
A BILL FOR AN ACT

RELATING TO THE ENFORCEMENT OF LAWS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1
2 SECTION 1. The legislature finds that the people of the
3 State deserve to live in peace and security, without the public
4 safety risks, health hazards, and traumatic impacts of illegal
5 fireworks use. The legislature also finds that Act 170, Session
6 Laws of Hawaii 2010, established an illegal fireworks task force
7 to develop strategies and make recommendations to the
8 legislature to address the illegal importation and use of
9 fireworks in the State. Among other matters, the illegal
10 fireworks task force recommended that the legislature consider
11 increasing fireworks permit fees and violation fines to deter
12 the use of illegal fireworks, decrease the supply of illegal
13 fireworks in the State, and increase funding for prevention and
14 enforcement efforts.

15 The legislature further finds that Act 184, Session Laws of
16 Hawaii 2019, directed the legislative reference bureau to update
17 the illegal fireworks task force's findings and recommendations.



1 In its report, the bureau noted that, although the legislature
2 has introduced numerous measures to increase fireworks permit
3 fees and violations fines since 2011, none of the measures were
4 enacted.

5 The legislature further finds that technologies, such as
6 ShotSpotter, which were originally developed to assist law
7 enforcement in detecting gunshots, has shown the potential to
8 assist police departments in enforcing fireworks laws. The
9 legislature finds that these technologies allow law enforcement
10 officers to instantly detect and locate the geographic origin of
11 explosions caused by gunfire or illegal fireworks. The police
12 department in Denver, Colorado, notes that this technology gives
13 notice of gunshots within forty seconds and allows police to
14 respond within twenty-five feet of the shot's origin. The
15 legislature notes that ShotSpotter is currently being used by
16 more than ninety cities nationwide, including Chicago, Illinois;
17 Milwaukee, Wisconsin; and San Diego, California.

18 The legislature further finds that other technologies may
19 assist law enforcement in data collection pertaining to illegal
20 fireworks, including the web-based reporting tool created and
21 supported by various agencies in Clark County, Nevada. The



1 legislature finds that the Clark County website has successfully
2 forwarded thousands of complaints to Clark County law
3 enforcement agencies since 2018.

4 The legislature further finds that alternative enforcement
5 mechanisms should be considered to promote compliance with the
6 fireworks control law. One alternative enforcement mechanism
7 would be an expeditious adjudication system for fireworks
8 infractions, similar to the system for processing traffic
9 infractions. This system would allow the judiciary to
10 expediently process violations of the fireworks control law,
11 allowing the judiciary to reserve resources for cases that
12 require more resources.

13 The purpose of this Act is to:

14 (1) Establish an expeditious adjudication system for
15 processing fireworks infractions, similar to the
16 system for processing traffic infractions;

17 (2) Implement the recommendations of the 2010 illegal
18 fireworks task force by:

19 (A) Raising the fireworks display permit fee from
20 \$110 to \$150;



- 1 (B) Amending the fines for certain fireworks
- 2 violations;
- 3 (C) Clarifying that each aerial device, display
- 4 firework, or article pyrotechnic having a total
- 5 weight of twenty-five pounds or less that is
- 6 illegally imported, transferred, or sold
- 7 constitutes a separate violation; and
- 8 (D) Increasing the penalty for removing or extracting
- 9 the pyrotechnic contents from any fireworks or
- 10 articles pyrotechnic for certain uses;
- 11 (3) Authorize the sheriff division of the department of
- 12 public safety to enforce the fireworks control law;
- 13 (4) Require the attorney general to establish an explosion
- 14 detection technology working group; and
- 15 (5) Require the department of public safety to develop and
- 16 implement a web-based reporting tool for illegal
- 17 fireworks that will provide the counties with
- 18 additional data to enforce the applicable fireworks
- 19 laws.



1 PART II

2 SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 "PART . ADJUDICATION OF FIREWORKS INFRACTIONS

6 §132D-A Definitions. As used in this part:

7 "Concurrent trial" means a trial proceeding held in the
8 district or family court in which the defendant is tried
9 simultaneously in a civil case for any charged fireworks
10 infraction and in a criminal case for any related criminal
11 offense, with trials to be held in one court on the same date
12 and at the same time.

13 "Fireworks infraction" means any violation of this chapter,
14 any rule adopted pursuant to this chapter, or any county
15 ordinance or rule enacted pursuant to this chapter.

16 "Hearing" means a proceeding conducted by the district
17 court pursuant to section 132D-G at which the defendant to whom
18 a notice of infraction was issued either admits to the fireworks
19 infraction, contests the notice of infraction, or admits to the
20 fireworks infraction but offers an explanation to mitigate the
21 monetary assessment imposed.



1 "Notice of infraction" means the citation form that is
2 issued to the defendant at or after the time of the fireworks
3 infraction and notifies the defendant of the civil infraction
4 the defendant is charged with committing, whatever its title or
5 denomination.

6 "Related criminal offense" means any criminal violation or
7 crime, committed in the same course of conduct as a fireworks
8 infraction, for which the defendant is arrested or charged.

9 "Trial" means a trial conducted by the district court
10 pursuant to the rules of the district court and Hawaii rules of
11 evidence.

12 **§132D-B Applicability.** (a) All fireworks infractions,
13 including fireworks infractions committed by minors, shall be
14 adjudicated pursuant to this chapter, except as provided in
15 section 132D-14(a), subsection (b), or as otherwise specifically
16 provided for in this part. This part shall be applied uniformly
17 throughout the State and in all counties. Except as
18 specifically provided otherwise in this part, no fireworks
19 infraction shall be classified as a criminal offense.

