

1 IN THE HOUSE

BY BEIRNE AND SULLIVAN

2 HOUSE BILL NO. 113

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to noise pollution control."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 46.03 is amended by adding new sections to read:

9 ARTICLE 6A. NOISE POLLUTION CONTROL.

10 Sec. 46.03.360. POLICY. It is the policy of the state to assure
11 its citizens of an environment that is free from unreasonable and
12 excessive noise which degrades the quality of life. The control of
13 noise interference is necessary since the levels of noise have reached
14 the degree of endangering the health, safety and welfare of the people
15 of this state.

16 Sec. 46.03.370. NOISE CONTROL REGULATIONS. (a) The department
17 shall promulgate noise control regulations which in its determination
18 are necessary to control noise pollution. The Noise Control Council
19 created by sec. 440 of this chapter shall assist the department in an
20 advisory capacity in formulating regulations under this section. These
21 regulations may be for the state as a whole or may vary from area to
22 area as may be appropriate to facilitate accomplishment of the purposes
23 of secs. 360 - 450 of this chapter and in order to take account of
24 varying local conditions. However, after the classification required
25 by sec. 380 of this chapter, regulations setting quantitative limits
26 on noise levels shall be promulgated for the following activities:

- 27 (1) the operation of motor vehicles; and
28 (2) the operation of construction equipment in urban areas.

29 (b) Regulations promulgated under (a) of this section may include

1 but are not limited to the following:

2 (1) curfew provisions which prohibit particular noisemaking
3 activities or operations during particular days or particular hours;

4 (2) spill-over provisions which consider noise only to the
5 extent that it spills over a property line;

6 (3) zonal provisions which restrict particular noisemaking
7 activities to specified areas;

8 (4) accessory provisions which prohibit the use of machines
9 or vehicles without noise-quieting devices and materials such as
10 mufflers, insulation or isolators; and

11 (5) license and permit provisions which limit or require
12 compliance with performance standards as a condition to the installation
13 or operation of machinery and equipment in the conduct of noisemaking
14 activities; these provisions may require that applications for licenses
15 and permits be accompanied by plans, specifications, or other infor-
16 mation considered necessary by the board.

17 (c) The department shall promulgate regulations establishing the
18 test procedures and instrumentation to be utilized in quantifying noise
19 level limits under this section.

20 Sec. 46.03.380. MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT CLASSI-
21 FICATION. Before the promulgation of regulations establishing quanti-
22 tative limits on noise levels for motor vehicles and construction
23 equipment, the department shall classify vehicles and equipment causing
24 or contributing to noise pollution. The Noise Control Council shall
25 advise the department in making this classification. Regulations shall
26 be based on the classification made under this section.

27 Sec. 46.03.390. SNOWMOBILE NOISE LIMITS. Notwithstanding any
28 other provision in secs. 360 - 450 of this chapter, after June 30, 1975,
29 no person may sell or offer for sale a snowmobile in the state unless

1 it is equipped with a muffler that limits engine noise to not more than
2 82 dB(A) at 50 feet before January 1, 1977, and 73 dB(A) at 50 feet
3 after January 1, 1978. For the purposes of this section, "dB(A)"
4 means decibels measured with a calibrated sound level meter weighted
5 to the "A" scale.

6 Sec. 46.03.400. VARIANCES. (a) A person who owns or is in
7 control of a plant, building, structure, process or piece of equipment
8 or other device prohibited or restricted under secs. 360 - 450 of this
9 chapter may apply to the department for an exemption or partial exemp-
10 tion from a regulation governing the quality, nature, duration or
11 extent of noise resulting from its operation. The application shall
12 be accompanied by information and data required by the department.

13 (b) No exemption or partial exemption may be granted under this
14 section unless a public hearing is held, after due notice, and until
15 the department has considered the relative interests of both the
16 applicant and the public and determined that the interests of the
17 public will not be adversely affected by the exemption or partial
18 exemption.

19 (c) No exemption or partial exemption may be granted for a period
20 exceeding one year, but an exemption or partial exemption may be
21 renewed on a yearly basis if either (1) no complaint has been made to
22 the department in relation to it or if (2) after considering the
23 complaint at a public hearing, with all interested parties having an
24 opportunity to be heard, the board finds that the renewal is justified.
25 An application for renewal shall be made at least 60 days before the
26 expiration of the exemption or partial exemption.

