

RESOLUTION NO. 447

WHEREAS, the making and creation of excessive, unnecessary and unusually loud noises within the City of Alexandria, Virginia, is a condition which as existed for some time and the extend and volume of such noises is increasing; and

WHEREAS, the making, creation or maintenance of such noise affects and is detrimental to the public health, comfort, safety and welfare of the residents of the City of Alexandria and to the environment of the city; and

WHEREAS, the use and operation of all types of motor vehicles in and on the streets of the city constitutes a major source of such noise; and

WHEREAS, the city council of the City of Alexandria has under consideration a proposed ordinance which would provide for the prevention, abatement, regulation and control of noise; and

WHEREAS, the city has no power to regulate noise emanating from motor vehicles because that power has been preempted by existing state legislation, which legislation the city council does not feel is adequate to provide for the prevention, abatement, regulation and control of motor vehicle noise pollution; and

WHEREAS, proposed legislation has been drafted to amend the laws of this state to provide for the prevention, abatement, regulation and control of motor vehicle noise pollution, a copy of which is attached to this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ALEXANDRIA, VIRGINIA:

That the members of the delegation from the city of Alexandria to the General Assembly of Virginia are requested to promote the passage of the legislative proposal attached, or some modification thereof, or a similar legislative proposal, at the 1976 session of the General Assembly of Virginia.

Adopted November 26, 1975

Helen Holleman, Clerk of the City of
Alexandria, Virginia

LD4969

HOUSE BILL NO. 1803
Offered January 21, 1975

A BILL to amend the Code of Virginia by adding in Article 8 of Chapter 4 of Title 46.1 sections numbered 46.1-301.2 through 46.1-301.5; and to repeal §§ 46.1-301 and 46.1-302, as amended, of the Code of Virginia, the added and repealed sections relating to operating motor vehicle so as to emit excessive noise, excessive exhaust system noise, illegal sale of muffler systems emitting excessive noise, regulations to control excessive noise, exhaust system in good working order, and muffler cutout; prohibitions and penalties.

Patrons—Mann Thomson, Durette, and Axelle

Referred to the Committee on Roads and Internal Navigation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 8 of Chapter 4 of Title 46.1 sections numbered 46.1-301.2 through 46.1-301.5 as follows:

§ 46.1-301.2. Operating motor vehicle so as to emit excessive noise.—A. No person shall operate a motor vehicle or combination of vehicles on a highway of this State at any time or under any condition of grade, load, acceleration or deceleration, in such a manner as to emit noise in excess of the following limits:

Speed limit of 35 M.P.H. or less	Speed limit of more than 35 M.P.H.
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1. Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 lbs. or more and any combination of vehicles towed by such motor vehicle.

86 dbA	90 dbA
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2. Any

motorcycle. ☐	82 dbA	86 dbA
3. Any other motor vehicle and any combination ☐ of vehicles towed by such motor vehicle.	82 dbA	86 dbA

B. The noise limits established by paragraph A. of this section shall be based on a distance of fifty feet from the center of the lane of travel within the speed limit specified in paragraph A.

C. The provisions of paragraph A. shall apply to the total noise emitted by a vehicle or combination of vehicles when in operation.

§ 46.1-301.3. Excessive exhaust system noise illegal.—A. No person shall operate a motor vehicle on a highway of this State equipped with an exhaust system which emits excessive noise as determined by a stationary test measured at fifty feet for the category of motor vehicle specified below:

- 1. Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 lbs. or more. 88 dbA
- 2. Any other motor vehicle. 84 dbA

B. The Superintendent shall, as funds become available, adopt regulations establishing the test procedures and instrumentation to be utilized in the enforcement of the provisions of this section. The Superintendent, in his regulations, may provide for measuring noise limits at distances closer than fifty feet from the rear of the vehicle in a stationary test. In such case, the measuring devise shall be so calibrated as to provide for measurements equivalent to the noise limits established by this section at fifty feet. Provided, that no penalty shall be imposed for the operation of a motor vehicle in violation of this section or Section 46.1-301.2 over the most direct route between the place where such vehicle is kept or garaged and a test site for the purpose of having the same tested pursuant to a prior appointment with such test site for such test.

C. 1. Any person, whether licensed by Virginia or not, who owns or operates a motor vehicle upon a public highway in this State on or after January one, nineteen hundred seventy-six, shall be deemed thereby, as a condition of such operation, to have consented to have the noise emission level of the vehicle tested as provided in subsections A. and B. at a test site upon being directed in writing to do so by any officer charged with enforcement of the motor vehicle laws of this State.

