
SENATE BILL 5876

State of Washington

67th Legislature

2022 Regular Session

By Senators Short and Nguyen

1 AN ACT Relating to noise standards for providers of essential
2 services; amending RCW 70A.20.020, 70A.20.030, 70A.20.050, and
3 70A.20.060; adding a new section to chapter 70A.20 RCW; and creating
4 a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that congestion
7 upon the roadways of the state is increasing with major negative
8 impacts on environmental, economic, and human health. Actions to
9 increase the efficient utilization of our infrastructure and the
10 resilience of communities can prevent and reduce the impacts of
11 congestion, negative impacts to our environment, and improve the
12 quality of life. Unreasonably limiting the provision of essential
13 services increases congestion, carbon emissions, and economic costs.

14 (2) The legislature further finds that while enacted noise
15 mitigation policies can be well-intended to reduce noise emissions
16 and provide environmental benefits to communities, the policies may
17 not do enough to balance all public health and environmental health
18 concerns. Transportation activities account for more than 40 percent
19 of the state's carbon emissions. Technological enhancements have
20 improved to reduce noise emissions related to the provision, repair,
21 and delivery of essential services. The legislature intends to create

1 a policy to balance the noise mitigation needs and the necessity to
2 reduce congestion and carbon emissions by utilizing the entire system
3 more efficiently. Increased utilization of the current infrastructure
4 system will significantly contribute to the reduction of carbon
5 emissions that result in disproportionate health effects on low-
6 income communities, communities of color, and the most vulnerable of
7 our population.

8 (3) The legislature further finds that exercising a leadership
9 role in addressing statewide noise mitigation combined with traffic
10 management and congestion strategies will result in significant
11 reductions of emissions and pollution. Additionally, the legislature
12 intends for the department of ecology to participate in noise
13 mitigation strategies with local government to ensure changes created
14 under chapter 70A.20 RCW provide direct and meaningful benefits to
15 communities. Finally, the legislature intends to prevent excessive
16 noise pollution and provide protective measures if any community is
17 adversely impacted by the transition to reduce carbon emissions and
18 enhance transportation system utilization.

19 **Sec. 2.** RCW 70A.20.020 and 1974 ex.s. c 183 s 2 are each amended
20 to read as follows:

21 (~~(As used in this chapter,)~~) The definitions in this section
22 apply throughout this chapter unless the context clearly indicates
23 otherwise(~~(÷)~~).

24 (1) "Department" means the department of ecology.

25 (2) "Director" means director of the department of ecology.

26 (3) "Local government" means county or city government or any
27 combination of the two.

28 (4) "Noise" means the intensity, duration and character of sounds
29 from any and all sources.

30 (5) "Person" means any individual, corporation, partnership,
31 association, governmental body, state, or other entity whatsoever.

32 (6) "dBA" means the sound pressure level, in decibels, of a sound
33 using the "A" weighting network on a sound level meter.

34 (7) "Essential services" means the provision, repair, or delivery
35 of utility, telecommunications, food, water, or sanitary services.

36 (8) "Receiving property" means real property within which the
37 maximum permissible noise levels established under this chapter may
38 not be exceeded from sources outside the property.

1 (9) "Sound level meter" means a device that measures sound
2 pressure levels and conforms to type 1 or type 2 as specified in the
3 American national standards institute specification S1.4-1971.

4 **Sec. 3.** RCW 70A.20.030 and 2011 c 171 s 107 are each amended to
5 read as follows:

6 The department is empowered as follows:

7 (1) ~~((The))~~ Except as provided for essential services in section
8 6 of this act, the department, after consultation with state agencies
9 expressing an interest therein, shall adopt, by rule, maximum noise
10 levels permissible in identified environments in order to protect
11 against adverse affects of noise on the health, safety and welfare of
12 the people, the value of property, and the quality of environment:
13 PROVIDED, That in so doing the department shall take also into
14 account the economic and practical benefits to be derived from the
15 use of various products in each such environment, whether the source
16 of the noise or the use of such products in each environment is
17 permanent or temporary in nature, and the state of technology
18 relative to the control of noise generated by all such sources of the
19 noise or the products.

20 (2) At any time after the adoption of maximum noise levels under
21 subsection (1) of this section the department shall, in consultation
22 with state agencies and local governments expressing an interest
23 therein, adopt rules, consistent with the Federal Noise Control Act
24 of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49 U.S.C. Sec.
25 1431), for noise abatement and control in the state designed to
26 achieve compliance with the noise level adopted in subsection (1) of
27 this section, including reasonable implementation schedules where
28 appropriate, to insure that the maximum noise levels are not exceeded
29 and that application of the best practicable noise control technology
30 and practice is provided. These rules may include, but shall not be
31 limited to:

32 (a) Performance standards setting allowable noise limits for the
33 operation of products which produce noise;

34 (b) Use standards regulating, as to time and place, the operation
35 of individual products which produce noise above specified levels
36 considering frequency spectrum and duration: PROVIDED, The rules
37 shall provide for temporarily exceeding those standards for stated
38 purposes; and

1 (c) Public information requirements dealing with disclosure of
2 levels and characteristics of noise produced by products.

3 (3) The department may, as desirable in the performance of its
4 duties under this chapter, conduct surveys, studies and public
5 education programs, and enter into contracts.

