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## **OLR Bill Analysis**

### **HB 5422**

#### ***AN ACT CONCERNING MOTOR VEHICLE NOISE.***

#### **SUMMARY**

This bill regulates motor vehicle-related noise in several ways. It authorizes municipalities to impose higher penalties on violators of ordinances regulating the use of external speakers attached to a vehicle. Specifically, it allows municipalities to (1) increase the penalty for a first violation from \$250 to \$1,000 and (2) seize the speakers and sell them at a public auction.

The bill also requires all vehicles subject to emissions inspections to also obtain an inspection of their maximum decibel (dB) level (i.e., noise inspection) at the same time to comply with state law's vehicle noise limits (see BACKGROUND).

Additionally, the bill allows municipalities to participate in a pilot program to use photo noise monitors to detect violations of the state's vehicle noise limits.

It also makes numerous technical and conforming changes.

EFFECTIVE DATE: October 1, 2022

#### **§ 1 — EXTERNAL SPEAKER NOISE**

By law, municipalities have general powers to, among other things, preserve the public peace and good order and prevent disturbing noises (CGS § 7-148(c)(7)(H)(viii)). Municipalities may exercise their general powers by adopting regulations and ordinances that may be enforced through penalties of up to \$250 unless the law specifies otherwise (CGS § 7-148(c)(10)(A)).

The bill authorizes municipalities to set comparatively higher penalties when adopting these general power ordinances to regulate the

operation and use of external speakers attached to a motor vehicle. Under the bill, the ordinances may (1) prescribe a penalty of up to \$1,000 for first violations, \$1,500 for second violations, and \$2,000 for third or subsequent violations and (2) provide for the seizure and forfeiture of the speakers to the municipality, with one exception. These forfeited speakers must be sold at a municipal public auction, with sale proceeds paid to its treasurer for deposit into the municipality's general fund.

The bill exempts speakers from forfeiture to the extent an owner, by reason of any act or omission by another person, did not know and could not have reasonably known that the speakers were being used or were intended to be used in violation of an ordinance.

## **§ 2 — VEHICLE NOISE INSPECTIONS**

By law, with certain exceptions (see BACKGROUND), the state's biennial emissions inspection requirements apply to all motor vehicles sold by a dealer in the state or that are or will be registered in the state. The bill requires vehicles subject to emissions inspections to undergo a noise inspection at the same time. The bill caps the maximum decibel level for a motor vehicle at the corresponding noise limit set for it under existing law when it is measured using procedures in existing law (see BACKGROUND). It prohibits a vehicle subject to the noise inspection requirement from being driven in the state without being tested in accordance with the schedule the Department of Motor Vehicles (DMV) commissioner prescribes for it.

The bill's provisions on noise inspections generally parallel those for emissions inspections. It requires any person whose vehicle's noise levels are found noncompliant by an official emissions inspection station to (1) repair the vehicle and (2) receive one free reinspection if the vehicle is returned within 60 consecutive calendar days to the same station.

With the Office of Policy and Management (OPM) secretary's approval, the DMV commissioner must establish and periodically modify biennial noise inspection and reinspection fees and prescribe how they must be paid. The bill applies the same late fees and

reinspection requirements to noise inspections that apply to existing emissions inspections (i.e., \$20 if not tested within 30 days after the assigned inspection period or if not reinspected within 60 days after a test failure). It allows the commissioner to waive the late fee when it is proven to her satisfaction that the failure to have the vehicle inspected or reinspected within the required time periods was due to exigent circumstances.

The bill also allows the DMV commissioner to adopt regulations to carry out the inspection requirements.

### **§§ 3-5 — PHOTO NOISE MONITORING PILOT PROGRAM**

The bill requires the OPM secretary, in consultation with the Department of Transportation (DOT) commissioner, to set up a pilot program to allow municipalities to install, operate, and maintain photo noise monitoring systems within their boundaries, or enter into an agreement with a contractor to do so. The bill authorizes a participating municipality to operate its monitoring system for five years after it first becomes operational.

