

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 1483, H.D. 1, RELATING TO FIREWORKS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Tuesday, February 25, 2025 **TIME:** 12:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Tricia M. Nakamatsu, Deputy Attorney General

Chair Yamashita and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill and offers the following comments and suggested amendments.

The purpose of this bill is to facilitate more effective enforcement of Hawaii's fireworks control laws, by: (1) amending definitions to reflect more common-sense standards; (2) strengthening and clarifying existing criminal offenses; (3) establishing new offenses; (4) establishing heightened penalties for repeat offenders and offenses that result in substantial or serious bodily injury or death; and (5) establishing non-criminal fireworks infractions for the lowest-level offenses.

Criminal statutes serve as a deterrent to illegal activity when they are effectively enforced and prosecuted. For many years, however, Hawaii's state laws regarding illicit fireworks have made it difficult for state and county agencies to enforce or prosecute these types of cases. When asked, prosecutors have repeatedly cited challenges posed by "gathering evidence and meeting the high burden of proof necessary for convictions",¹ as well as "stringent definitions [in statute, that] . . . routinely create roadblocks to effective prosecution."² Thus, only a small number of criminal fireworks

¹ See Legislative Reference Bureau of Hawaii, *Blast From the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011* at 13, 14 (December 2019) https://lrb.hawaii.gov/wp-content/uploads/2019_BlastFromThePast.pdf (last visited January 20, 2025).

² *Id.*, at 14.

cases have been initiated by law enforcement, and an even smaller number have been prosecuted, resulting in a largely "ineffective deterrent" to the distribution and use of illicit fireworks.

This bill would largely address the concerns raised by prosecutors, and provide greater clarity and efficiency for law enforcement, prosecutors, and the courts that handle these cases.

SUGGESTED AMENDMENTS

The Department recommends the following amendments, to further clarify and correct various aspects of the fireworks control laws.

Permit holders

To ensure that anyone who holds a permit to use aerial devices, display fireworks, or articles pyrotechnic pursuant to sections 132D-10 and 132D-16, Hawaii Revised Statutes (HRS), is able to continue using the permit for fireworks displays as intended, the Department recommends amending the wording in section 132D-A ("General fireworks or articles pyrotechnic prohibitions in the second degree") on page 30, lines 12-15, as follows (underscoring removed from new material in bill, to Ramseyer additional changes):

(a) A person commits the offense of general fireworks or articles pyrotechnic prohibitions in the second degree if the person without a permit issued pursuant to sections 132D-10 and 132D-16 intentionally, knowingly, or recklessly:"

In separating out various offenses from the existing section 132D-5, HRS, and creating section 132D-A, similar wording was intentionally deleted from section 132D-5, HRS, as amended, but unintentionally omitted from section 132D-A.

License holders

To ensure that anyone licensed to purchase or distribute consumer fireworks at wholesale or retail pursuant to section 132D-7, HRS, is able to continue using the license as intended, the Department recommends amending the wording in section 132D-E(a) and (b) ("Consumer fireworks prohibitions") on page 36, line 19, to page 37, line 14, as follows (underscoring removed from new material in bill, to Ramseyer additional changes):

- (a) It shall be unlawful for any person to:
 - (1) Purchase, possess, set off, ignite, discharge, or otherwise cause to explode any consumer fireworks without a permit required pursuant to section 132D-10; or
 - (2) Set off, ignite, discharge, or otherwise cause to explode any consumer fireworks at any time not within the periods for use prescribed in section 132D-3[-];

except that a person licensed pursuant to sections 132D-7 and 132D-8 may purchase and possess consumer fireworks in accordance with the person's license.

(b) It shall be unlawful for any person, other than a licensed wholesaler who is distributing consumer fireworks to a licensed retailer in accordance with the person's license, to distribute consumer fireworks:

- (1) More than five calendar days before the time periods for permissible use under section 132D-3; or
- (2) After 12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's Day, or 8:00 p.m. on the Fourth of July.

These exceptions appear to have been an unintentional omission in the current fireworks control laws, as section 132D-5(b) and (c), HRS, does not expressly exempt such licensed activity. The recommended wording is based on similar wording found in section 132D-8(d), HRS, regarding the lawful use of licenses.

Conforming amendments

The Department also recommends adding a new section to the bill, to amend section 132D-8, HRS, by amending subsections (b) and (d), to conform with the newly defined terms, "distribute" and "distribution," as follows:

(b) Each storage, wholesaling, and retailing site shall be required to obtain a separate license. The license shall specify the date of issuance or effect and the date of expiration, which shall be March 31 of each year. The application shall be made on a form setting forth the date upon which the storage[, ~~sale, or offers for sale~~] or distribution are to begin, the address of the location of the licensee, and the name of the proprietor or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the names of its officers. Any license issued pursuant to this chapter may be revoked by the county if the licensee violates any provision of this chapter or if the licensee stores or handles the fireworks in a manner that presents an unreasonable safety hazard.

* * *

(d) It shall be unlawful for any licensee, other than a licensed wholesaler who is [~~selling or transferring~~] distributing fireworks or articles pyrotechnic to a licensed retailer[,], pursuant to the person's license, to [~~sell or offer to sell, exchange for consideration, give, transfer, or donate~~] distribute any fireworks or articles pyrotechnic at any time to any person who does not present a permit duly issued as required by [~~section~~] sections 132D-10 [~~or~~] and 132D-16. The permit shall be signed by the seller or transferor at the time of [~~sale or transfer~~] distribution of the fireworks or articles pyrotechnic, and the seller or transferor at the time of [~~sale or transfer~~] distribution of the fireworks or articles pyrotechnic, and the seller or transferor shall indicate on the permit the amount and type of fireworks or articles pyrotechnic [~~sold or transferred~~] distributed. No person shall [~~sell or deliver~~] distribute fireworks to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit to have been previously purchased; provided that no fireworks shall be sold to a permittee holding a permit issued for purposes of section 132D-3, more than five calendar days before the applicable time period under section 132D-3.

