this chapter, the annual or prorated amount, the
manner of payment of fees for the licenses and
permits, and the amount of filing fees;
(13) To prescribe, by rule, regulations on dancing in
licensed premises; [and]
(14) To prescribe, by rule, the circumstances and penalty
for the unauthorized manufacturing or selling of any
liquor[.]; and
(15) A liquor commission in a county with a population of
seven hundred thousand or more, may prescribe, by
rule, the circumstances and penalty for noise level
violations pursuant to section 281-.
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2050.
Report Title:
Noise Control; County Liquor Commissions; Liquor License

Description:
Enhances community noise control as regulated by county liquor commissions in counties with a population of seven hundred thousand or more by permitting the county liquor commission to issue fines to establishments that exceed certain dBC sound levels. (HB160 HD1)

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