20 (b) Where a defendant is charged with a fireworks
21 infraction and the fireworks infraction is committed in the same



1 course of conduct as a criminal offense for which the offender
2 is arrested or charged, the fireworks infraction shall be
3 adjudicated pursuant to this part; provided that the court may
4 schedule any initial appearance, hearing, or trial on the
5 fireworks infraction at the same date, time, and place as the
6 arraignment, hearing, or trial on the related criminal offense.

7 Notwithstanding this subsection and subsection (c), the
8 court shall not schedule any initial appearance, hearing, or
9 trial on the fireworks infraction at the same date, time, and
10 place as the arraignment, hearing, or trial on the related
11 criminal offense where the related criminal offense is a felony
12 or misdemeanor for which the defendant has demanded a jury
13 trial.

14 (c) If the defendant requests a trial pursuant to
15 section 132D-K, the trial shall be held in the district court of
16 the circuit in which the fireworks infraction was committed. If
17 the court schedules a concurrent trial pursuant to
18 paragraph (1), the concurrent trial shall be held in the
19 appropriate district or family court of the circuit in which the
20 fireworks infraction was committed, whichever has jurisdiction



1 over the related criminal offense charged pursuant to the
2 applicable statute or rule of court; provided that:

3 (1) The district or family court, for the purpose of
4 trial, may schedule a civil trial on the fireworks
5 infraction on the same date and at the same time as a
6 criminal trial on the related criminal offense
7 charged. The court shall enter a civil judgment as to
8 the fireworks infraction and a judgment of conviction
9 or acquittal as to the related criminal offense
10 following the concurrent trial; and

11 (2) If the trial on the fireworks infraction is held
12 separately from and before trial on any related
13 criminal offense, the following shall be inadmissible
14 in the prosecution or trial of the related criminal
15 offense, except as expressly provided by the Hawaii
16 rules of evidence:

17 (A) Any written or oral statement made by the
18 defendant in proceedings conducted pursuant to
19 section 132D-F(b); and

20 (B) Any testimony given by the defendant in the trial
21 on the fireworks infraction.



1 These statements or testimony shall not be deemed a
2 waiver of the defendant's privilege against
3 self-incrimination in connection with any related
4 criminal offense.

5 (d) In no event shall section 701-109 preclude prosecution
6 for a related criminal offense where a fireworks infraction
7 committed in the same course of conduct has been adjudicated
8 pursuant to this part.

9 (e) If the defendant fails to appear at any scheduled
10 court date before the date of trial or concurrent trial and:

11 (1) The defendant's civil liability for the fireworks
12 infraction has not yet been adjudicated pursuant to
13 section 132D-G, the court shall enter a judgment by
14 default in favor of the State for the fireworks
15 infraction unless the court determines that good cause
16 or excusable neglect exists for the defendant's
17 failure to appear; or

18 (2) The defendant's civil liability for the fireworks
19 infraction has been previously adjudicated pursuant to
20 section 132D-G, the judgment earlier entered in favor
21 of the State shall stand unless the court determines



1 that good cause or excusable neglect exists for the
2 defendant's failure to appear.

3 (f) If the defendant fails to appear at any scheduled
4 court date before concurrent trial or fails to appear for
5 concurrent trial scheduled pursuant to subsection (c)(1), the
6 court shall enter a disposition pursuant to the Hawaii rules of
7 penal procedure for the criminal offense.

8 **§132D-C Venue and jurisdiction.** (a) All fireworks
9 infractions shall be adjudicated in the district and circuit
10 courts where the alleged infraction occurred, except as
11 otherwise provided by law.

12 (b) Except as otherwise provided by law, jurisdiction is
13 in the district court of the circuit where the alleged fireworks
14 infraction occurred. Except as otherwise provided in this part,
15 district court judges shall adjudicate fireworks infractions.

16 **§132D-D Notice of infraction; form; determination final**
17 **unless contested.** (a) The notice of infraction shall include
18 the summons for the purposes of this part. Whenever a notice of
19 infraction is issued, the defendant's signature, driver's
20 license number or state identification number, current address,
21 and electronic mail address shall be noted on the notice. If



1 the defendant refuses to sign the notice of infraction, the law
2 enforcement officer shall record this refusal on the notice and
3 issue the notice to the defendant. Individuals to whom a notice
4 of infraction is issued under this part need not be arraigned
5 before the court, unless required by rule of the supreme court.

6 (b) The form for the notice of infraction shall be
7 prescribed by rules of the district court and shall be uniform
8 throughout the State; provided that each judicial circuit may
9 include differing statutory, rule, or ordinance provisions on
10 its respective notice of infraction.

11 (c) A notice of infraction that is generated by the use of
12 electronic equipment or that bears the electronically stored
13 image of any person's signature, or both, shall be valid under
14 this part.