The recommended wording also includes technical clarifying amendments, by adding the words, "licensed" and "pursuant to the person's license," and changing the word "or" to "and" (consistent with section 132D-8(e)).

Inspectors

The Department recommends amending the definition of "inspector" on page 72, line 8, by deleting the phrase, "any law enforcement officer or . . ." The Department is unclear which law enforcement officers may be designated as administrative inspectors for purposes of section 132D-22, HRS, as amended, or under what circumstances, and respectfully requests additional time to discuss this further with other agencies.

The Department strongly supports the passage of this bill with the recommended amendments. Thank you for the opportunity to testify on this matter.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
DIRECTOR

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
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JARED K. REDULLA
Deputy Director
Law Enforcement

TESTIMONY ON HOUSE BILL 1483, HOUSE DRAFT 1
RELATING TO FIREWORKS
Before the House Committee on
FINANCE

Tuesday, February 25, 2025, 12:00 p.m.

State Capitol Conference Room 308 & Videoconference

WRITTEN TESTIMONY ONLY

Chair Yamashita, Vice Chair Takenouchi, and members of the Committee:

The Department of Law Enforcement (DLE) strongly supports House Bill 1483. The establishment of an adjudication system and procedures to process fireworks infractions represents a significant step forward in addressing the ongoing challenges of illegal fireworks in Hawaii. This bill complements the efforts of the Illegal Fireworks Task Force, established under Act 67, Session Laws of Hawai'i, 2023, by providing a more robust framework for enforcement and accountability.

The proposed heightened penalties for fireworks offenses, particularly in cases resulting in substantial bodily injury, serious bodily injury, or death, are critical deterrents that appropriately reflect the serious nature of these violations. These enhanced penalties will serve as a stronger deterrent and help protect our communities from the dangerous consequences of illegal fireworks use.

The establishment of various criminal offenses and penalties related to fireworks and articles pyrotechnics will provide law enforcement with additional tools to combat illegal fireworks activities. This systematic approach to enforcement aligns with the DLE's ongoing efforts through the Illegal Fireworks Task Force, which has already successfully removed hundreds of thousands of pounds of illegal fireworks from Hawaii's streets.

The appropriation of funds will be crucial for implementing these new procedures and supporting the enforcement infrastructure necessary to make this system effective.

Thank you for the opportunity to testify in support of this bill.

JON N. IKENAGA
PUBLIC DEFENDER

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STATE OF HAWAII
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February 24, 2025

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HB1483 HD1: RELATING TO FIREWORKS

Chair Yamashita, Vice Chair Takenouchi and Members of the Committee on Finance

The Office of the Public Defender (OPD) **strongly opposes HB1483 HD1.**

The OPD acknowledges that the recent fireworks-caused incident in Aliamanu has brought to the forefront the issue of the State's enforcement of its fireworks control laws. However, rather than enacting new offenses, increasing penalties and creating new and likely unconstitutional court processes, the Legislature should focus on actions which facilitate the enforcement of existing laws and regulations related to the import, sale and use of fireworks which are more than sufficient to serve as a deterrent and punish persons or businesses that violate the laws.

Currently, Hawai'i Revised Statutes (HRS) Chapter 132D, the "Fireworks Control Law," contains provisions which regulate the permissible use of consumer fireworks, display fireworks, articles of pyrotechnics and aerial devices. The current Fireworks Control Law also contains:

- license and permit provisions
- importation requirements
- prohibitions against the sale of fireworks to minors
- liability for parents and guardians who permit minors to possess, purchase, set off, or ignite fireworks
- liability for homeowners, renters or persons responsible for real property who allow persons to possess, set off or ignite fireworks on their properties
- enforcement provisions
- civil and criminal penalties for violations

Thus, under current law, there are ample provisions for law enforcement authorities and other government agencies to use to regulate and control use of fireworks. It is the lack of enforcement, not the lack or severity of penalties, that has not deterred persons and businesses from ceasing illegal fireworks activities.¹ It is not necessary to increase penalties for offenses and regulations that are not regularly prosecuted and enforced.

Honolulu Civil Beat recently reported on the extremely rare arrest, prosecution and sentencing of a Kapolei man, Daniel C. Young, who was charged with possession of pyrotechnics without a license and the sale of fireworks to someone who did not have a permit, both of which are felony offenses.

Cases like Young's are exceptionally rare, and prosecutions that result in serious penalties are even rarer. A Civil Beat investigation in 2023 found that cases related to illegal fireworks almost always go nowhere. Between 2018 and 2022, 94% of citations on O'ahu were either dismissed or charges were dropped, according to an analysis of data provided by the state judiciary.

