

**STATEMENT BY DAVID JULYAN
TURN IT DOWN COALITION
COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE PUBLIC HEARING
Bill 22-839, the "Amplified Noise Amendment Act of 2018"
October 4, 2018**

Mr. Chairman and members of the committee, I'm David Julyan and I represent the *please "Turn It Down"* coalition, a group of over 250 District residents, workers, and employers who have only one goal: to turn down excessive sound levels in the District's downtown vibrant, mixed-use communities. We've been working on this issue for nearly two years and appreciate the Chairman allowing us time to present our findings and conclusions.

There is no interest in stopping street performers, "buskers" in the vernacular, from performing what and where they want and collecting donations. Buskers are a unique and important part of the city's vitality and diversity. We are only asking that the Council do what other cities have done and define and enforce a reasonable balance between the buskers' ability to entertain and accept donations and residents and workers right to the reasonable use of their homes and workplaces. In other words define and enforce "too loud" for these areas. Similar to New York, Chicago, Portland, Cambridge, Santa Fe, San Francisco, Austin and other cities, we propose that "too loud" is when the sound is plainly audible more than 100 feet away from the busker ... well beyond the toss of any potential contributor.

That narrow focus is important to these proceedings and your deliberations. There's a long list of issues that this effort is NOT about and that list should be kept separate and distinct. This is only about reducing excessive sound levels.

Turn it Down members have documented over 800 incidents of excessive sound levels since May 2017. While there are notorious *hot spots*, this is an issue in mixed-use communities throughout the city.

We've asked all councilmembers to visit a hot spot and hear what "too loud" means. All who visited heard and agreed that excessive sound levels (and that's all we're talking about) is a serious issue for residents and workers and needs to be addressed. For those who haven't had a first-hand experience, here are a few examples of "too loud."

While you were exposed to this sound level for a few seconds, please remember that impacted stakeholders hear this sound level for literally hours on end and several days a week.

This is all about your constituents. The impact these excessive sound levels have on people's lives has been well documented. The Council heard testimony last December and in July from over 70 residents, workers and employers... and you'll hear more today directly from the people most impacted. But to give you an idea, here are some of what people have said.

Since the July hearing, *Turn it Down* members have met several times with representatives from the busker community. Through those exchanges we found a lot in common. At its core, this is about people respecting each other and how to get along together. While we didn't write it down, I think the following fairly represents our common ground:

- Buskers are an important and unique part of DC and are here to stay
- Buskers should play what and where they want
- Buskers should be able to accept donations
- Buskers shouldn't be interrupted while performing
- Some buskers do play at excessive sound levels,
 - they do unfairly interfere with the rights of others, and
 - those excessive levels aren't necessary.
- Legislation should define "too loud" and be easily enforced
- Legislation needs an outreach effort to buskers so they are aware of the rules.
- No one should go to jail, but repeat violators shouldn't be tolerated.

Where we still disagree is how best to identify an enforceable standard of "too loud." We support the bill's use of "plainly audible at 100" feet as the answer. A similar approach is used in New York, Chicago, Portland, Cambridge, Santa Fe, San Francisco and Austin among other cities.

Another approach is to use a decibel meter and measure the db level at the source of the sound or at specific exterior and interior distances and identify an appropriate db number above which the sound is "too loud." While that may initially appear simple enough, it is fraught with both impracticability and unenforceability. Who is holding the meter ... and where, do they have proper training, when was the meter last calibrated, what's the ambient noise level, how to take a "timely" measurement, lower frequency sounds like drums and bass travel further, etc.

While there's no or little cost to implementing a "plainly audible" approach, any db based plan will have a significant cost to the District for staffing, training, equipment, etc. A back of the envelope estimate is that these costs should exceed \$750,000.

MPD has focused on enforceability and it's my understanding that they do not believe taking db readings is an enforceable approach. However, MPD will testify later today and can address that issue directly.

In the final analysis measuring an arbitrarily selected db level isn't the issue, it's simply the reality that excessive sound levels interfere with the reasonable rights of others.

We performed tests at Gallery Place ... some with the buskers ... to see how db and "plainly audible" would apply. The diagram shows concentric rings measured 125 feet from where the buskers perform. As the following video clips will confirm, the buskers sound, even when under

100db at the source, was plainly audible at distances of up to 200 feet, well beyond the range from which anyone can make a donation. It was also plainly audible in a 6th floor condo bedroom, more than enough to impact sleeping.

Unlike the use of decibel meters, enforcing plainly audible is simple. If the maximum distance is 100 feet. Go to 125 or 150 feet and hear if the sound is identifiable and plainly audible. At exactly 100 feet it's possible personal subjectivity could influence the answer, but add another 25 feet and now if the sound is "plainly audible" it is *per se* and objectively too loud and the rule can be enforced.

The Turn It Down coalition is fully aware that addressing excessive sound levels has to be done carefully to avoid impacting 1st Amendment rights and we are fully aware that organized labor has a direct interest in this area. Sixteen months ago we began discussing these issue with union representatives and on over a dozen separate occasions we've discussed the narrow issue of excessive sound levels and how it could be addressed. We met with the Executive Committee of the AFL-CIO Metropolitan Washington Council, we engaged with individual union representatives, including beginning over a year ago, numerous times with Mr. Boardman who will testify this morning.

We have no interest nor intent to impede union activity in Washington. Our proposal is based on an approach used in other "union friendly" cities and the evidence confirms that it has not impeded organized labor from asserting its perspective. We were willing to consider any other enforceable approach, but over a year later, none have been presented.

We looked at how 25 other cities addressed this issue. Many have much stricter ordinances than we are proposing for the District, including requiring permits, charging fees, limiting where and how long buskers can perform, imposing significant penalties, etc.

However, for unique DC and its unique buskers, we believe a simpler approach will address the specific issue of excessive sound levels. The bill before you is a good foundation, but we'd propose the Council consider the following amendments.

- 1) Limit the bill to excessive sound levels in the downtown mixed-use communities where there is no applicable statute and where the problems are; the city's existing noise ordinances already apply elsewhere.
- 2) Include unamplified sound. It can be just as loud and the issue is curtailing excessive sound levels regardless of the source or type of performance.
- 3) Include an outreach and education period to ensure buskers are aware of the rules and have time to adjust their performances if necessary

The testimony previously presented to the Council and the testimony you will hear today vividly describes why you need to act. The approach that has worked elsewhere will work here. If ... as seems to be the case in other cities ... the buskers' revenue is not reduced once a reasonable approach has been explained and enforced this currently controversial issue actually quiets

down. The appropriate balance of these legitimate, but conflicting uses can bring an end to the excessive sound problem and be an important step toward the urban harmony all parties seek.