15 (d) The notice of infraction shall include the following:

16 (1) A statement of the specific fireworks infraction for
17 which the notice was issued;

18 (2) A brief statement of the facts;

19 (3) A statement of the total amount to be paid for each
20 fireworks infraction, which amount shall include any
21 fee, surcharge, or cost required by statute,



1 ordinance, or rule, and the monetary assessment
2 established pursuant to section 132D-H, to be paid by
3 the defendant;

4 (4) A statement of the options provided in
5 section 132D-E(b) for answering the notice and the
6 procedures necessary to exercise the options;

7 (5) A statement that the defendant to whom the notice is
8 issued shall answer, choosing one of the options
9 specified in section 132D-E(b), within twenty-one days
10 of issuance of the notice;

11 (6) A statement that failure to answer the notice of
12 infraction within twenty-one days of issuance shall
13 result in the entry of judgment by default for the
14 State and may result in the assessment of a late
15 penalty;

16 (7) A statement that, at a hearing requested to contest
17 the notice of infraction conducted pursuant to
18 section 132D-G, no law enforcement officer shall be
19 present unless the defendant timely requests the court
20 to have the law enforcement officer present, and that
21 the standard of proof to be applied by the court is



- 1 whether a preponderance of the evidence proves that
2 the specified fireworks infraction was committed;
- 3 (8) A statement that, at a hearing requested for the
4 purpose of explaining mitigating circumstances
5 surrounding the commission of the fireworks infraction
6 or in consideration of a written request for
7 mitigation, the defendant shall be considered to have
8 committed the fireworks infraction;
- 9 (9) A space in which the signature of the defendant to
10 whom the notice of infraction was issued may be
11 affixed; and
- 12 (10) The date, time, and place at which the defendant to
13 whom the notice of infraction was issued shall appear
14 in court, if the defendant is required by the notice
15 to appear in person at the hearing.

16 **§132D-E Answer required.** (a) A defendant who receives a
17 notice of infraction shall answer the notice within twenty-one
18 days of the date of issuance of the notice. There shall be
19 included with the notice of infraction a preaddressed envelope
20 directed to the designated district court.



1 (b) Provided that the notice of infraction does not
2 require an appearance in person at a hearing as set forth in
3 section 132D-D(d) (10), in answering a notice of infraction, a
4 defendant shall have the following options:

5 (1) Admit the commission of the fireworks infraction in
6 one of the following ways:

7 (A) By mail or in person, by completing the
8 appropriate portion of the notice of infraction
9 or preaddressed envelope and submitting it to the
10 authority specified on the notice together with
11 payment of the total amount stated on the notice
12 of infraction. Payment by mail shall be in the
13 form of a check, money order, or by an approved
14 credit or debit card. Payment in person shall be
15 in the form of United States currency, check,
16 money order, or by an approved credit or debit
17 card; or

18 (B) Via the Internet or by telephone, by submitting
19 payment of the total amount stated on the notice
20 of infraction. Payment via the Internet or by



1 telephone shall be by an approved credit or debit
2 card;

3 (2) Deny the commission of the fireworks infraction and
4 request a hearing to contest the fireworks infraction
5 by completing the appropriate portion of the notice of
6 infraction or preaddressed envelope and submitting it,
7 either by mail or in person, to the authority
8 specified on the notice. In lieu of appearing in
9 person at a hearing, the defendant may submit a
10 written statement of grounds on which the defendant
11 contests the notice of infraction, which shall be
12 considered by the court as a statement given in court
13 pursuant to section 132D-G(a); or

14 (3) Admit the commission of the fireworks infraction and
15 request a hearing to explain circumstances mitigating
16 the fireworks infraction by completing the appropriate
17 portion of the notice of infraction or preaddressed
18 envelope and submitting it, either by mail or in
19 person, to the authority specified on the notice. In
20 lieu of appearing in person at a hearing, the
21 defendant may submit a written explanation of the



1 mitigating circumstances, which shall be considered by
2 the court as a statement given in court pursuant to
3 section 132D-G(b).

4 (c) When answering the notice of infraction, the defendant
5 shall affix the defendant's signature to the answer and shall
6 state the address at which the defendant will accept future
7 mailings from the court. No other response shall constitute an
8 answer for purposes of this part.

9 **§132D-F Court action after answer or failure to answer.**

10 (a) When an admitting answer is received, the court shall enter
11 judgment in favor of the State in the total amount specified in
12 the notice of infraction.

13 (b) When a denying answer is received, the court shall
14 proceed as follows:

15 (1) In the case of a fireworks infraction where the
16 defendant requests a hearing at which the defendant
17 will appear in person to contest the fireworks
18 infraction, the court shall notify the defendant in
19 writing of the date, time, and place of hearing to
20 contest the notice of infraction. The notice of
21 hearing shall be mailed to the address provided by the



1 defendant in the denying answer, or if none was given,
2 to the address provided by the defendant when the
3 notice of infraction was issued, or if none was
4 provided, to the electronic mail address provided by
5 the defendant when the notice of infraction was
6 issued. The notice shall also advise the defendant
7 that, if the defendant fails to appear at the hearing,
8 the court shall enter judgment by default in favor of
9 the State, as of the date of the scheduled hearing,
10 and that the total amount specified in the default
11 judgment shall be paid within thirty days of entry of
12 default judgment; and

13 (2) When a denying answer is accompanied by a written
14 statement of the grounds on which the defendant
15 contests the notice of infraction, the court shall
16 proceed as provided in section 132D-G(a) and shall
17 notify the defendant of its decision, including the
18 total amount assessed, if any, by mailing the notice
19 of entry of judgment within forty-five days of the
20 postmarked date of the answer to the address provided
21 by the defendant in the denying answer, or if none was



1 given, to the address provided by the defendant when
2 the notice of infraction was issued, or if none was
3 provided, to the electronic mail address provided by
4 the defendant when the notice of infraction was
5 issued. The notice of entry of judgment shall also
6 advise the defendant, if it is determined that the
7 fireworks infraction was committed and judgment is
8 entered in favor of the State, that the defendant has
9 the right, within thirty days of entry of judgment, to
10 request a trial and shall specify the procedures for
11 doing so. The notice of entry of judgment shall also
12 notify the defendant, if an amount is assessed by the
13 court for monetary assessments, fees, surcharges, or
14 costs, that if the defendant does not request a trial
15 within the time specified in this paragraph, the total
16 amount assessed shall be paid within thirty days of
17 entry of judgment.