Young's case is one of only two felony prosecutions stemming from the Department of Law Enforcement's Illegal Fireworks Task Force since its creation in 2023.^[2]

The Civil Beat article went on to note that in the last two years there have been only fifty (50) fireworks citations issued on O'ahu, half the number of citations issued annually in the last five years, even though the Illegal Fireworks Task Force estimates that illegal

¹ Other legislation submitted this session would assist law enforcement and regulatory agencies in enforcing fireworks regulations and offenses. SB1226 addresses the importation of illegal fireworks into the State by establishing a shipping container inspection program and appropriating funds for the Department of Law Enforcement (DLE) for the effective detection, safe storage and disposal of illegal fireworks. SB222 appropriates funds for the Illegal Fireworks Task Force for FY205-26 and 2026-27 and extends the sunset date of the act creating the task force to 2030. SB227 creates an Illegal Fireworks Enforcement Division within the DLE and appropriates funding for personnel for that unit. The OPD did not comment on any of the aforementioned legislation which deals strictly with enforcement. SB302 bans the use of consumer fireworks for non-cultural purposes. The OPD submitted comment in opposition on SB302 but only as to concerns regarding the ambiguity of the definition of "cultural."

² Thompson, C., "A Rare Prosecution For Selling Illegal Fireworks Ends With Supervised Release," Honolulu Civil Beat, Feb. 20, 2025 (<https://www.civilbeat.org/2025/02/a-rare-conviction-for-selling-illegal-fireworks-ends-with-supervised-release/>)

fireworks are being smuggled into Hawai'i on a daily basis. Thus, efforts should focus on enforcement of current laws and allow the Illegal Fireworks Task Force to exercise its authority to make recommendations on future legislative changes.

The OPD also notes the following concerns with the bill.

Concurrent trial provision

132-DF - Refusal to provide ID p.30
132P-14.5 Liability of homeowner p.64

Under the bill petty misdemeanor fireworks violations and civil fireworks infractions that occur "in the same course of conduct" are litigated in a "concurrent trial" in the district or family court on the same date and time. In other words, the bill authorizes a joint trial on a civil traffic violation and a criminal offense.³ This provision raises significant constitutional concerns and is likely illegal.

The only other "concurrent trial" provisions which this writer is aware of are in Chapter 291D. Under Chapter 291D which appears to have been used as the model for the concurrent trial provisions in the bill, a traffic infraction, emergency period infraction and related criminal case committed in the same course of conduct as the traffic infraction or emergency period infraction may be tried in a concurrent trial. There are no Hawai'i cases which have yet raised the issue of the legality or constitutionality of the concurrent trial provision of Chapter 291D – this does not mean that the provisions are legal or would withstand constitutional scrutiny.

Under the bill, the first issue arises in the civil infraction process. On the civil fireworks infraction section, the bill basically tracks the process followed in civil traffic

³ Pursuant to HRS § 701-107, grades and classes of offenses:

(1) An offense defined by this Code or any other statute of this State for which a sentence of imprisonment is authorized constitutes a crime. Crimes are of three grades: felonies, misdemeanors, and petty misdemeanors.

...
* * * *

(5) An offense defined by this Code or by any other statute of this State constitutes a violation if it is so designated in this Code or in the law defining the offense or if no other sentence than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction or if it is defined by a statute other than this Code which provides that the offense shall not constitute a crime. A violation does not constitute a crime, and conviction of a violation shall not give rise to any civil disability based on conviction of a criminal offense.

infractions by the issuance of a notice of infraction followed by the requirement that the defendant submit an answer to the infraction. The defendant has three options in the answer – (1) admit, (2) deny and request a hearing, or (3) admit and request a hearing to explain mitigating circumstances. The problem caused by requiring such an answer is that this becomes a signed statement which can be used against the defendant in the concurrent trial on the criminal charge. While the bill precludes any statement made at a separate fireworks infraction trial to be used against the defendant in a subsequent trial on the related criminal charge, it does not address the issue of the admissibility of the written answer to the citation. Further, although the bill holds that any oral or written statement made by the defendant in a separate civil infraction trial and any testimony given by the defendant in that trial are not to be deemed as a waiver of the defendant's privilege against self-incrimination in connection with the criminal offense, these statements are still admissible "as expressly provided by the Hawaii rules of evidence." Under Rule 613 of the Hawai'i Rules of Evidence (HRE) both prior consistent and inconsistent statements are admissible subject to certain requirements. Thus, a defendant who chose to admit and explain mitigating circumstances on the civil infraction could have that statement used against them in the criminal trial if they chose to testify. This could have a chilling effect on the defendant's assertion of their right to testify in their own defense and constitute a violation of their constitutional rights under the sixth and fourteenth amendments to the U.S. Constitution and article I, section 14 of the Hawai'i Constitution.

The second issue in the bill arises in the conduct of a concurrent civil and criminal trial. The different procedural rules that apply to civil and criminal trials will definitely create issues. The Hawai'i Rules of Penal Procedure (HRPP) do not apply to traffic infractions as they are not "penal" in nature, i.e. carry the possibility of the penalty of incarceration.⁴ With different procedural rules applying to the civil and criminal trials a concurrent trial becomes a procedural nightmare.

