



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 89, RELATING TO FIREWORKS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 19, 2019      **TIME:** 2:05 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Kory W. Young, Deputy Attorney General

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Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill subjects to criminal prosecution property owners who recklessly allow individuals to possess, set off, ignite, or otherwise cause to explode any aerial device while on the owner's property.

The term "recklessly allows" (page 1, line 5) as used in the bill is not clearly defined and therefore could be found by the courts to be impermissibly vague. The Department recommends amending the bill to include a definition for the term. This would not only address a vagueness challenge but would make it easier for law enforcement to determine if an actual violation has occurred.

One option for consideration would be to amend the state of mind required to violate the statute from "recklessly" to "intentionally, knowingly, or recklessly". This amendment would not increase the burden of proof on law enforcement, but it would allow prosecutors to make more coherent arguments to judges and juries when presenting these cases.

Based on the bill's reliance on section 132D-14, Hawaii Revised Statutes, to provide the penalties for a violation of this statute, the Department would recommend amending section 132D-14(a)(2) to include a description of the conduct prohibited by this bill, and a reference to the bill's chapter 132D section, once it has been designated.

Section 132D-14(a)(2) presently states:

(2) Purchasing, possessing, setting off, igniting, or discharging aerial devices, display fireworks, or articles pyrotechnic without a valid permit under [sections 132D-10](#) and [132D-16](#), or storing, selling, or possessing aerial devices, display fireworks, or articles pyrotechnic without a valid license under [section 132D-7](#):

The Department would recommend amending section 132D-14(a)(2) to read as follows:

(2) Purchasing, possessing, setting off, igniting, or discharging aerial devices, display fireworks, or articles pyrotechnic without a valid permit under [sections 132D-10](#) and [132D-16](#), or storing, selling, or possessing aerial devices, display fireworks, or articles pyrotechnic without a valid license under [section 132D-7](#), or allowing an individual to posses, set off, ignite, or otherwise cause to explode any aerial device while on the property owner's property in violation of section 132D-\_\_\_\_\_:

Alternatively, a new subsection could be added to section 132D-14 to specifically address the criminal penalties to be imposed on property owners.

Thank you for the opportunity to provide comments on the bill.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI  
DIRECTOR

LEONARD HOSHIJO  
DEPUTY DIRECTOR

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**LATE**

February 19, 2019

The Honorable Chris Lee, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Lee:

Subject: House Bill (HB) 89, House Draft (HD) 1 Relating to Fireworks

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support HB 89, HD 1, which establishes property owner liability for illegal aerial devices possessed or set off on their property by others and clarifies that probable cause for arrest for fireworks offenses may be based on statements from witnesses and photographs, video, and other recordings authenticated by witnesses.

The SFC and the HFD support efforts to reduce illegal and potentially hazardous fireworks usage amongst the general public and believe measures such as those proposed by HB 89, HD 1, will help discourage public use of aerial fireworks.

Public safety and property protection are priorities for the SFC, and we respectfully request your committee's passage of HB 89 HD 1.

Should you have questions, please contact SFC Administrative Specialist Lloyd Rogers at 723-7176 or [lrogers@honolulu.gov](mailto:lrogers@honolulu.gov).

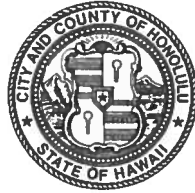
Sincerely,

MANUEL P. NEVES  
Chair

MPN/LR:clc

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. McCARTHY  
JONATHAN GREMS  
DEPUTY CHIEFS

OUR REFERENCE DC-SAI

February 19, 2019

The Honorable Chris Lee, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: House Bill No. 89, H.D. 1, Relating to Fireworks

I am Acting Assistant Chief Darren Chun of the Regional Patrol Bureau of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 89, H.D. 1, Relating to Fireworks, with concerns.

The HPD supports the intent of this bill but proposes amendments to make it more specific and defined. We propose the language to amend House Bill No. 89 in its intent to add a new section to Hawaii Revised Statutes Chapter 132D. This will specifically define the person that will be held responsible for the occurrences on the property that they have immediate control over.

A "property owner" may not live in the same state and not know of the actions of the person renting their property. The language proposed by the HPD identifies the person responsible as being the homeowner, renter, or person otherwise responsible for the real property in question.

The HPD supports the utilization of statements and/or audio/video recordings from individuals in order to facilitate a fireworks investigation particularly with the authentication by one or more witnesses. But any evidence submitted under the proposed exemption for the operator of an unmanned aerial vehicle could be deemed inadmissible. Although satisfying one factor, relevancy, for the admissibility of evidence, it does not allow for "reliability" to be proven. The credibility of the source of evidence and the evidence itself cannot be proven if the witness is not available to testify to its accuracy and authenticity.