18 (c) When an answer admitting commission of the firework
19 infraction but seeking to explain mitigating circumstances is
20 received, the court shall proceed as follows:



1 (1) In the case of a fireworks infraction where the
2 defendant requests a hearing at which the defendant
3 will appear in person to explain mitigating
4 circumstances, the court shall notify the defendant in
5 writing of the date, time, and place of the hearing to
6 explain mitigating circumstances. The notice of
7 hearing shall be mailed to the address provided by the
8 defendant in the answer, or if none was given, to the
9 address provided by the defendant when the notice of
10 infraction was issued, or if none was provided, to the
11 electronic mail address provided by the defendant when
12 the notice of infraction was issued. The notice shall
13 also advise the defendant that, if the defendant fails
14 to appear at the hearing, the court shall enter
15 judgment by default in favor of the State, as of the
16 date of the scheduled hearing, and that the total
17 amount stated in the default judgment must be paid
18 within thirty days of entry of default judgment; and
19 (2) If a written explanation is included with an answer
20 admitting commission of the fireworks infraction, the
21 court shall enter judgment for the State and, after



1 reviewing the explanation, determine the total amount
2 of the monetary assessments, fees, surcharges, or
3 costs to be assessed, if any. The court shall then
4 notify the defendant of the total amount to be paid
5 for the fireworks infraction, if any. There shall be
6 no appeal from the judgment. If the court assesses an
7 amount for monetary assessments, fees, surcharges, or
8 costs, the court shall also notify the defendant that
9 the total amount shall be paid within thirty days of
10 entry of judgment.

11 (d) If the defendant fails to answer within twenty-one
12 days of issuance of the notice of infraction, the court shall
13 take action as provided in subsection (e).

14 (e) Whenever judgment by default in favor of the State is
15 entered, the court shall mail a notice of entry of default
16 judgment to the address provided by the defendant when the
17 notice of infraction was issued, or if none was provided, to the
18 electronic mail address provided by the defendant when the
19 notice of infraction was issued. The notice of entry of default
20 judgment shall advise the defendant that the total amount
21 specified in the default judgment shall be paid within thirty



1 days of entry of default judgment and shall explain the
2 procedure for setting aside a default judgment. Judgment by
3 default for the State entered pursuant to this part may be set
4 aside pending final disposition of the fireworks infraction upon
5 written application of the defendant and posting of an
6 appearance bond equal to the amount of the total amount
7 specified in the default judgment and any other assessment
8 imposed pursuant to section 132D-H. The application shall show
9 good cause or excusable neglect for the defendant's failure to
10 take action necessary to prevent entry of judgment by default.
11 Thereafter, the court shall determine whether good cause or
12 excusable neglect exists for the defendant's failure to take
13 action necessary to prevent entry of judgment by default. If
14 so, the application to set aside default judgment shall be
15 granted, the default judgment shall be set aside, and the notice
16 of infraction shall be disposed of pursuant to this part. If
17 not, the application to set aside default judgment shall be
18 denied, the appearance bond shall be forfeited and applied to
19 satisfy amounts due under the default judgment, and the notice
20 of infraction shall be finally disposed. In either case, the
21 court shall determine the existence of good cause or excusable



1 neglect and notify the defendant of its decision on the
2 application in writing.

3 **§132D-G Hearings.** (a) In proceedings to contest a notice
4 of infraction where the defendant to whom the notice was issued
5 has timely requested a hearing and appears at the hearing:

6 (1) In lieu of the personal appearance by the law
7 enforcement officer who issued the notice of
8 infraction, the court shall consider the notice of
9 infraction and any other written report made by the
10 law enforcement officer, if provided to the court by
11 the law enforcement officer, together with any oral or
12 written statement by the defendant to whom the notice
13 of infraction was issued;

14 (2) The standard of proof to be applied by the court shall
15 be whether, by a preponderance of the evidence, the
16 court finds that the fireworks infraction was
17 committed; and

18 (3) After due consideration of the evidence and arguments,
19 if any, the court shall determine whether commission
20 of the fireworks infraction has been established.

21 Where the commission of the fireworks infraction has



1 not been established, judgment in favor of the
2 defendant, dismissing the notice of infraction or any
3 count therein with prejudice, shall be entered in the
4 record. Where it has been established that the
5 fireworks infraction was committed, the court shall
6 enter judgment in favor of the State and shall assess
7 a monetary assessment pursuant to section 132D-H,
8 together with any fees, surcharges, or costs. The
9 court also shall inform the defendant of the right to
10 request a trial pursuant to section 132D-K. If the
11 defendant requests a trial at the time of the hearing,
12 the court shall provide the defendant with the trial
13 date as soon as practicable.

14 (b) In proceedings to explain mitigating circumstances
15 where the defendant to whom the notice of infraction was issued
16 has timely requested a hearing and appears at the hearing:

17 (1) The procedure shall be limited to the issue of
18 mitigating circumstances. A defendant who requests to
19 explain the circumstances shall not be permitted to
20 contest the notice of infraction;



1 (2) After the court has received the explanation, the
2 court may enter judgment in favor of the State and may
3 assess a monetary assessment pursuant to
4 section 132D-H, together with any fees, surcharges, or
5 costs;

6 (3) The court, after receiving the explanation, may vacate
7 the admission and enter judgment in favor of the
8 defendant, dismissing the notice of infraction or any
9 count therein with prejudice, where the explanation
10 establishes that the infraction was not committed; and

11 (4) There shall be no appeal from the judgment.