27 Sec. 46.03.410. POWERS OF THE DEPARTMENT. In addition to the
28 regulatory authority established under sec. 370 of this chapter, the
29 department may

1 (1) conduct and supervise research programs for the purpose
2 of determining the causes, effects and hazards of noise;

3 (2) conduct and supervise statewide programs of noise
4 control education, including the preparation and distribution of
5 information relating to noise control;

6 (3) require the registration of persons involved in opera-
7 tions which may result in noise and the filing of reports by them
8 containing information relating to the sources of the noise and other
9 information which the department may require;

10 (4) enter and inspect a building or place, except a private
11 residence, for the purpose of investigating an actual or suspected
12 source of noise and determining compliance with applicable regulations;
13 information relating to secret processes or methods of manufacture or
14 production obtained in the course of this inspection, investigation
15 or determination is considered confidential and is not admissible in
16 evidence in court or in another proceeding; if tests of any type are
17 made for the purpose of determining whether or not a violation has
18 occurred, or for any other purpose in connection with the entry and
19 inspection, a duplicate of the results of the tests shall be furnished
20 promptly to the person suspected of violating the regulation;

21 (5) cooperate with and receive money from the federal
22 government, the state or any local governing body, or from private
23 sources for the study and control of noise; and

24 (6) receive or initiate complaints of noise, hold hearings
25 in connection with the complaints, and institute legal proceedings for
26 the prevention of noise and for the recovery of penalties under sec.
27 790 of this chapter.

28 Sec. 46.03.420. LOCAL NOISE CONTROL REGULATION. (a) A general
29 law or home rule municipality may establish and administer within its

1 jurisdiction standards for the level or duration of noise which are
2 more stringent than the standards established by regulation under
3 sec. 370 of this chapter. However, local standards established which,
4 in the determination of the department, are less stringent than those
5 established under sec. 370 of this chapter, are superseded by state
6 regulation.

7 Sec. 46.03.430. NONIMPAIRMENT OF PRIVATE REMEDIES. No private
8 civil or criminal remedy allowed by law is limited or impaired by
9 secs. 360 - 450 of this chapter, or a regulation promulgated under
10 them.

11 Sec. 46.03.440. NOISE CONTROL COUNCIL. (a) There is created
12 within the department the Noise Control Council.

13 (b) The council is composed of 13 members, the following four of
14 which shall serve ex officio but are entitled to vote: the commis-
15 sioner of health and social services, the commissioner of public safety,
16 the commissioner of labor, and the commissioner of environmental
17 conservation. The remaining nine members shall be appointed by the
18 governor from the general public and shall include a licensed physician,
19 an ecologist, a civil engineer, a specialist in local government and a
20 representative of industry.

21 (c) Members shall serve staggered four-year terms. Initial
22 appointments shall be as follows: one member for one year, two members
23 for two years, three members for three years, and three members for
24 four years. All appointed members shall serve after the expiration of
25 their terms until their successors are appointed. A vacancy occurring
26 in the appointed membership of the council, by expiration of term or
27 otherwise, shall be filled in the same manner as the original appoint-
28 ment for the unexpired term only. The governor may remove an
29 appointed member of the council for cause after a public hearing.

1 (d) Each member of the council is entitled to travel expenses
2 and per diem allowed by law for each day going to and from and for
3 each day in actual attendance at council meetings.

4 (e) The council shall elect, biannually, a chairman and vice-
5 chairman from its own membership, and seven members of the council
6 constitutes a quorum to transact its business.

7 Sec. 46.03.450. DUTIES OF THE NOISE CONTROL COUNCIL. The Noise
8 Control Council may

9 (1) request from the department information concerning noise
10 control;

11 (2) consider any matter relating to the preservation and
12 improvement of a noise control program and advise the department of
13 it;

14 (3) submit to the department any recommendations which it
15 considers necessary for the proper conduct and improvement of noise
16 control;

17 (4) study regulations promulgated by the department in
18 regard to noise control and make recommendations for their improvement
19 to the department;

20 (5) study and investigate the state of the art and the
21 technical capabilities and limitations of noise control and report its
22 findings and recommendations to the department;

23 (6) study and investigate the need for programs for the
24 long-range technical support of noise control programs and report its
25 findings and recommendations to the department; and

26 (7) hold public hearings in regard to existing noise control
27 statutes, codes, rules and regulations and upon the state of the art
28 and technical capabilities and limitations in noise control and report
29 its recommendations to the department.