

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.police.org

LATE

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MAYOR



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OUR REFERENCE **DC-SAI**

February 8, 2019

The Honorable Gregg Takayama, Chair
and Members
Committee on Public Safety, Veterans,
and Military Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 430
Honolulu, Hawaii 96813

Dear Chair Takayama and Members:

SUBJECT: House Bill No. 89, Relating to Fireworks

I am Major Darren Chun of District 8 (Ewa/Kapolei/Waianae) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 89, Relating to Fireworks.

Attached is the proposed language to amend House Bill No. 89 in its intent to add a new section to Hawaii Revised Statutes (HRS), Chapter 132D. This will specifically define the person that will be held responsible for the occurrences on the property in which they have immediate control over. It also amends the state of mind to "recklessly" as required to establish an element of the offense.

A concern the HPD has is in regards to the proposed language amending HRS Section 132D-20 to include the "probable cause for arrest." We support the utilization of statements and/or audio/video recordings from individuals in order to facilitate a fireworks investigation particularly if it allows law enforcement officers to traverse onto private property to further the investigation.

For successful prosecution, the statements and recordings being utilized as evidence establishing probable cause for arrest will necessitate court testimony from the witness attesting to its accuracy, authenticity, and legality.

The Honorable Gregg Takayama, Chair
and Members
February 8, 2019
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The HPD respectfully supports House Bill No. 89, Relating to Fireworks.

Thank you for the opportunity to testify.

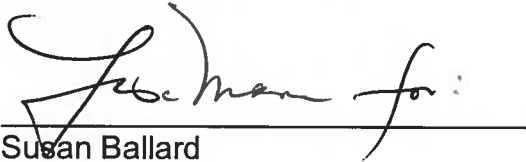
Sincerely,

A handwritten signature in black ink, appearing to read "Darren Chun", with a horizontal line extending to the right.

Darren Chun, Major
District 8

Attachment

APPROVED:

A handwritten signature in black ink, appearing to read "Susan Ballard", with a horizontal line extending to the right.

Susan Ballard
Chief of Police



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS

DATE: Friday, February 8, 2019

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 430

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

Chair Takayama and Members of the Committee:

The Department of the Attorney General provides the following comments.

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

The bill does not differentiate between property owners who allow individuals to possess, set off, ignite, or otherwise cause to explode aerial devices on their property pursuant to a valid permit, and those without a valid permit. Presumably if the individuals exploding the aerial devices were doing so in accordance with a valid permit, the property owner would not be criminally liable.

The term "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. Providing a definition for the term "allows" would not only address a vagueness challenge but would make it easier for law enforcement to determine if an actual violation has occurred.

Based on the bill's reliance on section 132D-14, Hawaii Revised Statutes, to provide the penalties for a violation of this statute, section 132D-14(a)(2) should be expanded 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. Alternatively, a new

subsection should 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.



improving the quality of lives of pets and their people.

Testimony by Alicia Maluafiti, Board President Poi Dogs & Popoki
In strong support of HB 89 - Relating to Fireworks
House Committee on Public Safety, Veterans, and Military Affairs
Friday, Feb. 8, 10 am, room 430

Aloha Chair Takayama and members of the Committee,

Poi Dogs & Popoki (PDP) is a nonprofit animal welfare organization with a mission to help people and their pets. We are in strong support of HB 89 because we believe it will make property owners think twice about whether to allow the illegal use fireworks on their property or be held legally liable for allowing the activity. The bill also provides another tool in the toolbox for the police departments to cite, arrest, and enforce the law.

The biggest problem with the current law is that many of us know WHERE the illegals are originating from, but do NOT know who is lighting the fuse. Therefore HPD says their hands are tied. Illegal fireworks – both aerals and other legal fireworks used illegally (prior to New Year's Eve) – start in Ewa Beach in early October. It used to be Halloween. By Thanksgiving Day, it's a daily occurrence, and next to New Year's Eve, its one of the worst days. Just this past Sunday, bombs went off starting at 5 pm due to the Super Bowl and they didn't end till past 10 pm. Add in MMA fights, or a win at Campbell High School, and there is practically no end to the number of illegals blowing up in my community.

While I am here for the animals – because I do animal rescue - it is difficult for people to grasp the fear and stress that some animals experience due to fireworks. Unless you are seeing it first hand, you will fail to understand the chaos it causes in the lives of our animals and their owners. For the past 4 years, I have called HPD repeatedly to report my neighbors who set off illegal aerals throughout the year. I even had video. And each time that they bothered to show up (which was a 50/50 chance), I got a different response from the officer but most often it had to do with the fact that THEY – the HPD – had to see firsthand the violation before they could make an arrest. And more recently, the only thing they would do was give a warning. They did NOT always show up. But I continued to take the video.

This year was the worst....not the illegal aerals, but the bombs. Its just a flash of light. It rattles the windows. It sets off car alarms. And makes most people jump. And it terrorizes the animals. Bombs every night for 3 months. Day and night. 5 am. 5 pm. Midnight.

More than any other year – I have seen on social media an overwhelming number of people sick and tired of the bombs. It has nothing to do with culture. Or tradition. It doesn't matter if you were born and raised here or just moved here. Comments were posted by a mom with a disabled child. A wife

whose husband has PTSD. A family caring for an aging parent. And many, many of us with pets who have our lives disrupted because of entertainment. I have never – in the past 4 years – seen so many lost pets on Thanksgiving Day.....all because of illegal fireworks.

