



Sub. S.B. 42

123rd General Assembly

(As Reported by H. Local Government & Townships)

Sens. Gardner, Schafrath, Spada, Blessing, Carnes, White, Mumper, Latta, Watts, Finan, DiDonato

BILL SUMMARY

- Extends the authority of townships to adopt noise control regulations.

CONTENT AND OPERATION

Existing law

Under existing law, a township has *limited* authority to regulate noise within the unincorporated territory of the township. The Township Law allows a board of township trustees to adopt regulations and orders necessary to control noise at *any premises to which a D liquor permit* (permits authorizing sales for on and/or off premises consumption) has been issued by the Division of Liquor Control if the premises are contiguous to an area zoned for residential use (sec. 505.172--amended by the bill). In addition, the Township Law allows a board of township trustees to adopt necessary regulations and orders to control noise from passenger cars, motorcycles, and internal combustion engines and to regulate all vehicle parking in the unincorporated territory of the township (sec. 505.17--not in, but referred to in, the bill).

Changes proposed by the bill

The bill authorizes a board of township trustees to control by regulation or order, within the unincorporated territory of the township, noise that is not exempt by the bill or otherwise governed by the Township Law pertaining to vehicle noise and parking, but that is generated within any areas zoned for residential use or generated at any premises holding a D liquor permit. The bill exempts from such a noise regulation or order (1) any person who is engaging in "agriculture" (see **COMMENT**) and (2) any noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas. In addition to

those exemptions, the bill also exempts from such a noise regulation or order any business (other than a business operating at a premises to which a D liquor permit has been issued) and any industry, either of which is in existence and operating on the bill's effective date, but this exemption does not extend to any new operation or expansion of such a business or industry if the new operation or expansion results in *substantially* increased noise levels from those generated by the business or industry *on the effective date of the bill.*¹ (Sec. 505.172(A), (B), and (C).)

Any violation of a noise regulation or order adopted pursuant to the bill is a minor misdemeanor, and any fines levied and collected for a violation must be paid into the township general fund (these provisions are similar to existing law). The bill applies, to those violations, existing authority for a person aggrieved by another person's violation of a noise regulation or order to seek a declaratory judgment, an injunction, or other appropriate relief against the other person for the violation and to recover reasonable attorney's fees if the aggrieved person prevails in the civil action. (Sec. 505.172(D) and (E).)

COMMENT

The definition of "agriculture" used in the bill includes the following: farming; ranching; aquaculture; apiculture and related apicultural activities, production of honey, beeswax, honeycomb, and other related products; horticulture; viticulture, winemaking, and related activities; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production, the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production; and any additions or modifications to the foregoing made by the Director of Agriculture by rule adopted in accordance with the Administrative Procedure Act. (Sec. 1.61--not in, but referred to in, the bill.)

HISTORY

ACTION

DATE

JOURNAL ENTRY

¹ *This date will occur before it is possible for any township to actually adopt any regulation or order regulating noise as permitted by the bill.*

Introduced	01-28-99	p.	82
Reported, S. State & Local Gov't & Veterans Affairs	03-16-99	p.	201
Passed Senate (33-0)	03-17-99	p.	213
Reported, H. Local Gov't and Townships	05-13-99	p.	662

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