

THE NOISE CONSULTANCY, LLC

CODE DRAFTING TIP FOR 2003

"Boom Cars - Boom Boxes"

Discussion

There are few sources of noise that generate more complaints than broadcasting vehicles. Loud music emanating from a vehicle is disruptive to the peace and quiet of a community. Highly amplified music in a vehicle poses both a public safety and public health risk: it may impair the ability of the operator in such a vehicle to hear emergency signals; and, studies have shown that hearing loss among college age students is now common and the incidence is increasing.

Enforcement of a performance (decibel denominated) standard is difficult in this situation, as the sound is transient and the source is mobile. While some jurisdictions enforce a curblineline sound level limit, the enforcement agency must set up in advance in the location at which they suspect a violation may occur. While enforcement and deterrence is extremely effective during the operation of such an enforcement action, it is only effective at the time and in the place this action occurs. Outside of these parameters, deterrence is minimal.

An alternative enforcement standard is required to address this specific sound source, if enforcement is to be regular and predictable, thus providing the desired deterrence. If the deterrent was not successful, the enforcement standard must lead to successful prosecution. After a careful review of precedents and challenges in other jurisdictions, it was clear that any successful standard would have to be objective, specific and easily understood. A "plainly audible" standard has been applied in numerous jurisdictions across the United States, and this standard has been held to be neither vague nor overbroad (State v. Ewing, 914 P.2d 549, Haw. 1996). It is also clearly understandable to those it is intended to regulate. There is no subjectivity to the determination of a plainly audible sound source; there is no value judgment associated with such a determination, as there might be if the standard were "disturbing" or "loud and raucous."

This is an extremely powerful tool now made available to address a demonstrated problem. This provision, however, should only be enforced by

police. Curbing a vehicle is potentially confrontational, and may represent an unacceptable risk to an enforcement officer who is untrained to handle this situation.

A full discussion of this topic can be found in the following paper:

Zwerling, E.M. 2000. Regulation of Amplified Sound Sources. Proceedings of Noise-Con 2000. Acoustical Society of America/ Institute of Noise Control Engineering. Newport Beach, CA. December 3-5, 2000.

CODE PROVISIONS

DEFINITION

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

RESTRICTED USES AND ACTIVITIES

(1) Personal or commercial music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator.

{Note: These distances may be a bit restrictive, as most cars that are overtly broadcasting can be heard at distances significantly exceeding 100 feet. You may choose to set the permissible audible distance at 100 feet daytime and 50 feet night time, which will allow for a reasonable amount of amplification.}

(2) Self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-

of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.

**ADOPT THESE PROVISIONS IN YOUR
JURISDICTION.
OFFER YOUR RESIDENTS A BETTER QUALITY
OF LIFE.**

**This website page has now been extensively referenced
in a U.S. Department of Justice document:**

Loud Car Stereos

This is a very valuable resource in our efforts to Quiet the Commons

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