Another concurrent trial issues arises in the area of representation. The OPD represents "indigent" persons who are charged with offenses punishable by jail or prison. The OPD (or a court-appointed attorney) would be assigned to represent a defendant on a criminal fireworks charge that is a petty misdemeanor or above. The OPD does not represent defendants in civil matters (with the exception of civil commitment or involuntary medication proceedings). Therefore an indigent defendant in a concurrent fireworks infraction/fireworks offense trial would represent themselves on the civil

⁴ For example, in State v. Lau, 78 Hawai'i 54, 890 P.2d 291 (1995), the Hawai'i Supreme Court confirmed that Rule 48 of the HRPP did not apply to traffic infractions that are not punishable by imprisonment. See also HRPP Rule 48(b).

infraction while the OPD would represent them only on the criminal fireworks charge.⁵ This would require the OPD to coordinate with the *pro se* civil defendant to present a combined defense.⁶

The rules and caselaw regarding the admissibility of evidence also differ between civil and criminal trials. Evidence and statements may be admissible in the civil proceeding where, generally, the constitutional rights of the defendant are not at issue. By contrast, a defendant in a criminal trial has not only different procedural and statutory protections but the full panoply of constitutional rights which are afforded to criminal defendants. While the bill addresses the admissibility of oral or written statements made by the defendant in the civil infraction trial when held prior to the criminal trial, the bill does not address the admissibility of such statements in a concurrent trial. Realistically, it would be impossible for the judge to limit their consideration of statements or evidence admissible only in the civil proceeding and not be influenced or affected by those statements or evidence in the criminal proceeding.

Constitutional issues are also presented by a concurrent trial. As previously mentioned, criminal defendants have a constitutional right to effective assistance of counsel under the sixth amendment to the U.S. Constitution and article I, section 14 of the Hawai'i Constitution. If the defendant's attorney's representation in the criminal case is adversely or materially affected because of considerations related to the civil infraction, the defendant's constitutional right to effective assistance of counsel will be violated. The defendant's constitutional right to present a complete defense under the sixth amendment to the U.S. Constitution and article I, section 14 of the Hawai'i Constitution⁷ may also be violated by the concurrent trial. If a defendant cannot present a complete defense in the criminal trial due to procedural rules, differing rules of evidence or admissibility or strategic consideration related to the civil infraction, their constitutional right to present a complete defense would be violated. Another constitutional right that it affected by a

⁵ A similar issue would arise if a defendant hired separate attorneys for the criminal charge and civil infraction or if the defendant hired an attorney who represented them on only either the criminal charge or civil infraction.

⁶ If the attorney from the OPD could not coordinate the combined defense with the *pro se* defendant, they would have an ethical duty to withdraw or if they proceeded could be subject to a claim of ineffective assistance of counsel.

⁷ See e.g. State v. Abion, 148 Hawai'i 445, 458, 478 P.3d 270, 283 (2020) (confirming that under the U.S. and Hawai'i constitutions, a defendant has a constitutional due process right to be accorded a meaningful opportunity to present a complete defense, including the right to present any and all competent evidence in their defense).

concurrent trial is the defendant's constitutional rights to testify or not to testify.⁸ If the defendant chooses to testify regarding the civil infraction, it should not be considered a waiver of their right not to testify on the criminal offense. While the bill addresses this issue when the civil infraction trial precedes the criminal offense trial, it does not address this issue in a concurrent trial.⁹

Unnecessary creation of new offenses

Without going line by line through the bill as to each of the new offenses created and amendments made to existing laws, the OPD believes that existing laws are sufficient to address the issue of illegal fireworks. In 2010, the Illegal Fireworks Task Force was created by the Legislature to “develop strategies and make recommendations to the Legislature to address the illegal importation and use of fireworks in the State.”¹⁰ These recommendations were: (1) increase fireworks fees and fines; (2) decriminalize fireworks offenses in favor of civil fines; (3) increase random inspections; (4) consider alternatives such as education and training; (5) promote cooperation between stakeholders.¹¹ The problem is not the lack of laws to address the issue of illegal fireworks, it is the lack of enforcement of existing laws. Between 2018 and 2022, 94% of the citations for fireworks related violations on

⁸ See e.g. State v. Monteil, 134 Hawai‘i 361, 341 P.3d 567 (2014) (confirming that under the Hawai‘i Constitution the defendant has the right to testify and not to testify).

⁹ The issue of combining two separate proceedings and the implications on the defendant’s rights to testify and not to testify are presented even in a single criminal case where there is a hearing on a motion to suppress prior to trial. In State v. Chang, 144 Hawai‘i 535, 445 P.3d 116 (2019), the Hawai‘i Supreme Court held that the defendant had to be advised that he could testify at the hearing on the motion to suppress without that testimony being used against him at the subsequent trial. Id. at 545, 445 P.3d at 126. The Supreme Court also held that the trial court was also required to accurately advise the defendant of the implications of testifying in the unique context of a consolidated proceeding and its failure to do so constituted reversible error. Id. at 544, 445 P.3d at 125.

¹⁰ Blast From the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011.

¹¹ The Task Force made additional suggestions: (1) consider the impact of increased cargo inspection on commerce and shipping; (2) impose jail time as a penalty for fireworks offenses; (3) fund seasonal, specialized fireworks enforcement units; and (4) reestablish statewide consumer fireworks standards.

Oahu ended in dismissal or dropped prosecutions.¹² In 2023 and 2024, twelve fireworks related charges were dismissed without prejudice.¹³ In the recent Aliamanu case, ten people have already been arrested for fireworks offenses (using the Fireworks Control Law), reckless endangering in the first degree and endangering the welfare of a minor in the first degree – clearly charges can be brought under existing laws. In December 2023, two Oahu men were charged with felony offenses under the Fireworks Control Law.¹⁴ In the first six months of 2024, DLE officers seized approximately 1,000 pounds of illegal fireworks from various sources. The foregoing confirm that charges and convictions can be obtained under current laws. Increased enforcement of these laws will serve as an adequate deterrent effect, no new laws and penalties are needed.

Final Comments

The most problematic section of this bill is the concurrent trial provision. This attempt to streamline the adjudication process will inevitably lead to legal challenges and hinder, not help enforcement of existing laws.

