
SENATE BILL 5043

State of Washington

59th Legislature

2005 Regular Session

By Senator Mulliken

Read first time 01/12/2005. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to noise control; amending RCW 70.107.050 and
2 70.107.060; and prescribing penalties.

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

4 **Sec. 1.** RCW 70.107.050 and 1987 c 103 s 2 are each amended to read
5 as follows:

6 Local governments retain primary responsibility for the enforcement
7 of rules adopted by the department under the provisions of this
8 chapter.

9 (1) Any person who violates any rule adopted by the department
10 under this chapter shall be subject to a civil penalty not to exceed
11 (~~one~~) three hundred dollars imposed and collected by local government
12 pursuant to this section. An action under this section shall not
13 preclude enforcement of any provisions of the local government noise
14 ordinance.

15 Penalties shall become due and payable thirty days from the date of
16 receipt of a notice of penalty unless within such time said notice is
17 appealed in accordance with the administrative procedures of the local
18 government, or if it has no such administrative appeal, to the
19 pollution control hearings board pursuant to the provisions of chapter

1 43.21B RCW and procedural rules adopted thereunder. In cases in which
2 appeals are timely filed, penalties sustained by the local
3 administrative agency or the pollution control hearings board shall
4 become due and payable on the issuance of said agency or board's final
5 order in the appeal.

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

12 **Sec. 2.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to read
13 as follows:

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

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

23 (3) Standards and other control measures adopted by the department
24 under this chapter shall be exclusive except as hereinafter provided.
25 A local government may impose limits or control sources differing from
26 those adopted or controlled by the department upon a finding that such
27 requirements are necessitated by special conditions. Noise limiting
28 requirements of local government which differ from those adopted or
29 controlled by the department shall be invalid unless first approved by
30 the department. If the department of ecology fails to approve or
31 disapprove standards submitted by local governmental jurisdictions
32 within ninety days of submittal, such standards shall be deemed
33 approved. If disapproved, the local government may appeal the decision
34 to the pollution control hearings board which shall decide the appeal
35 on the basis of the provisions of this chapter, and the applicable
36 regulations, together with such briefs, testimony, and oral argument as
37 the hearings board in its discretion may require. The department

1 determination of whether to grant approval shall depend on the
2 reasonableness and practicability of compliance. Particular attention
3 shall be given to stationary sources located near jurisdictional
4 boundaries, and temporary noise producing operations which may operate
5 across one or more jurisdictional boundaries.

6 (4) In carrying out the rule-making authority provided in this
7 chapter, the department shall follow the procedures of the
8 administrative procedure act, chapter 34.05 RCW, and shall take care
9 that no rules adopted purport to exercise any powers preempted by the
10 United States under federal law. The department shall review and
11 update rules enacted under this chapter. Updated rules must comply
12 with existing statutory provisions, and be based on recent, best
13 available science. The department must also clarify rules on low bass
14 frequency decibel levels.

--- END ---