It defines a “photo noise monitoring system” or “monitoring system” as a mobile or fixed vehicle sensor installed to work in conjunction with a noise measuring device, such as a decibel reader, which automatically produces one or more recorded images that indicate the date, time, and location of the image of each motor vehicle allegedly violating the state’s vehicle noise limits (see BACKGROUND).

The bill subjects a person who violates the noise limit, as detected by a photo noise monitoring system, to a \$90 fine.

#### ***Signage and Image Recordings***

A participating municipality must post signs indicating the use of a monitoring system after it is installed and operational, but prior to its use. The bill requires these systems, to the extent possible, to be installed in a way that (1) only records images of the vehicle’s license plate and (2) does not record images of the vehicle’s occupants or of any other people or vehicles in the vicinity when the image is recorded.

### ***Image Review and Ticket Issuance***

The bill requires a sworn member of the municipal police department, or a sworn member of the State Police in municipalities with resident state troopers, to review the system's recorded images. It authorizes the officer to issue a citation for the alleged violation if the officer determines that there are reasonable grounds to believe that a violation has occurred after reviewing them. However, the bill requires the officer to issue a warning if the violation occurred during the system's first 30 days of operation. The municipal police department or State Police must, within 30 days after the alleged violation, mail the citation or warning to the registered vehicle owner together with a copy of the recorded images. Anyone who receives a citation must follow state law's procedures that generally govern infractions.

Under the bill, a recorded image that clearly shows the license plate of a vehicle violating the state's vehicle noise limits is sufficient evidence of the vehicle's identity. Additionally, proof of the vehicle's registration number is prima facie evidence that the vehicle's owner was driving at the time of the violation, except that for rented or leased motor vehicles, it is proof that the lessee was driving.

### ***Use of Monitoring Systems to Support Conviction***

The bill provides a prima facie presumption of accuracy sufficient to support a noise level violation to a monitoring system installed, operated, and maintained under the bill's provisions if a municipal employee or contractor involved in its installation, operation, or maintenance testifies that:

1. he or she has adequate training and experience in installing, operating, and maintaining the monitoring system;
2. the system was in proper working condition when it detected and produced the recorded images of the violating vehicle; and
3. the system was expertly tested within a reasonable time before and after it detected and produced the images.

### ***Available Defenses***

The bill requires all defenses to be available to any person who is alleged to have committed a noise level violation, including that the (1) violation occurred while the vehicle had been reported stolen to law enforcement and had not yet been recovered, (2) person was convicted of committing a violation for the same incident based upon a separate and distinct officer-issued citation, or (3) person was not operating the vehicle at the time of the violation.

### ***Annual Reporting***

Each participating municipality, beginning one year after its monitoring system becomes operational, must annually submit a report to the OPM secretary, including the number of:

1. times license plates were recorded by its system,
2. times the municipality or contractor disclosed recorded images or other data produced by its system pursuant to a (a) search warrant in a criminal proceeding or (b) subpoena in a criminal proceeding, and
3. requests for recorded images or other data received by the municipality or contractor.

The secretary must compile the reports and annually submit a consolidated report and any recommendations regarding the pilot program to the Transportation Committee.

### ***Image and Data Privacy and Security***

Under the bill, “personally identifiable information” is information created or maintained by the municipality or a municipal contractor that identifies or describes a motor vehicle owner, including the owner’s address, telephone number, license plate, photograph, bank account information, credit or debit card number, or the date, time, location, or direction of travel on a highway in the municipality.

The bill prohibits a municipality or a contractor from selling or disclosing personally identifiable information to any person or entity except where the disclosure is made (1) in connection with the charging,

collection, and enforcement of imposed noise limit fines; (2) pursuant to a judicial order, including a search warrant or subpoena, in a criminal proceeding; or (3) in compliance with federal or state laws or regulations. It further prohibits a municipality or a contractor from storing or retaining personally identifiable information unless the information is needed to collect and enforce imposed noise limit fines.

This information is not deemed a public record for purposes of the Freedom of Information Act.