The OPD emphasizes that enforcement is the key. Deterrence will be achieved when people see that current laws are being enforced. Penalties under the current laws run from fines for civil infractions up to Class A felonies. Additional statutory provisions such as the reckless endangering and endangering the welfare of a minor statutes can also be used in charging all aspects of illegal fireworks violations. The most impact that can be made immediately is increased enforcement of current laws and prosecution under current laws. There is no utility in creating new offenses if they are not investigated and enforced. Any recommendations as to new legislation should come from the Illegal Fireworks Task Force as it was created specifically for this purpose.

Thank you for the opportunity to comment on this measure.

¹² Leonard, M., Valera, M., “Hawai‘i’s Illegal Fireworks Laws Aren’t Working. Is that About To Change?,” Jan. 14, 2025, Honolulu Civil Beat (<https://www.civilbeat.org/2025/01/hawai-is-illegal-fireworks-laws-arent-working/>)

¹³ Id..

¹⁴ “Department of Law Enforcement Illegal Fireworks Task Force details recent enforcement actions,” July 5, 2024, Maui News (<https://mauinow.com/2024/07/05/department-of-law-enforcement-illegal-fireworks-task-force-details-recent-enforcement-actions/>)

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

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OUR REFERENCE RI-HR

February 25, 2025

The Honorable Kyle T. Yamashita, Chair
and Members
Committee on Finance
House of Representatives
415 South Beretania Street, Room 308
Honolulu, Hawai'i 96813

Dear Chair Yamashita and Members:

SUBJECT: House Bill No. 1483, H.D. 1, Relating to Fireworks

I am Raynor M. Ikehara, Major of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1483, H.D. 1, Relating to Fireworks.

The HPD supports this bill, which seeks to clarify the definitions of fireworks and improve enforcement.

The HPD also believes that better enforcement of the fireworks control laws is essential not only to safeguard property from preventable fire damage but also to protect the community from injuries related to fires and explosions, respiratory issues caused by air pollution, and ongoing trauma experienced by individuals due to loud explosions.

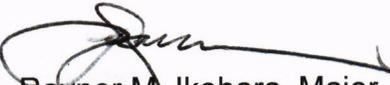
The HPD urges you to support House Bill No. 1483, H.D. 1, Relating to Fireworks.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Raynor M. Ikehara, Major
Narcotics/Vice Division



Hawaii Representatives & Senators:

On behalf of the Libertarian Party of Hawaii, I am writing to express our strong opposition to any prohibitions and enforcement measures targeting fireworks. We believe Hawaiians have the right to pursue and engage in any activities that bring them joy and fulfillment.

Fireworks prohibitions and regulations infringe upon the freedom of our citizens to partake in this time-honored custom, diminishing the spirit of celebration and unity that fireworks bring.

Implementing strict enforcement measures to crack down on fireworks usage would only serve to burden law enforcement resources, and divert needed attention away from more pressing issues. Prohibitions and heavy enforcement will lead to unnecessary conflict between police and citizens, eroding trust and creating an atmosphere of fear and animosity. Causing harm against another person is already illegal, and crimes can already be prosecuted without these new tyrannical enforcement measures.

The Libertarian Party of Hawaii stands firm in our support of individual freedom and opposes any measures that encroach upon our citizens' rights.

In Freedom,

Abbra Green

Executive Secretary, Libertarian Party of Hawaii

lphisecretary@gmail.com

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House Bill 1483

Good afternoon Chair Yamashita, Vice Chair Takenouchi and members of the committee on Finance. My name is Dan Peart, Director of Government Affairs for Phantom Fireworks, one of the leading retailers of consumer fireworks in the country. Thank you for the opportunity to present our comments on House Bill 1483.

Clearly, Phantom Fireworks understands the importance of tackling the illegal fireworks market and we have supported a number of those efforts each year. We've had great relationships with our enforcement officials and our inspection history is pristine. However banning or further restrictions to consumer fireworks does nothing to gain information or control of the illegal fireworks market, but instead punishes those that do play by the rules.

HB 1483, HD1 would impose unnecessary additional restrictions on consumer fireworks, depriving residents of a long-standing tradition that is deeply rooted in cultural celebrations coveted throughout Hawaii. Fireworks play an important role in marking significant occasions such as New Year's Eve, Chinese New Year, and the Fourth of July, bringing families and communities together in celebration. These restrictions would unfairly penalize law-abiding citizens while failing to address the root cause of the problem – illegal aerial fireworks – which pose the greatest danger to public safety and property. By further restricting the ban on all fireworks, officials would be required to divert limited resources to punish those using consumer fireworks, thereby neglecting the more important problem of stopping the proliferation of the aerial fireworks. Instead of penalizing residents who follow the rules, the legislature should strengthen measures to detect and intercept illegal fireworks and provide the proper resources for better enforcement of existing laws.

Additionally, this bill introduces a complex adjudication system that risks burdening the judicial system with minor infractions, diverting resources from more serious public safety concerns. The creation of a separate fireworks infraction system, a costly specialty court, may not effectively deter illegal fireworks use, as enforcement has historically been a challenge due to the limited resources spent in locating and prosecuting the illegal fireworks themselves. Instead policymakers should consider a more nuanced solution that balances public safety with community education and funding enforcement through the task force, ensuring that enforcement is both effective and fair. Thank you for your time and consideration.

Sincerely,

Danial Peart



Hawaiian Humane Society
People for animals. Animals for people.

