



City of Austin

P.O. Box 1088, Austin, TX 78767-1088

April 5, 2023

Re: Testimony “on” sound provisions of S.B. 577

Dear Chairman Kolkhorst and members of the Senate Health and Human Services Committee:

Thank you for the opportunity to submit written testimony on S.B. 577. The City thanks Senator Springer and the Texas Restaurant Association for their amenability to address changes in the originally filed version of this bill that help us strike a balance between the needs of our local businesses and residents.

In the development of our current standards, the City of Austin has worked closely with our community residents, restaurants, bars and other stakeholders to find a balance on amplified sound that works for all parties involved. Austin’s ordinance was designed to support our nightlife and entertainment, and the enormous value it brings to our local economy and culture while maintaining residential quality of life and a livable city. The City recognizes that for many restaurants and bars, music-related programming is an integral part of their programming and business model, whether to provide live music entertainment or background music for guests while they are dining. In order to support both the food establishments and residents, Austin’s standards are based on proximity and distance to residential properties. Below, please see a table that outlines Austin’s sound ordinance related to restaurants compared to S.B. 577.

Austin Code Max for Restaurants			SB577
	Within 600’ of property used and zoned as residential*	Beyond 600’ of property zoned and used as residential	
Hours:			
Mon-Wed	8pm or 10pm	10:30pm	10 pm
Thu	8pm or 10pm	11pm	10 pm
Fri/Sat	10pm or 12am	12am	11 pm
Max Sound Level:	70dBA + dBC per permit	70dBA + dBC per permit	70 dba

*Permits within 600 feet of property zoned and used as residential *can be extended up to 2 hours per day with support from nearby owners, tenants, and neighborhood organizations.*

While Austin appreciates the changes that have been made thus far, the City respectfully requests the following changes be made as the Committee continues to deliberate on the legislation:

Recommendation 1: Provide clarity in a City’s ability to regulate restaurants outside the hours stipulated by the bill and enforce violations that occur within the confines of the bill.

The City of Austin Law Department (Law) has concerns that the bill as written is unclear if the City would maintain the ability to regulate amplified sound from food service establishments outside the hours provided by *Sec. 437.027 (a)(2)(A)*. Therefore, we request explicit authority for a municipality to regulate hours and decibel limit that fall outside the standards provided by the bill. Austin currently allows restaurants outside of 600 feet of a residence to amplify music until 10:30 Sunday through Wednesday, 11 pm on Thursday, and 12 am on Friday and Saturday. If a city’s regulations allowed longer hours, the bill is unclear if we would be able to permit restaurants for that purpose to give these businesses increased flexibility. Should it be helpful, we recommend *Sec. 437.027 (a)(2)* to include the following language: *a municipality may regulate amplified noise after 10 pm Sunday through Thursday and 11 pm on Friday and Saturday.*

Law is also concerned that the current language is unclear whether a City maintains the ability to enforce a violation should a restaurant play music above 70 dBA within the hours outlined by the legislation. With that in mind, the City recommends explicit language allowing cities to enforce the provisions of this bill, such as the following: *a municipality may enforce violations of decibel limits established under Sec. 437.027 (a)(2)(B).*

Recommendation 2: Amend the 100-foot buffer (437.027 (b)) language to include a property that is “used” as residential, rather than just a “residence.”

Austin is concerned that the phrase “residence” may capture more properties than is intended. For example, in Austin, a “residence” could capture businesses in the Central Business District that were once homes but converted to office space. Ensuring the language states that property being “used as residential” would provide additional clarity for enforcement of this language.

To reiterate, the City of Austin is committed to supporting restaurants, bars and food service establishments and their essential contribution to Austin’s culture and nighttime economy, while preserving the quality of life for Austinites and visitors. We offer these requested changes to the bill as we believe their adoption will help the bill achieve more of a balance between the needs of our local businesses and residents.

Sincerely,



Brie Franco
Intergovernmental Relations Officer
City of Austin