

SENATE BILL REPORT

SB 5876

As of January 25, 2022

Title: An act relating to noise standards for providers of essential services.

Brief Description: Concerning noise standards for providers of essential services.

Sponsors: Senators Short, Nguyen, Lovick, Nobles and Saldaña.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/25/22.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Establishes noise limitations for providers of essential services.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Gregory Vogel (786-7413)

Background: The Department of Ecology (Ecology) is required to adopt maximum noise levels permissible in identified environments to protect against adverse effects of noise on the health, safety, and welfare of people, the value of property, and the quality of the environment. In doing so, Ecology must also take into account the economic and practical benefits to be derived from the use of various products, whether the source of the noise or the use of such products in each environment is permanent or temporary in nature, and the state of technology relative to the control of noise generated by all such sources of the noise or the products.

A local government may impose limits or control sources differing from those adopted or controlled by Ecology. Noise limiting requirements of local governments which differ from those adopted or controlled by Ecology must be approved by Ecology. If Ecology fails to approve or disapprove the standards within 90 days, the standards are considered approved.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Ecology has adopted the following noise limitations for use by local governments:

- in a residential area, the maximum allowed amount of noise coming into the property is 55 decibels using the A filter (dBA) from a residential area, 57 dBA from a commercial area, and 60 dBA from an industrial area;
- in a commercial area, the maximum allowed amount of noise coming into the property is 57 dBA from a residential area, 60 dBA from another commercial area, and 65 dBA from an industrial area; and
- in an industrial area, the maximum allowed amount of noise coming into the property is 60 dBA from a residential area, 65 dBA from a commercial area, and 70 dBA from another industrial area.

Between the hours of 10 p.m. and 7 a.m., the noise limitations must be reduced by 10 dBA for receiving property within residential areas.

At any hour of the day or night, the noise limitations may be exceeded for any receiving property by no more than:

- 5 dBA for a total of 15 minutes in any one-hour period;
- 10 dBA for a total of 5 minutes in any one-hour period; or
- 15 dBA for a total of 1.5 minutes in any one-hour period.

Local noise ordinances may have different maximum dBA levels. When a local noise ordinance is different, those are the standards and limits that apply.

Any person who violates a rule adopted by Ecology is subject to a civil penalty not to exceed \$100 imposed by the local government. This penalty provision does not preclude enforcement of any provisions of a local government noise ordinance.

Summary of Bill: A provider of essential services may exceed an allowable noise level established by a local government by up to 10 dBA, but not to exceed a maximum noise level of 80 dBA as measured by a sound level meter.

Ecology may also allow for noise limitations to be exceeded for any receiving property by no more than:

- 5 dBA for a total of 15 minutes in any one-hour period;
- 10 dBA for a total of 5 minutes in any one-hour period; or
- 15 dBA for a total of 1.5 minutes in any one-hour period.

Essential services include the provision, repair, or delivery of utility, telecommunications, food, water, or sanitary services.

Receiving property is real property within which maximum permissible noise levels may not be exceeded from sources outside the property.

Noise complaints related to the provision of essential services must be investigated by the

local government, measured with a sound level meter from the complainant's receiving property by the local government, and reported by the local government to Ecology.

If a provider of essential services is found to have violated the noise standards, the provider of essential services must submit a noise management and mitigation plan to Ecology and the local government for the individual location found to be in violation.

A provider of essential services that fails to comply with noise standards on three or more occurrences, during any 12-month period, must install equipment to monitor noise levels at the individual location.

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

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is brought forth by grocers to address challenges during COVID. During this time, cities worked with these types of deliveries, but as soon as it ceased to be an issue, grocers are now restricted. Cities still have the option to do this, but we want to open up the conversation of how to limit noise but also allow delivery of essential services that doesn't add to traffic gridlock.

Washington is being forced to find ways to better use limited infrastructure. Missing food items from store shelves is a real problem and flexibility in the supply chain will help remedy the situation. Keeping trucks moving reduces idling time and has a positive environmental impact.

CON: We appreciate the pragmatic approach but cities and counties are opposed. Balancing needs and impacts are vitally important to local governments. This legislation would undermine efforts and preempt existing standards. We understand there may be cases where standards need to be exceeded, but think there is an existing process to work with local governments to exceed the standards. These standards are crafted in a way to meet community needs and the work of essential providers.

This is not the time to do this policy. The Legislature is looking at other bills to ramp up density and these kinds of conflicts will happen more and more. Enforcing noise ordinances is already very challenging and these requirements would add complexity.

OTHER: Ecology's role is to provide a model ordinance by rule. Local governments can vary from the model at their discretion. Ecology is testifying other with technical concerns. The main concern is the reference to Ecology in the enforcement provisions, which Ecology has no role in.

Persons Testifying: PRO: Senator Shelly Short, Prime Sponsor; Jeff DeVere, Northwest Grocery Association; Bre Elsey, WA Food Industry Association.

CON: Brandy DeLange, Association of Washington Cities (AWC); Doug Levy, Outcomes By Levy, LLC - Cities of Renton, Lake Stevens, Fife; Axel Swanson, Washington State Association of County Engineers.

OTHER: Tim Gates, Dept. of Ecology.

Persons Signed In To Testify But Not Testifying: No one.