Date: Feb. 24, 2025

To: Chair Rep. Kyle T. Yamashita
Vice Chair Rep. Jenna Takenouchi
and Members of the Committee on Finance

Submitted By: Stephanie Kendrick, Director of Community Engagement
Hawaiian Humane Society, 808-356-2217

RE: Testimony in support of HB 1483, HD1: Relating to Fireworks
Tuesday, Feb. 25, 2025, 12 p.m., Room 308 & Videoconference

On behalf of the Hawaiian Humane Society, thank you for considering our support for House Bill 1483, HD1, which establishes an adjudication system and procedures to process fireworks infractions; amends multiple definitions and penalties for fireworks offenses, including heightened penalties if another person suffers substantial bodily injury, serious bodily injury, or death as a result of the fireworks offenses; establishes various criminal offenses and penalties related to fireworks or articles pyrotechnics; and appropriates funds.

Hawaiian Humane supports any attempt to restrict fireworks from residential neighborhoods. Despite tragic deaths and injuries spanning many years - and reaching a new level of horror on O'ahu this year - the crime of using illegal fireworks is rarely punished. This comprehensive measure aims to increase enforcement against fireworks infractions by creating a new system of adjudication and new penalties to address the current failures of our legal system.

These bombs increasingly go off without regard to date and terrorize pets and people alike. The unpredictable barrage makes it impossible to prepare and creates sustained stress, which can do lasting damage to emotional, mental and physical health.

Please pass HB1483, HD1, and hold the perpetrators of these crimes accountable. Mahalo for your consideration.



Representative Kyle T. Yamashita, Chair
Representative Jenna Takenouchi, Vice Chair
House Committee on Finance

HB 1483 HD1 Relating to Fireworks – Comments with amendments

Agenda #2; Tuesday, February 25, 2025 at 12:00 p.m.

Aloha Chair Yamashita, Vice Chair Takenouchi, and members of the Committee:

TNT Fireworks (“TNT”) offers comments on HB 1483 HD1.

TNT is the largest distributor of fireworks in the U.S. and an importer and seller of legal and safe consumer fireworks in Hawaii. TNT has had a presence in Hawaii for over 20 years and we partner with retailers such as Longs Drugs, KTA Supermarket, Marukai, Don Quijote, Costco, Foodland, Malama Market, Food Pantry, Times Supermarkets and many others.

HB 1483 HD1 proposes to strengthen fireworks control laws in Hawaii, focusing on enforcement, penalties, and establishing a fireworks courts system. However, we respectfully disagree that this bill provides the necessary clarity particularly as it relates to “consumer fireworks.”

The key issue is this measure imposes additional restrictions on consumer fireworks. Rather than expanding restrictions on all fireworks, officials should focus on the more pressing issue of curbing illegal aerial fireworks. Broadening the ban would force authorities to allocate scarce resources towards penalizing users of consumer fireworks, distracting from efforts to combat the proliferation of more dangerous aerial varieties. Instead of punishing law-abiding residents, the legislature should: 1) enhance measures to detect and intercept illegal fireworks; and 2) allocate adequate resources for improved enforcement of existing laws.

However, if the committee is inclined to advance this measure, we respectfully request the following amendments so we do not impose unnecessary and additional restrictions on consumer fireworks:

Page 37, lines 1-14

§132D-E Consumer fireworks prohibitions. (a) It shall be unlawful for any person to:

**AMERICAN PROMOTIONAL EVENTS, INC.
2120 MILWAUKEE WAY • TACOMA, WA 98421
TACOMA (253) 922-0800 • FAX (253) 830-2930
www.tntfireworks.com**



(1) Purchase, possess, set off, ignite, discharge, or otherwise cause to explode [any] consumer fireworks, excluding firecrackers, without a permit required pursuant to section 132D-10 except in counties where such activities are not prohibited; or

(2) Set off, ignite, discharge, or otherwise cause to explode any consumer fireworks at any time not within the periods for use prescribed in section 132D-3.

(b) It shall be unlawful for any person to distribute consumer fireworks to a consumer:

(1) More than five calendar days before the time periods for permissible use under section 132D-3; or

(2) After 12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's Day, or 8:00 p.m. on the Fourth of July.

Notwithstanding subsection (a), a retailer or wholesaler licensed under §132D-7 may transport and store consumer fireworks in any county, provided that such fireworks are ultimately intended for sale and use in a county where such sale and use are permitted by county ordinance, and further provided that such transport and storage comply with all applicable state and federal safety regulations.

Additionally, we request a safe harbor provision to specifically allow licensed retailers and wholesalers to transport and store consumer fireworks, even in counties where use is restricted, provided they are transporting them to or storing them for sale in counties where such fireworks are permitted. This is critical to avoid undue burden on businesses operating across multiple counties with differing regulations.

Furthermore, we note that the licensing and permitting requirements under §132D-7 are currently issued by county fire department agencies to wholesalers and retailers. Section 7 of this bill removes that authority and states licenses are now 'issued pursuant to this chapter' without providing explicit statewide instructions. This creates uncertainty and the potential for disruption in the licensing process.

While well intended, this measure requires additional consideration on unintended negative consequences for businesses, agencies, and the continued safe and responsible use of consumer fireworks where permitted. We urge the committee to consider these points and work towards a more refined and collaborative approach.

Thank you for the opportunity to testify.