12 (c) If a defendant for whom a hearing has been scheduled
13 to contest the notice of infraction or to explain mitigating
14 circumstances fails to appear at the hearing, the court shall
15 enter judgment by default for the State and take action as
16 provided in section 132D-F(e).

17 **§132D-H Monetary assessments.** (a) A defendant found to
18 have committed a fireworks infraction shall be assessed a
19 monetary assessment pursuant to section 132D-14.



1 (b) In addition to any monetary assessment imposed for a
2 fireworks infraction, the court may impose additional
3 assessments for:

4 (1) Failure to pay a monetary assessment by the scheduled
5 date of payment;

6 (2) The cost of service of a penal summons issued pursuant
7 to this part; or

8 (3) The administrative costs of \$20 for each instance of
9 noncompliance with a rule associated with the
10 processing of fireworks infractions, in addition to
11 any monetary assessment imposed by the court,
12 regardless of whether the monetary assessment is
13 suspended.

14 (c) The clerk of the district court shall deposit the
15 administrative costs collected into the judiciary computer
16 system special fund pursuant to section 601-3.7.

17 (d) The court may grant to a defendant claiming inability
18 to pay an extension of the period in which the monetary
19 assessment shall be paid or may impose community service in lieu
20 of the monetary assessment.



1 **§132D-I Time computation.** In computing any period of time
2 prescribed or allowed by this part, the day of the act, event,
3 or default from which the period of time begins to run shall not
4 be included. The last day of the period so computed shall be
5 included, unless it is a Saturday, Sunday, or legal holiday, in
6 which event the period runs until the end of the next day that
7 is not a Saturday, Sunday, or legal holiday. Intermediate
8 Saturdays, Sundays, and legal holidays shall be included.
9 Whenever an act required to be performed under this part may be
10 accomplished by mail, the act shall be deemed to have been
11 performed on the date of the postmark on the mailed article.

12 **§132D-J Powers of the district court judge hearing cases**
13 **pursuant to this part.** (a) A district court judge hearing
14 cases pursuant to this part shall have all the powers of a
15 district court judge under chapter 604, including the following
16 powers:

- 17 (1) To conduct fireworks infraction hearings and impose
18 monetary assessments;
- 19 (2) To permit deferral of monetary assessments or impose
20 community service in lieu of monetary assessments;



- 1 (3) To dismiss a notice of infraction, with or without
- 2 prejudice, or set aside a judgment for the State;
- 3 (4) To issue penal summonses and bench warrants and
- 4 initiate contempt of court proceedings in proceedings
- 5 conducted pursuant to section 132D-K;
- 6 (5) To issue penal summonses and bench warrants and
- 7 initiate failure to appear proceedings in proceedings
- 8 conducted pursuant to section 132D-D(d) (10); and
- 9 (6) To exercise other powers the court finds necessary and
- 10 appropriate to carry out the purposes of this part.

11 **§132D-K Trial and concurrent trial.** (a) There shall be
 12 no right to trial unless the defendant contests the notice of
 13 infraction pursuant to section 132D-G. If, after proceedings to
 14 contest the notice of infraction, a determination is made that
 15 the defendant committed the fireworks infraction, judgment shall
 16 enter in favor of the State. The defendant may request a trial
 17 pursuant to the Hawaii rules of evidence and the rules of the
 18 district court; provided that any request for trial shall be
 19 made within thirty days of entry of judgment. If, after
 20 appearing in person at a hearing to contest the notice of
 21 infraction, the defendant requests a trial at the conclusion of



1 the hearing, the court shall provide the defendant with the
2 trial date as soon as practicable.

3 (b) At the time of trial, the State shall be represented
4 by a prosecuting attorney of the county in which the fireworks
5 infraction occurred. The prosecuting attorney shall orally
6 recite the charged fireworks infraction in court before
7 commencement of the trial. Proof of the defendant's commission
8 of the fireworks infraction shall be by a preponderance of the
9 evidence.

10 (c) Appeals from judgments entered after a trial on the
11 notice of infraction may be taken in the manner provided for
12 appeals from district court civil judgments.

13 (d) If trial on the fireworks infraction is held before
14 trial on any related criminal offense, the following shall be
15 inadmissible in the subsequent prosecution or trial of the
16 related criminal offense:

17 (1) Any written or oral statement made by the defendant in
18 proceedings conducted pursuant to section 132D-F(b);
19 and

20 (2) Any testimony given by the defendant in the trial on
21 the fireworks infraction.



1 The statement or testimony, or both, shall not be deemed a
2 waiver of the defendant's privilege against self-incrimination
3 in connection with any related criminal offense.

4 (e) In any concurrent trial, the State shall be
5 represented by a prosecuting attorney of the county in which the
6 fireworks infraction and related crime occurred. Proof of the
7 defendant's commission of the fireworks infraction shall be by a
8 preponderance of the evidence, and proof of the related criminal
9 offense shall be by proof beyond a reasonable doubt. The
10 concurrent trial shall be conducted pursuant to the rules of the
11 appropriate court, Hawaii rules of evidence, and Hawaii rules of
12 penal procedure.

13 **§132D-L Rules.** (a) The supreme court may adopt rules of
14 procedure for the conduct of all proceedings pursuant to this
15 part.

16 (b) Chapter 626 shall not apply in proceedings conducted
17 pursuant to this part, except for the rules governing privileged
18 communications, and proceedings conducted under section 132D-K.