6 (4) The department is authorized to apply for and accept moneys
7 from the federal government and other sources to assist in the
8 implementation of this chapter.

9 (5) The legislature recognizes that the operation of motor
10 vehicles on public highways as defined in RCW 46.09.310 contributes
11 significantly to environmental noise levels and directs the
12 department, in exercising the rule-making authority under the
13 provisions of this section, to give first priority to the adoption of
14 motor vehicle noise performance standards.

15 (6) Noise levels and rules adopted by the department pursuant to
16 this chapter shall not be effective prior to March 31, 1975.

17 **Sec. 4.** RCW 70A.20.050 and 1987 c 103 s 2 are each amended to
18 read as follows:

19 (1) Any person who violates any rule adopted by the department
20 under this chapter shall be subject to a civil penalty not to exceed
21 (~~one hundred dollars~~) \$100 imposed by local government pursuant to
22 this section. (~~And~~) Except as provided for essential services in
23 section 6 of this act, an action under this section shall not
24 preclude enforcement of any provisions of the local government noise
25 ordinance.

26 Penalties shall become due and payable (~~thirty~~) 30 days from
27 the date of receipt of a notice of penalty unless within such time
28 said notice is appealed in accordance with the administrative
29 procedures of the local government, or if it has no such
30 administrative appeal, to the pollution control hearings board
31 pursuant to the provisions of chapter 43.21B RCW and procedural rules
32 adopted thereunder. In cases in which appeals are timely filed,
33 penalties sustained by the local administrative agency or the
34 pollution control hearings board shall become due and payable on the
35 issuance of said agency or board's final order in the appeal.

36 (2) Whenever penalties incurred pursuant to this section have
37 become due and payable but remain unpaid, the attorney for the local
38 government may bring an action in the superior court of the county in
39 which the violation occurred for recovery of penalties incurred. In

1 all such actions the procedures and rules of evidence shall be the
2 same as in any other civil action.

3 **Sec. 5.** RCW 70A.20.060 and 1987 c 103 s 1 are each amended to
4 read as follows:

5 (1) Nothing in this chapter shall be construed to deny, abridge
6 or alter alternative rights of action or remedies in equity or under
7 common law or statutory law, criminal or civil.

8 (2) Nothing in this chapter shall deny, abridge or alter any
9 powers, duties and functions relating to noise abatement and control
10 now or hereafter vested in any state agency, nor shall this chapter
11 be construed as granting jurisdiction over the industrial safety and
12 health of employees in workplaces of the state, as now or hereafter
13 vested in the department of labor and industries.

14 (3) Standards and other control measures adopted by the
15 department under this chapter shall be exclusive except as
16 hereinafter provided. ((A)) Except as provided for essential services
17 in section 6 of this act, a local government may impose limits or
18 control sources differing from those adopted or controlled by the
19 department upon a finding that such requirements are necessitated by
20 special conditions. Noise limiting requirements of local government
21 which differ from those adopted or controlled by the department shall
22 be invalid unless first approved by the department. If the department
23 of ecology fails to approve or disapprove standards submitted by
24 local governmental jurisdictions within ((ninety)) 90 days of
25 submittal, such standards shall be deemed approved. If disapproved,
26 the local government may appeal the decision to the pollution control
27 hearings board which shall decide the appeal on the basis of the
28 provisions of this chapter, and the applicable regulations, together
29 with such briefs, testimony, and oral argument as the hearings board
30 in its discretion may require. The department determination of
31 whether to grant approval shall depend on the reasonableness and
32 practicability of compliance. Particular attention shall be given to
33 stationary sources located near jurisdictional boundaries, and
34 temporary noise producing operations which may operate across one or
35 more jurisdictional boundaries.

36 (4) In carrying out the rule-making authority provided in this
37 chapter, the department shall follow the procedures of the
38 administrative procedure act, chapter 34.05 RCW, and shall take care

1 that no rules adopted purport to exercise any powers preempted by the
2 United States under federal law.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 70A.20
4 RCW to read as follows:

5 (1) Except as provided in subsection (2) of this section, a
6 provider of essential services may exceed an allowable noise level
7 established by a local government by up to 10 dBA, but not to exceed
8 a maximum noise level of 80 dBA as measured by a sound level meter.

9 (2) The department may allow for noise limitations to be exceeded
10 for any receiving property by no more than:

- 11 (a) Five dBA for a total of 15 minutes in any one-hour period;
12 (b) Ten dBA for a total of five minutes in any one-hour period;
13 or

14 (c) Fifteen dBA for a total of 90 seconds in any one-hour period.

15 (3) Noise complaints related to the provision of essential
16 services must be investigated by the local government, measured with
17 a sound level meter from the complainant's receiving property by the
18 local government, and reported by the local government to the
19 department.

20 (4) If a provider of essential services is found to have violated
21 the noise standards established in this section, the provider of
22 essential services must submit a noise management and mitigation plan
23 to the department and local government for the individual location
24 found to be in violation in order to mitigate noise above allowable
25 levels.

26 (5) A provider of essential services that fails to comply with
27 noise standards on three or more occurrences, during any 12-month
28 period, must install equipment to monitor noise levels at the
29 individual location. The provider shall allow the department and
30 local government to access noise monitoring records.

31 (6) A provider of essential services that fails to comply with
32 noise standards on six or more occurrences, during any 12-month
33 period, may be subject to local government noise laws, regulations,
34 and ordinances.

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