Tad Trout

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February 10, 2025

Mr. Kyle T. Yamashita, Chair
Finance Committee
Hawaii State House of Representatives
State Capitol, Conference Room 308
Honolulu, HI 96813

Re: House Bill 1483, Relating to Fireworks

Dear Chair Yamashita and members of the committee,

As a licensed professional fireworks display company, we are in support of legislation that seeks to improve enforcement of fireworks control laws and protects the community from the unpermitted and inappropriate use of fireworks designed for professional use within the community. However, we are concerned with a number of proposed revisions to the HRS§132D that are suggested in the current version of House Bill 1483, Relating to Fireworks.

Section 3 through 5 of House Bill 1483 suggests new sections added and revisions made to the existing statute. We would respectfully request several revisions to the bill that would exempt the permitted commercial display of fireworks. Such displays are subject to review under the existing permit process specified in HRS 132§D-16, and the permitting authority already has wide latitude to regulate and limit the use of fireworks based upon safety and nuisance criteria.

Many of the additions and revisions proposed would eliminate commercial displays permitted under 132D-16 by licensed commercial fireworks companies. Since the main objective of the bill is to further restrict the unauthorized, unlicensed, unpermitted use of fireworks by the general public, we would suggest an exemption be added to §132D-6 to exempt companies in good standing that are otherwise in compliance with the statute.

Alternatively, some of the specific areas to address in HB 1483 are as follows:

On pages 30, line 9 through page 33, line 9, HB 1483 adds section 132D-A, "General fireworks or articles pyrotechnic prohibitions in the second degree." Page 30, line 16 through page 31, line 12 list numerous areas where the use of fireworks would be prohibited. As written, these prohibitions would prohibit most commercial public displays. An example would be p. 31, line 5, "...or public beach..." This would prohibit the Waikiki Friday Night Fireworks display held every week. Likewise, p. 31 line 12 "...within five hundred feet of any dwelling..." would eliminate the use of articles pyrotechnic at any hotel or resort under the bill's proposed definition of "dwelling." Our suggestion would be to reinstate the original language in the statute

to the end of p. 27, line 10 that states “...without an approved permit issued under section 132D-10 by a county fire department...”

On pages 29, line 20 through page 33, line 10, HB 1483 adds section 132D-B, “Sending or receiving fireworks or articles pyrotechnic by air delivery; prohibited.” Pyrotechnics that are classified under the USDOT 49 CFR as Articles Pyrotechnic, UN0431 and UN0432 can be shipped via air as long as they are properly packaged, labeled and declared on the shipping papers. Indeed, most theatrical pyrotechnic effects used for concerts, plays, sporting events, movie and television productions, and similar performances throughout the United States are shipped via air transport. Since the transportation of hazardous materials is already regulated by the USDOT, and substantial penalties are imposed for the improper declaration or packaging of these items, our suggestion would be to eliminate 132D-B from the bill as it is redundant, and the requirement is already established in 132D-8.6.

On pages 38, line 17 through page 40, line 6, HB 1483 adds section 132D-G, “Requirements of Carrier.” This section adds requirements for the carrier to notify the “appropriate county official and designated state law enforcement agencies” when shipping pyrotechnic devices. It is our opinion that it should be the responsibility of the shipper to send notification to the relevant State authorities as they are the entity tasked with initiating the transport. In cases where the shipper is an entity who resides outside the State of Hawaii, and jurisdiction is limited, the responsibility should fall to the recipient and/or consignee to carry out notification. As stated earlier, it is the responsibility of the Shipper under federal law to properly package, label and document any shipment of hazardous material, It is the responsibility of the Carrier to reject any hazardous material that is not properly packaged, labeled and documented. Since, in our opinion, most of the illicit fireworks found on the street are arriving into the State undeclared, this section does little to address the problem. It is our suggestion that section 132-G be eliminated.

In section 4 of the bill, pages 40, line 7 through page 41, line 11, five new definitions are suggested for the statute. Page 37, line 1, defines “Dwelling” as a “...building that is used or usually used by a person for lodging.” Under this definition, a dwelling would include any hotel, resort, or other building that would be used by visitors. As stated above, the broad definition would eliminate most pyrotechnic displays that are currently permitted under 132D-16. We would suggest removing this definition.

In section 5 of the bill, pages 46, line 16 through page 49, line 16, several amendments are suggested for section 5 of the statute. Page 46, line 20, deletes the statement “without a permit issued under section 132D-10 by 21 a county fire department...” As discussed above, we suggest this statement remain in the statute.

Thank you for your careful consideration of these amendments. As a duly licensed, commercial fireworks display company we are supportive of measures that promote the safe use of fireworks designed for professionals by properly trained personnel under a comprehensive permit process, and the use of fireworks by consumers in a safe and responsible manner. We are always happy to answer any questions you may have related to this issue.

Sincerely,

Hawaii Explosives & Pyrotechnics, Inc.
(808)968-0600
hepinc@hipyro.com

HB-1483-HD-1

Submitted on: 2/22/2025 3:55:33 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Hopefully, this will be another efficient tool in the toolbox to punish those who commit fireworks infractions. Enough is enough already, with people and pets killed, injured, houses burned, and emergency responders overtaxed. It is time to stop talking and start acting. The excuse that fireworks are cultural does not cut it any longer. The harm greatly outweighs culture. All fireworks should be provided by licensed organizations.

HB-1483-HD-1

Submitted on: 2/22/2025 8:34:23 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Individual	Support	Written Testimony Only

Comments:

SUPPORT!