19 (c) Notwithstanding section 604-17, while the court is
20 sitting in any matter pursuant to this part, the court shall not
21 be required to preserve the testimony or proceedings, except



1 proceedings conducted pursuant to section 132D-K and proceedings
2 in which the fireworks infraction is heard on the same date and
3 time as any related criminal offense.

4 (d) The prosecuting attorney shall not participate in
5 fireworks infraction proceedings conducted pursuant to this
6 part, except proceedings pursuant to section 132D-K and
7 proceedings in which a related criminal offense is scheduled for
8 arraignment, hearing, or concurrent trial.

9 (e) Chapter 91 shall not apply in proceedings before the
10 court.

11 (f) Except as otherwise provided in section 132D-B,
12 chapter 571 and the Hawaii family court rules shall not apply in
13 any proceedings conducted pursuant to this part."

14 SECTION 3. Chapter 132D, Hawaii Revised Statutes, is
15 amended by designating sections 132D-1 to 132D-21 as part I and
16 inserting a title before section 132D-1 to read as follows:

17 **"PART I. GENERAL PROVISIONS"**

18 SECTION 4. Section 132D-2, Hawaii Revised Statutes, is
19 amended as follows:



1 1. By amending the definition of "license" to read:
2 ""License" means a nontransferable, formal authorization,
3 valid for a period not to exceed one calendar year from the date
4 of issuance and which the department is hereby authorized to
5 issue under this [~~chapter,~~] part, to engage in the act or acts
6 specifically designated herein."

7 2. By amending the definition of "permit" to read:
8 ""Permit" means a nontransferable, formal authorization,
9 valid for a period not to exceed one calendar year from the date
10 of issuance and which a county is hereby authorized to issue
11 under this [~~chapter,~~] part, to engage in the act or acts
12 specifically designated herein."

13 SECTION 5. Section 132D-6, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§132D-6 Exceptions.** The prohibitions in section 132D-5
16 do not apply to:

- 17 (1) The use of flares, noisemakers, or signals for
18 warning, pest control, or illumination purposes by
19 police and fire departments, utility companies,
20 transportation agencies, and other governmental or
21 private agencies or persons, including agricultural



- 1 operations, in connection with emergencies, their
2 duties, or business;
- 3 (2) The sale or use of blank cartridges for a show or
4 theater, or for signal, commercial, or institutional
5 purposes in athletics or sports;
- 6 (3) The purchase and use of consumer fireworks, aerial
7 devices, display fireworks, or articles pyrotechnic:
- 8 (A) In a movie, television production, or theatrical
9 production for which valid permits have been issued
10 by a county pursuant to section 132D-10; and
- 11 (B) In a movie or television production for which
12 valid permits have been issued by the department
13 of business, economic development, and tourism
14 pursuant to section 201-14, or for which permits
15 have been approved by the authority having
16 jurisdiction; and
- 17 (4) The testing, disposal, or destruction of illegal
18 fireworks by an agency with authority to enforce this
19 [~~chapter.~~] part."

20 SECTION 6. Section 132D-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§132D-7 License or permit required.** A person shall not:

2 (1) Import, store, offer to sell, or sell, at wholesale or

3 retail, aerial devices, display fireworks, articles

4 pyrotechnic, or consumer fireworks unless the person

5 has a valid license issued by the county; or

6 (2) Possess aerial devices, display fireworks, or articles

7 pyrotechnic without a valid license to import, store,

8 or sell aerial devices, display fireworks, or articles

9 pyrotechnic, or a valid display permit as provided for

10 in this [~~chapter-~~] part."

11 SECTION 7. Section 132D-8, Hawaii Revised Statutes, is

12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) Each storage, wholesaling, and retailing site shall

15 be required to obtain a separate license. The license shall

16 specify the date of issuance or effect and the date of

17 expiration, which shall be March 31 of each year. The

18 application shall be made on a form setting forth the date upon

19 which the storage, sale, or offers for sale are to begin, the

20 address of the location of the licensee, and the name of the

21 proprietor, or, if a partnership, the name of the partnership



1 and the names of all partners or, if a corporation, the name of
2 the corporation and the name of its officers. Any license
3 issued pursuant to this [~~chapter~~] part may be revoked by the
4 county if the licensee violates any provision of this chapter or
5 if the licensee stores or handles the fireworks in [~~such~~] a
6 manner as to present an unreasonable safety hazard."

7 2. By amending subsection (f) to read:

8 "(f) Any license issued pursuant to this [~~chapter~~] part
9 shall be prominently displayed in public view at each licensed
10 location."

11 SECTION 8. Section 132D-9, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§132D-9 Application for permit.** The permit required
14 under section 132D-10 or 132D-16 shall be issued by the county
15 or its authorized designees and be nontransferable. The county
16 or its authorized designees shall issue all permits for which
17 complete applications have been submitted and [~~which~~] that
18 contain only correct information. The permit shall specify the
19 date of issuance or effect and the date of expiration but in no
20 case for a period to exceed one year. The permit for the
21 purchase of consumer fireworks for the purposes of



1 section 132D-3 shall not allow purchase for more than one event
2 as set forth in section 132D-3. The application shall be made
3 on a form setting forth the dates for which the permit shall be
4 valid, the location where the permitted activity is to occur,
5 and the name of the proprietor or, if a partnership, the name of
6 the partnership and the names of all partners or, if a
7 corporation, the name of the corporation and the names of its
8 officers. The permit application may be denied if the proposed
9 use of fireworks or articles pyrotechnic presents a substantial
10 inconvenience to the public or presents an unreasonable fire or
11 safety hazard. Any permit issued pursuant to this [~~chapter~~]
12 part shall be prominently displayed in public view at the site."

