
SUBSTITUTE HOUSE BILL 2283

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on State Government (originally sponsored by Representatives Haugen, Zellinsky, Anderson, Ferguson, Spanel, Winsley, D. Sommers, Paris and Orr)

Read first time 02/05/92.

1 AN ACT Relating to noise pollution; and amending RCW 70.107.020,
2 70.107.040, 70.107.050, 70.107.060, and 46.10.090.

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

4 **Sec. 1.** RCW 70.107.020 and 1974 ex.s. c 183 s 2 are each amended
5 to read as follows:

6 As used in this chapter, unless the context clearly indicates
7 otherwise:

8 (1) "Department" means the department of ~~((ecology))~~ health.

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

10 ~~(3)))~~ "Local government" means county or city government or any
11 combination of the two.

12 ~~((4)))~~ (3) "Noise" means the intensity, duration and character of
13 sounds from any and all sources.

1 (~~(5)~~) (4) "Person" means any individual, corporation,
2 partnership, association, governmental body, state, or other entity
3 whatsoever.

4 (5) "Secretary" means the secretary of health.

5 **Sec. 2.** RCW 70.107.040 and 1975-'76 2nd ex.s. c 34 s 164 are each
6 amended to read as follows:

7 The (~~(director)~~) secretary shall name a technical advisory
8 committee to assist the department in the implementation of this
9 chapter. Committee members shall be entitled to reimbursement for
10 travel expenses as provided in RCW 43.03.050 and 43.03.060(~~(, as now~~
11 ~~existing or hereafter amended)~~)).

12 **Sec. 3.** RCW 70.107.050 and 1987 c 103 s 2 are each amended to read
13 as follows:

14 (1) Any person who violates any rule adopted by the department
15 under this chapter shall be subject to a civil penalty not to exceed
16 one hundred dollars imposed by local government pursuant to this
17 section. An action under this section shall not preclude enforcement
18 of any provisions of the local government noise ordinance.

19 Penalties shall become due and payable thirty days from the date of
20 receipt of a notice of penalty unless within such time said notice is
21 appealed in accordance with the administrative procedures of the local
22 government, or if it has no such administrative appeal, to the
23 (~~(pollution control hearings board pursuant to the provisions of~~
24 ~~chapter 43.21B RCW and procedural rules adopted thereunder)~~) state
25 board of health pursuant to procedures adopted by the board. In cases
26 in which appeals are timely filed, penalties sustained by the local
27 administrative agency or the (~~(pollution control hearings board)~~) state

1 board of health shall become due and payable on the issuance of said
2 agency or board's final order in the appeal.

3 (2) Whenever penalties incurred pursuant to this section have
4 become due and payable but remain unpaid, the attorney for the local
5 government may bring an action in the superior court of the county in
6 which the violation occurred for recovery of penalties incurred. In
7 all such actions the procedures and rules of evidence shall be the same
8 as in any other civil action.

9 **Sec. 4.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to read
10 as follows:

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

14 (2) Nothing in this chapter shall deny, abridge or alter any
15 powers, duties and functions relating to noise abatement and control
16 now or hereafter vested in any state agency, nor shall this chapter be
17 construed as granting jurisdiction over the industrial safety and
18 health of employees in work places of the state, as now or hereafter
19 vested in the department of labor and industries.

20 (3) Standards and other control measures adopted by the department
21 under this chapter shall be exclusive except as hereinafter provided.
22 A local government may impose limits or control sources differing from
23 those adopted or controlled by the department upon a finding that such
24 requirements are necessitated by special conditions. Noise limiting
25 requirements of local government which differ from those adopted or
26 controlled by the department shall be invalid unless first approved by
27 the department. If the department of ((ecology)) health fails to
28 approve or disapprove standards submitted by local governmental
29 jurisdictions within ninety days of submittal, such standards shall be

1 deemed approved. If disapproved, the local government may appeal the
2 decision to the (~~pollution control hearings board~~) state board of
3 health which shall decide the appeal on the basis of the provisions of
4 this chapter, and the applicable regulations, together with such
5 briefs, testimony, and oral argument as the (~~hearings~~) board in its
6 discretion may require. The department determination of whether to
7 grant approval shall depend on the reasonableness and practicability of
8 compliance. Particular attention shall be given to stationary sources
9 located near jurisdictional boundaries, and temporary noise producing
10 operations which may operate across one or more jurisdictional
11 boundaries.

12 (4) In carrying out the rule-making authority provided in this
13 chapter, the department shall follow the procedures of the
14 administrative procedure act, chapter 34.05 RCW, and shall take care
15 that no rules adopted purport to exercise any powers preempted by the
16 United States under federal law.

17 **Sec. 5.** RCW 46.10.090 and 1980 c 148 s 1 are each amended to read
18 as follows:

19 (1) It is a traffic infraction for any person to operate any
20 snowmobile:

21 (a) At a rate of speed greater than reasonable and prudent under
22 the existing conditions.

23 (b) In a manner so as to endanger the property of another.

24 (c) Without a lighted headlight and taillight between the hours of
25 dusk and dawn, or when otherwise required for the safety of others.

26 (d) Without an adequate braking device which may be operated either
27 by hand or foot.

28 (e) Without an adequate and operating muffling device which shall
29 effectively blend the exhaust and motor noise in such a manner so as to

1 preclude excessive or unusual noise, and, (i) on snowmobiles
2 manufactured on or before January 4, 1973, which shall effectively
3 limit such noise at a level of eighty-six decibels, or below, on the
4 "A" scale at fifty feet, and (ii) on snowmobiles manufactured after
5 January 4, 1973, which shall effectively limit such noise at a level of
6 eighty-two decibels, or below, on the "A" scale at fifty feet, and
7 (iii) on snowmobiles manufactured after January 1, 1975, which shall
8 effectively limit such noise at a level of seventy-eight decibels, or
9 below, as measured on the "A" scale at a distance of fifty feet, under
10 testing procedures as established by the department of ((ecology))
11 health; except snowmobiles used in organized racing events in an area
12 designated for that purpose may use a bypass or cutout device. This
13 section shall not affect the power of the department of ((ecology))
14 health to adopt noise performance standards for snowmobiles. Noise
15 performance standards adopted or to be adopted by the department of
16 ((ecology)) health shall be in addition to the standards contained in
17 this section, but the department's standards shall supersede this
18 section to the extent of any inconsistency.

19 (f) Upon the paved portion or upon the shoulder or inside bank or
20 slope of any public roadway or highway, or upon the median of any
21 divided highway, except as provided in RCW 46.10.100 and 46.10.110.

22 (g) In any area or in such a manner so as to expose the underlying
23 soil or vegetation, or to injure, damage, or destroy trees or growing
24 crops.

25 (h) Without a current registration decal affixed thereon, if not
26 exempted under RCW 46.10.030 as now or hereafter amended.

27 (2) It is a misdemeanor for any person to operate any snowmobile so
28 as to endanger the person of another or while under the influence of
29 intoxicating liquor or narcotics or habit-forming drugs.