HB-1483-HD-1

Submitted on: 2/23/2025 9:51:30 AM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I Strongly Oppose

HB-1483-HD-1

Submitted on: 2/23/2025 7:04:11 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Takenouchi, and Committee Members,

I STRONGLY SUPPORT HB 1483, HD1,

There are so many who believe that change will not happen, even after the Aliamanu incident. The lack of passing enforceable laws year after year have created this belief, that I hope does not hold true this year. Minor fireworks incidents are not always reported to show the danger of illegal fireworks. This past New Year’s Eve, a vlog posted by a student who moved to Laie to attend college, got hit by a firework nearly missing his eye. If it had hit about a quarter inch closer, he could have been blind. He was just walking in the streets taking video of the fireworks. He ended up in the Kahuku emergency room for treatment. To see the vlog and his comments, search “Tyson’s Wilderness, New Year’s in Hawai‘i Gone Wrong”.

After a slight decrease in illegal fireworks in 2023, thanks to the Illegal Fireworks Task Force making several large seizures at the docks, there was a significant increase in 2024. Bills pending this year that would establish a Fireworks Enforcement Division or increase personnel and provide what the Illegal Fireworks Task Force needs should address the problem if passed.

The Task Force has been doing an excellent job, but other current laws have proved weak, does not provide deterrence, are difficult to enforce and virtually almost impossible to prosecute. Having individuals take videos, risking retaliation, assaults, and getting injured from fireworks, have proved useless because once fireworks explodes there is no evidence, and many are not willing to testify. It was mentioned that one of the main roadblocks to enforce and prosecute illegal fireworks was the way these type of fireworks were defined.

HB 1483 HD1 provides an excellent solution by amending definitions and penalties for fireworks offenses, and implementing a dedicated adjudication system for fireworks infractions similar to traffic infractions. This will make it easier for officers to increase enforcement of end-use violators and make it easier and faster to adjudicate cases in a district or family court. An exorbitant amount is spent on fireworks, so hopefully fines will be hefty enough and escalate as needed until a point of deterrence is achieved. Slowing the flow of illegal fireworks entering the islands, together with an adjudication system will add to effectiveness.

In the area where I live, aerials were most prominent this past New Year’s Eve. These aerials come not from a nearby neighbor, but travel from a street or two over. What I found most

disturbing when cleaning up the mess is the use of more plastics. When these tubes explode parts of it shatters, scattering small sharp pieces of plastic in the grass. The goal is to reduce plastics, but aerials that have no useful purpose scatter it everywhere. It takes patience each year cleaning up debris that we were not responsible for. It's troubling for people who have to pay for damages caused by illegal fireworks because there is no evidence and proof who did it. A post this past New Year's Eve showed a gaping hole in a Waipahu roof where debris landed on furniture and the floor. We cringe when we hear an aerial hit our roof. My neighbor has a nice garden and plants vegetables to eat. This past New Year's Eve she actually covered what she could of her garden so firework chemicals and debris would not contaminate her plants and soil. You would think the Aliamanu incident would make people think twice, but I still hear illegal fireworks every now and then.

There was another recent incident on 1/28/25 where a 27 year-old woman sustained serious multiple shrapnel injuries after igniting fireworks.

Please provide full support for HB 1483, HD1. Thank you for the opportunity to testify

HB-1483-HD-1

Submitted on: 2/23/2025 8:26:19 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Zehr	Individual	Oppose	Written Testimony Only

Comments:

Honorable Chair, Vice Chair, and Members of the Committee,

I write to express my opposition to HB1483, which proposes to establish an adjudication system for fireworks infractions while expanding the definitions and penalties associated with fireworks offenses. While I acknowledge the Legislature’s duty to protect public safety and reduce the risks associated with fireworks, I am concerned that this bill introduces excessive regulation that may infringe on personal liberties and lead to unintended negative consequences.

Fireworks have long been a part of Hawai‘i’s cultural and celebratory traditions. While any injury or fatality is deeply regrettable, the proposed enhanced penalties—especially for hypothetical injuries—**risk criminalizing behaviors that, when conducted responsibly, do not directly harm others**. Existing laws already address negligence and recklessness adequately. **Overly broad criminalization could burden the justice system** and deter responsible cultural practices without demonstrably improving overall public safety.

Legitimate concerns about public safety warrant focused and effective enforcement of existing regulations rather than the creation of an expansive new system. **These measures can lead to inefficient use of law enforcement resources that might be better directed toward preventing genuinely dangerous behavior**. A targeted approach—focusing on cases with clear evidence of recklessness—would more precisely balance community safety with the preservation of individual rights.

Rather than instituting sweeping new penalties, I recommend exploring alternatives that promote responsible fireworks use while respecting personal liberty:

- **Local Permitting Systems:** Empower local governments to oversee community fireworks displays through tailored permitting processes that reflect local values and conditions.
- **Voluntary Safety Education:** Support community-driven safety programs that educate citizens on best practices, reducing risks without resorting to punitive measures.
- **Private Sector Initiatives:** Encourage private enterprises to offer certified, safer fireworks options, using market incentives to promote responsible behavior.

These measures harness community engagement and market forces, addressing safety concerns more directly without the broad intrusion of a centralized adjudication system.

While the goal of protecting public health is paramount, this bill risks overstepping by instituting excessive governmental intervention that could stifle cultural practices and personal freedoms. I respectfully urge the Legislature to reconsider this approach and seek a more nuanced solution that preserves both safety and liberty.

Thank you for your time and consideration.

Sincerely,
Nicholas Zehr

HB-1483-HD-1

Submitted on: 2/24/2025 1:44:13 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Frank Schultz	Individual	Support	Written Testimony Only

Comments:

We need to put an end to these illegal fireworks.