### ***Image Disclosure & Destruction***

The bill allows a municipality or contractor to disclose aggregate information and other data gathered from a monitoring system for research purposes authorized by the OPM secretary or DOT commissioner. However, it must not directly or indirectly identify an owner or a motor vehicle.

The bill generally requires the municipality or contractor to destroy personally identifiable information and other data that specifically identifies a motor vehicle and relates to a noise limit violation within one year after a fine is imposed or a trial conducted for the alleged violation is resolved. But this requirement does not apply if retaining the information is otherwise provided by law or required by an administrative summons or judicial order in a criminal proceeding, including a search warrant or subpoena.

## **BACKGROUND**

### ***Vehicles Exempt From Emissions Inspections***

State emissions inspection requirements do not apply to the following:

1. vehicles with a gross vehicle weight rating (GVWR) of more than 10,000 pounds;
2. electric vehicles, bicycles, or foot scooters;
3. bicycles with motors attached;

4. motorcycles;
5. vehicles with temporary registrations or new vehicles at the time of initial registration;
6. vehicles manufactured at least 25 years ago or that are four or fewer model years old;
7. registered vehicles that are not designed primarily for highway use (e.g., snowmobiles and dirt bikes);
8. farm vehicles;
9. diesel-powered type II school buses;
10. vehicles operated by dealers or repairers to and from (a) a purchase or sale location or (b) an emissions testing site; and
11. vehicles registered as composite vehicles (CGS § 14-164c; Conn. Agencies Regs. § 14-164c-3b).

### **Noise Limits for Motor Vehicles**

State law charges the DMV commissioner with setting motor vehicle noise limits in regulations (CGS § 14-80a). The maximum permissible noise level varies based on the vehicle type; its age, weight, and current speed; and the road service on which it travels. For vehicles manufactured on and after January 1, 1979, it ranges from 72 dB to 92 dB. Table 1 provides the maximum levels for (1) vehicles with a GVWR of less than 10,000 pounds, which includes most passenger motor vehicles, and (2) motorcycles. Other types of vehicles have different limits (Conn. Agencies Regs. § 14-80a-4a).

**Table 1: Maximum Noise for Motor Vehicles With a GVWR of Less Than 10,000 Pounds and Motorcycles (Manufactured on and After 01/01/1979)**

	<i>Highway Operation</i>				<i>Stationary</i>	
	<i>Soft Site</i>		<i>Hard Site</i>		<i>Soft Site</i>	<i>Hard Site</i>
<i>Highway Speed</i>	<i>35 MPH or Less</i>	<i>Above 35 MPH</i>	<i>35 MPH or Less</i>	<i>Above 35 MPH</i>		
<i>Motor Vehicles With a GVWR of</i>	72 dB	79 dB	74 dB	81 dB	72 dB	74 dB

	<i>Highway Operation</i>				<i>Stationary</i>	
	<i>Soft Site</i>		<i>Hard Site</i>		<i>Soft Site</i>	<i>Hard Site</i>
<i>Less Than 10,000 Pounds</i>						
<i>Motorcycles</i>	78 dB	82 dB	80 dB	84 dB	78 dB	80 dB

### ***Testing Noise Level***

The law authorizes the DMV commissioner to establish a procedure for checking motor vehicle maximum noise levels, by which a vehicle's noise level must be measured (1) 50 feet from the centerline of the vehicle or (2) with a testing device calibrated to measure the sound at an equivalency of 50 feet (CGS § 14-80a). Under DMV regulations, sound level measurements may be made on either a hard or soft test site (Conn. Agencies Regs. § 14-80a-8a). A hard test site is a site with ground cover of concrete, asphalt, packed dirt, gravel, or similarly reflective material. A soft test site is a site covered by grass or similarly absorptive material (Conn. Agencies Regs. § 14-80a-1a).

### ***Related Bill***

SB 484, favorably reported by the Finance, Revenue and Bonding Committee, has similar requirements concerning noise level testing of motor vehicles subject to emissions inspections.

### **COMMITTEE ACTION**

Transportation Committee

Joint Favorable

Yea 22 Nay 13 (03/24/2022)