



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Kelly Phillips Kenney, Supervising County Attorney /s/

Date: March 1, 2021

Subject: Bill No. 26-21 – Crimes, Civil Offenses and Fines – Crimes – Noise Disturbances

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law at the request of Councilman Nathan Volke for use by members of the Anne Arundel County Council during consideration of Bill No. 26-21. The summary is intended to explain the purposes and legal effects of the bill.

Purpose. The primary purpose of this Bill is to update and amend the current noise regulations in the County Code.

Background. Section 9-1-706 currently prohibits noise from certain devices at an “unreasonably loud volume” in residential districts. The list of devices includes those that are outdated, such as a tape player, boom box, and phonograph. This Bill updates those outdated references and makes some additional edits and clarifications.

Bill provisions.

Subsection 9-1-706(b) is revised to correct a reference to State law and to correct a typographical error.

In subsection **(c)(1)**, the outdated listed devices mentioned above are removed and the general categories of “other music producing device” or “any other audio producing device” are added. Additionally, “television” is added to the list, and “amplified musical instrument” is moved from current (c)(2) to revised **(c)(1)**. These devices cannot be used at an “unreasonably loud volume” at any time in a residential district. Language is also added to make it a violation if

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

unreasonably loud noise from these devices can be heard in a residential district (*i.e.*, if the unreasonably loud volume from a nonresidential district can be heard in a residential district).

The starting time during which a musical instrument, machine, tool, or similar device may not be used at unreasonably loud volume is changed from 11:00 p.m. to 10:00 p.m. in subsection **(c)(2)** to be consistent with the timeframe for nighttime noise prohibitions in COMAR 26.02.03.01, et seq.¹ Similar to subsection (c)(1), language is also added so that noise heard in a residential district is also a violation.

The evidentiary standard that exists in current (c)(2) is moved to new subsection **(d)** and rewritten for ease of understanding to replace the lesser-known legal term “prima facie evidence” with “rebuttable presumption”. The standard is the same – if sound generated by the device can be heard a distance of 50 feet from the device, it is presumed to be a violation. The presumption is rebuttable, therefore the offender has the opportunity at trial to rebut the presumption that the noise was “unreasonably loud.”

Language is added to renumbered subsection **(e)** to clarify that a violation of the section is a Class E civil offense. That is how the violation is currently charged by the Police Department, so the language is added only for clarification and consistency with other Code provisions. For a Class E civil offense, the fine is \$50 for the first violation; \$100 for the second violation; and \$500 for the third or any subsequent violation. § 9-2-101(f)(5).

Section 2 provides that the Ordinance shall take effect 45 days from the date it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill. Thank you very much.

¹ The “nighttime” hours in COMAR begin at 10:00 p.m. By law, all counties have delegated authority to enforce the noise regulations set forth in State law. *See* Md. Code Ann., Envir., § 3-403(a). The COMAR regulations prohibit noise above certain decibel limits, and therefore requires use of a noise meter to measure the noise levels. The Police Department enforces both § 9-1-706 of the County Code and the State regulations. Generally, if the violation is in a residential district and the noise is caused by one of the devices listed in the County Code, the County law will be enforced. If the noise originates outside of a residential district, or is from a device other than one listed in the County law, the Police will enforce the State law and regulations.