13 SECTION 9. Section 132D-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§132D-10 Permits.** A permit shall be required for the
16 purchase and use of:

- 17 (1) Any consumer fireworks commonly known as firecrackers
18 upon payment of a fee of \$25;
- 19 (2) Any aerial devices, display fireworks, or articles
20 pyrotechnic for the purposes of section 132D-16 upon
21 payment of a fee of [~~\$110,~~] \$150; and



1 (3) Any consumer fireworks for the purposes of
2 section 132D-5 or for cultural uses that occur at any
3 time other than during the periods prescribed in
4 section 132D-3(1) upon a payment of a fee of \$25."

5 SECTION 10. Section 132D-11, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) The fee for the license required under section 132D-7
8 shall be \$3,000 for importers, \$2,000 for each wholesaler's
9 site, \$1,000 for each storage site, and \$500 for each retailer's
10 site for each year or fraction of a year in which the licensee
11 plans to conduct business and shall be payable to the county.
12 The license fees shall be used solely by each county fire
13 department to pay for the salary of an auditor of fireworks and
14 articles pyrotechnic records and all expenses incurred to
15 fulfill the duties required, including the inspection of
16 inventory and storage facilities, maintenance of required
17 records, and the training of the auditor. The auditor shall
18 monitor strict inventory and recordkeeping requirements to
19 ensure that sales of fireworks or articles pyrotechnic are made
20 only to license or permit holders under this [~~chapter.~~] part.
21 The county shall provide an exemption from the fees under this



1 section to nonprofit community groups for importation and
2 storage of fireworks or articles pyrotechnic for displays once a
3 year."

4 SECTION 11. Section 132D-14, Hawaii Revised Statutes, is
5 amended by amending its title and subsections (a) and (b) to
6 read as follows:

7 "~~§132D-14~~ **Penalty**~~[-]~~; **fireworks infractions.** (a) Any
8 person:

9 (1) Importing aerial devices, display fireworks, or
10 articles pyrotechnic without having a valid license
11 under section 132D-7 shall be guilty of a class C
12 felony; provided that each aerial device, display
13 firework, or article pyrotechnic having a total weight
14 of twenty-five pounds or less that is imported in
15 violation of this paragraph shall constitute a
16 separate violation;

17 (2) Purchasing, possessing, setting off, igniting, or
18 discharging aerial devices, display fireworks, or
19 articles pyrotechnic without a valid permit under
20 sections 132D-10 and 132D-16, or storing, selling, or
21 possessing aerial devices, display fireworks, or



1 articles pyrotechnic without a valid license under
2 section 132D-7, or allowing an individual to possess,
3 set off, ignite, or otherwise cause to explode any
4 aerial device in violation of section 132D-14.5:

5 (A) If the total weight of the aerial devices,
6 display fireworks, or articles pyrotechnic is
7 twenty-five pounds or more, shall be guilty of a
8 class C felony; or

9 (B) If the total weight of the aerial devices,
10 display fireworks, or articles pyrotechnic is
11 less than twenty-five pounds, shall be guilty of
12 a misdemeanor;

13 (3) Who transfers or sells aerial devices, display
14 fireworks, or articles pyrotechnic to a person who
15 does not have a valid permit under sections 132D-10
16 and 132D-16, shall be guilty of a class C felony;
17 provided that each aerial device, display firework, or
18 article pyrotechnic having a total weight of
19 twenty-five pounds or less that is transferred or sold
20 in violation of this paragraph shall constitute a
21 separate violation; and



1 (4) Who removes or extracts the pyrotechnic contents from
2 any fireworks or articles pyrotechnic and uses the
3 contents to construct fireworks, articles pyrotechnic,
4 or a fireworks or articles pyrotechnic related device
5 shall be guilty of a [~~misdemeanor.~~] class C felony.

6 (b) Except as provided in subsection (a) or as otherwise
7 specifically provided for in this chapter[7] as a felony or
8 misdemeanor, any person violating any other provision of this
9 chapter, shall be fined [~~not more than \$2,000~~] \$5,000 for each
10 violation[7], subject to the adjudication proceedings under
11 part ____. Notwithstanding any provision to the contrary in this
12 section, any person violating section 132D-14.5 shall be fined
13 [~~at least~~] \$500 [~~and no more than~~], or \$2,000[7] for multiple
14 violations, subject to the adjudication proceedings under
15 part ____."

16 SECTION 12. Section 132D-17.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~]**\$132D-17.5**[~~]~~ **County ordinances.** (a) Nothing in this
19 [~~chapter~~] part shall be construed to supersede or in any manner
20 affect a county fireworks ordinance; provided that the ordinance



1 is at least as stringent in the control or prohibition of
2 fireworks as the law under this [~~chapter.~~] part.

3 (b) Nothing in this [~~chapter~~] part shall prohibit a county
4 from enacting ordinances that are more stringent in the control
5 or prohibition of fireworks than this [~~chapter.~~] part."

6 SECTION 13. Section 132D-20, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§132D-20 Enforcement; probable cause for arrest.** (a)

9 This [~~chapter~~] part shall be enforced by each county[-];
10 provided that the sheriff division of the department of public
11 safety may assist each county in the enforcement of this part.

12 The counties and the sheriff division are authorized to enforce
13 and administer the provisions of this [~~chapter.~~] part.