The Superintendent shall, as funds become available, establish a training program for all individuals who are to administer the tests prescribed under this section, of at least sixteen hours of instruction in the operation of the test equipment and the administration of such tests. Upon the successful completion of the training program, the Superintendent may issue a license to the individual operator indicating that he has completed the course and is authorized to conduct the test prescribed in subsections A. and B.

2. Any police officer of the State, or of any county, city or town, or any member of the sheriff's department of any county who has reason to believe that a motor vehicle is being operated in violation of subsection A. or similar ordinances of any county, city or town may direct the operator or registered owner of the motor vehicle to take the motor vehicle to a test site, whereupon it shall be tested pursuant to the requirements of subsections A. and B., which test shall be performed by an individual licensed to conduct such tests, with a type of equipment and in accordance with the methods approved by the Superintendent. Such testing equipment shall be tested for its accuracy by an authorized representative of the Superintendent at least once every six months. The governing body or the chief law-enforcement officer of each county, city or town, or the Superintendent, may designate one or more test sites in their jurisdictions.

3. Any individual conducting a test under the provisions of this section shall issue and cause to be sent to the clerk of the court to which the Uniform Traffic Summons issued is made returnable a certificate which will indicate that the test was conducted in accordance with the specifications of the manufacturer of the equipment, the equipment on which the test was conducted has been tested within the past six months, the name of the operator of the vehicle being tested, the date and time of the test, the level of engine noise emitted by the vehicle as registered on the test equipment, and by whom the test was administered. The certificate, as provided for in this section, when duly attested by the authorized individual conducting the test, shall be admissible in any court in any criminal proceeding as evidence of the noise emission level of the vehicle tested when it is in operation. The certificate, when admitted, shall be prima facie evidence of the truth of the matters alleged therein.

4. If no certificate, issued pursuant to this section for a motor vehicle whose operation gave rise to a charge of violating subsection A. is received by the clerk of the

court having jurisdiction over the charge prior to the date of trial of the charge, the court shall certify that fact to the Commissioner, if a conviction results, and it shall be presumed that the motor vehicle was not in compliance with the provisions of subsection A. at the time the charge was placed.

D. *If any person owning a motor vehicle the registration for which has been suspended by the Commissioner pursuant to the provisions of § 46.1-58 for noncompliance with the provisions of subsection A. of this section shall present to the Commissioner a certificate of the results of a test conducted in the manner provided in this section which certificate shows the vehicle to be in compliance with the provisions of subsection A., he shall be deemed to have corrected the defect for which the registration was suspended.*

E. *Every motor vehicle, other than electric, operated on the highway and subject to registration under the provisions of this title shall be equipped with an adequate muffler system in constant operation and properly maintained to prevent excessive noise as set forth in § 46.1-301.3 and regulations adopted pursuant thereto, and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. Every such motor vehicle exhaust system shall be constructed and maintained to prevent the leakage of exhaust gas into the occupant compartment.*

F. The provisions of subsection E. shall not be applicable to motor vehicles being operated off the highways or being towed on the highway without the operation of the towed vehicle's engine.

G. *As used in this section and § 46.1-301.2 A. "dbA" shall mean sound levels in decibels measured on the "A" scale of a Standard Sound Level Meter meeting the requirements in the American National Standards Institute, Inc., specification for sound level meters, S1.4-1971.*

§ 46.1-301.4. Sale of muffler systems emitting excessive noise illegal.—It shall be unlawful to sell or offer for sale motor vehicle exhaust systems, or parts thereof, including, but not limited to, mufflers that do not comply with this section and regulations adopted pursuant thereto. The Superintendent may by regulation develop a program for the certification of motor vehicle exhaust systems, or parts thereof, offered for sale that are in compliance with § 46.1-301.3 and any regulations adopted pursuant thereto.

§ 46.1-301.5. Regulations to control excessive noise.—A. The Superintendent may in the interest of public health, by regulation, adopt maximum permissible noise limits different from those set forth in §§ 46.1-301.2 A. and 46.1-301.3 A., which shall effect the maximum permissible noise levels, anything in §§ 46.1-301.2 A. and 46.1-301.3 A. to the contrary notwithstanding, except that in no event shall he adopt maximum permissible noise limits greater than those adopted by statute. Such regulations shall take into account the state of technology, the cost to attain the standards, alternative methods of controlling excessive motor vehicle noise, and any hardship which may result from the promulgation of such regulations.

B. The Superintendent may provide for the exemption of motor vehicle exhaust systems where compliance with the regulations would cause an unreasonable hardship without resulting in a sufficient corresponding benefit with respect to noise level control.

2. That §§ 46.1-301 and 46.1-302, as amended, of the Code of Virginia are repealed.

3. The effective date of this bill shall be July first, nineteen hundred seventy-six.