The Honorable Chris Lee, Chair  
and Members  
February 19, 2019  
Page 2

The HPD respectfully supports House Bill No. 89, H.D. 1, Relating to Fireworks.

Thank you for the opportunity to testify.

Sincerely,



Darren Chun, Acting Assistant Chief  
Regional Patrol Bureau

Attachment

APPROVED:



Susan Ballard  
Chief of Police

**§132D- Promoting unlawful fireworks activity. (1) A**

person, identified as being the homeowner, renter or otherwise responsible for any real property as defined in section 132D-1, commits the offense of promoting unlawful fireworks activity if the person recklessly:

- 1) Allows any family member, tenant or other resident, guest or other person, an adult or minor, to set off, ignite, discharge, or otherwise cause to explode fireworks of any kind in violation of section 132D-3, Permissible uses of consumer fireworks, and section 132D-4, Permissible uses of display fireworks; or
- 2) Allows any family member, tenant or other resident, guest or other person, an adult or minor, to:
  - (a) store, aerial devices, display fireworks, articles pyrotechnic, or consumer fireworks unless

the person has a valid license issued by the county;

or

(b) Possess aerial devices, display fireworks, or

articles pyrotechnic without a valid license to

import, store, or sell aerial devices, display

fireworks, or articles pyrotechnic, or a valid

display permit as provided for in section 132D-

7 License or permit required; or

3) Allows any family member, tenant or other resident,

guest or other person, an adult or minor, to possess

any consumer fireworks, aerial devices display

fireworks, or articles of pyrotechnic for the purposes

of section 132D-16, in violation of section 132D-

**HB-89-HD-1**

Submitted on: 2/17/2019 5:37:51 PM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b>   | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|-----------------------|---------------------------|---------------------------|
| Cathy Goeggel       | Animal Rights Hawai'i | Support                   | No                        |

Comments:

It is obvious that current laws regarding control of fireworks are not working. The noise and air pollution impacts both people and animals. It is beyond time for hawai'i to ban the private use of fireworks!



**HB-89-HD-1**

Submitted on: 2/17/2019 6:57:47 PM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Cinde Fisher        | Individual          | Support                   | No                        |

Comments:

I totally support this bill.

**HB-89-HD-1**

Submitted on: 2/18/2019 4:08:33 AM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Suzanne Watanabe    | Individual          | Support                   | No                        |

Comments:

It is time that Hawaii takes action on the use of illegal fireworks. By failing to do so, you are condoning its use and giving a green light to all users of illegal fireworks. They need to be held accountable for breaking the law! If this is not done, then it is about time for law-abiding citizens on Oahu to unite and propose a total ban on all fireworks use as Maui island has done. The only exception that I would condone are the professional fireworks displays that are held in different areas of Oahu and done by licensed pyrotechnicians. Individual citizens, if they continue to use illegal fireworks, should not be allowed to use them at all!

**HB-89-HD-1**

Submitted on: 2/18/2019 11:52:27 AM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Andrea Quinn        | Individual          | Support                   | No                        |

Comments:

Dear Honorable Committee Members:

Please support HB89. Fireworks not only are responsible for personal injuries such as blown off fingers, but they often are responsible for fires as well.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei

**HB-89-HD-1**

Submitted on: 2/16/2019 2:02:43 PM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Gerard Silva        | Individual          | Oppose                    | No                        |

Comments:

**HB-89-HD-1**

Submitted on: 2/18/2019 3:40:54 PM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Laurie Pottish      | Individual          | Support                   | No                        |

Comments:

**LATE**

**HB-89-HD-1**

Submitted on: 2/18/2019 6:26:43 PM  
Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Ann S Freed         | Individual          | Support                   | No                        |

Comments:

Aloha Chair Lee, Vice Chair San Buenaventura and members,

As an active member of the Mililani Neighborhood Board and a concerned member of my community, I strongly support this measure that would allow for better enforcement of the ban on the large and dangerous aerial fireworks that invade the sanctity of our neighborhoods, threaten the safety of our children and the health and safety of our pets.

Enough is enough! Yes to this measure.

Ann S. Freed

Mililani

**LATE**

**HB-89-HD-1**

Submitted on: 2/18/2019 7:08:02 PM

Testimony for JUD on 2/19/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Mike Moran          | Individual          | Support                   | No                        |

Comments:

It is time for change. Please support.

Mahalo,

Mike Moran Kihei