14 (b) Arrests for offenses under this [~~chapter~~] part or
15 under a county fireworks ordinance shall be made in compliance
16 with chapter 803. The facts and circumstances to establish
17 probable cause for an arrest may include but are not limited to:

- 18 (1) Statements from individuals who witnessed the offense,
19 even if those individuals are not law enforcement
20 officers; and



1 (2) Photographs, video recordings, or other recordings
 2 that show the commission of the offense and can be
 3 authenticated by one or more witnesses; provided that
 4 a recording made using an unmanned aerial vehicle
 5 shall be exempt from the requirement of authentication
 6 by one or more witnesses.

7 For the purposes of this subsection:

8 "Other recording" includes any photograph or a video made
 9 using an unmanned aerial vehicle.

10 "Unmanned aerial vehicle" means any aerial vehicle that is
 11 operated without the possibility of direct human intervention
 12 within or on the aerial vehicle. The term "unmanned aerial
 13 vehicle" does not include a remote-controlled airplane."

14 SECTION 14. Section 571-41, Hawaii Revised Statutes, is
 15 amended by amending subsection (f) to read as follows:

16 "(f) The judge, or the senior judge if there is more than
 17 one, may by order confer concurrent jurisdiction on a district
 18 court created under chapter 604 to hear and dispose of cases of
 19 violation of traffic laws or ordinances, or fireworks infraction
 20 rules established pursuant to part _____ of chapter 132D, by
 21 children, provision to the contrary in section 571-11 or



1 elsewhere notwithstanding. The exercise of jurisdiction over
2 children by district courts shall, nevertheless, be considered
3 noncriminal in procedure and result in the same manner as though
4 the matter had been adjudicated and disposed of by a family
5 court."

6 SECTION 15. Section 601-3.7, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is established in the state treasury a special
9 fund to be known as the judiciary computer system special fund,
10 which shall contain the following:

11 (1) Moneys collected from administrative fees pursuant to
12 section 287-3(a);

13 (2) Fees prescribed by the supreme court by rule of court
14 for electronic document certification, electronic
15 copies of documents, and for providing bulk access to
16 electronic court records and compilations of data; and

17 (3) Fees pursuant to sections 132D-H(b)(3), 607-4(b)(10),
18 and 607-5(c)(32)."

19 SECTION 16. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2021-2022 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2022-2023 to update the judiciary information management
3 system to implement the adjudication process established by this
4 part.

5 The sums appropriated shall be expended by the judiciary
6 for the purposes of this part.

7 PART III

8 SECTION 17. (a) The attorney general shall establish an
9 explosion detection technology working group to study the
10 feasibility of purchasing and deploying explosion detection
11 technology for the purpose of assisting the police department in
12 each county having a population of more than five hundred
13 thousand in locating and responding to explosions caused by the
14 illegal use of firearms and fireworks.

15 (b) Members of the working group shall include the:

16 (1) Attorney general;

17 (2) Chief of the police department of each county having a
18 population of more than five hundred thousand;

19 (3) Prosecuting attorney of each county having a
20 population of more than five hundred thousand; and

21 (4) Members of the state fire council.



1 SECTION 18. The explosion detection technology working
2 group shall submit a report of its findings and recommendations,
3 including any proposed legislation, to the legislature no later
4 than twenty days prior to the convening of the regular session
5 of 2022.

6 SECTION 19. The explosion detection technology working
7 group shall cease to exist on February 1, 2022.

8 PART IV

9 SECTION 20. (a) The department of public safety shall
10 collaborate with county law enforcement agencies to develop and
11 implement a statewide web-based reporting tool for illegal
12 fireworks that will allow data to be shared with county law
13 enforcement agencies for the purpose of assisting county law
14 enforcement agencies to accurately identify problematic
15 geographic areas and subsequently plan targeted methods of
16 enforcement.

17 (b) The statewide web-based reporting tool for illegal
18 fireworks shall include the following features:

19 (1) Anonymous reporting functions;



- 1 (2) A location reporting mechanism that uses an
- 2 interactive global positioning system map of the State
- 3 to allow for precise address reporting;
- 4 (3) A picture and video upload feature to allow for the
- 5 submission of evidence;
- 6 (4) An optional contact information submission feature;
- 7 and
- 8 (5) Report-generating features, accessible only by state
- 9 and county law enforcement agencies.
- 10 (c) Data collected through the statewide web-based
- 11 reporting tool for illegal fireworks shall not include public
- 12 report generating features; provided that state and county law
- 13 enforcement agencies may provide anonymous data for public
- 14 information.

15 SECTION 21. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2021-2022 and
18 the same sum or so much thereof as may be necessary for fiscal
19 year 2022-2023 for the department of public safety to develop
20 and implement a statewide web-based reporting tool for illegal
21 fireworks; provided that the department shall collaborate with



1 county law enforcement agencies in the development and
2 implementation of the statewide web-based reporting tool for
3 illegal fireworks.

4 The sums appropriated shall be expended by the department
5 of public safety for the purposes of this part.

6 PART V

7 SECTION 22. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

10 SECTION 23. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 24. In codifying the new sections added by
17 section 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



1 SECTION 25. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 26. This Act shall take effect on May 6, 2137.



Report Title:

Fireworks; Adjudication; Judiciary; Enforcement; AG; Working Group; PSD; Appropriation

Description:

Establishes an expeditious adjudication system for the processing of fireworks infractions. Increases the fireworks display permit fee and the fine for certain fireworks violations. Clarifies what constitutes a separate violation. Increases the penalty for removing or extracting the pyrotechnic contents. Authorizes the sheriff division to enforce the fireworks control law. Requires the attorney general to establish an explosion detection technology working group. Requires the department of public safety to develop and implement a web-based reporting tool for illegal fireworks. Appropriates funds. Effective 5/6/2137. (HD2)

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