We are looking for respite and we need tools to put a stop to illegal fireworks. Many people are at the point where they are ready to report their neighbors. I have been reporting my neighbors for the past 4 years. But these tools are only effective if they are enforced by the police departments and if the prosecuting attorneys use the hammer of the law to convict them.

For me – I am looking for a hammer.....and that hammer is the threat that the property owner cannot simply sit back and watch as their family and/or friends throw up illegals all year round. They need to be ready to tell them “not on my property.” And then shut them down so that they don’t carry the burden of the crime and penalties that go with it. Its time to pay the consequences for poor decisions.

Entertainment does NOT trump quality of life. Please pass HB 89.

HB-89

Submitted on: 2/6/2019 9:46:41 AM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

HB-89

Submitted on: 2/6/2019 12:31:33 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

As someone who's frustrated with fireworks being popped and going off on non-designated days, often times continuing past midnight, and have had to call the police due to fireworks going off - talking bomb types that you feel the vibrations, and feeling impotent because calling doesn't prevent or stop reoccurrences, hope this bill will be passed.

HB-89

Submitted on: 2/7/2019 9:52:14 AM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Katherine Linster	Individual	Support	No

Comments:

I strongly support and urge you to pass HB 89 for the health and safety of our community. The existing lack of enforcement and enforcement power of those who knowingly endanger our communities through the use of illegal fireworks is an unacceptable safety hazard that has already caused considerable harm to our community. These aerials are a safety hazard from often an illegal source, stored without the appropriate safety precautions or knowledge, and set off by irresponsible individuals who endanger their own and their neighbor's properties. Further, the harm to our people and our pets from the trauma of loud explosions is simply unacceptable. We need to enforce the laws that are already on our books and strengthen the means to do so. We should not wait till there's a fire, another death, or some other tragic outcome before we get serious. Do not be misled by those who conflate illegal fireworks with legal fireworks, it is not cultural to endanger your community, break the law, and cause harm to your neighbors. I strongly urge you to put community safety and well-being before ill-informed arguments of people who find it amusing to set off explosions with zero regard to their own health and safety and those of others.

Testimony by Sabrina Dela Rama
IN SUPPORT of HB 89-Fireworks



House Committee on Public Safety, Veterans, and Military Affairs

Friday, Feb 8, 2019

Room 430

Aloha Chair Takayama and members of the Committee;

My name is Sabrina Dela Rama and I am in strong support of HB 89 because it will hold people liable for their illegal actions, it will also prevent homeowners from allowing illegal activities to exist on their property by holding home owners liable for their renters.

Every year so far, these illegal bombs has gotta worse and this year's illegal acts were even worse than any other past year. Guess what? It will be bad this year if this bill doesn't pass.

The months following New years eve, is horrible because of bombs and or illegal fireworks that goes off any day, anytime of the day. This is not something I am prepared for and it affects my quality of life. I have tried to summon the police, but they too are frustrated because unless they catch them in the act, policy officers can't do anything. So, why would the illegal acts stop when NOTHING can be enforced due to our current law, that's why it's soooooo bad-NO ENFORCEMENT.

HB89 will allow these illegal acts to think twice before they light up at 12AM or even 2 PM in the afternoon months, weeks or even a day before the festival.

I am an animal lover and also work a full-time job that doesn't allow me to be home with my animals, and when these bombs goes off anytime, any day, it make my animals go crazy with fear! I had to rush one dog to the vets at 3AM because he's mouth was bleeding from biting the fence from fear, he had bloody stool and kept throwing up. Vets ran all kinds of test, he had ulcers from that day of illegal bombs that went off. I had to call in the next day from work because I not only didn't sleep but I had to watch him the next couple of days. All because of some people's lack of respect for other people.

I am not asking to ban fireworks just be able to enforce the law and HB 89 will help us ALL! PLEASE CHAIRMAN TAKAYAMA AND MEMBERS OF THE COMMITTEE, PLEASE PASS HB 89.

Mahalo,
Sabrina Dela Rama

LATE

HB-89

Submitted on: 2/7/2019 5:04:42 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Aloha Rep Takayama, Vice Chair Gate and members,

STRONG SUPPORT

This bill is so important for the welfare of our Keiki, our Pets, those with Asthma, those with PTSD and our public health and safety in general.

Illegal loud and obnoxious fireworks have continued unabated since the fireworks ban was instituted on Oahu. It would be one thing if it were just happening on New Years. But it is happening for several months from Thanksgiving on. I have even heard them in my neighborhood in the middle of the summer for no apparent reason. Someone just felt like.

Enough is enough. Mahalo for the opportunity to testify,

Ann S. Freed

Mililani, HI

LATE

HB-89

Submitted on: 2/7/2019 6:25:07 PM
Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Peters	Individual	Support	No

Comments:

My livestock and pets go crazy when my neighbor shoots illegal aerals. They shoot them so low that ignited debris lands on my property sending sparks that bounce off the ground. I've called the police who said that my video tape of this activity isn't enough for an arrest. The police said they don't have the tools to enforce "illegal" fireworks. Last year, one of my pets got their collar hooked on a fence as they tried to escape from the illegal fireworks. It took me 18 hours to locate it and although it was still alive, it was injured and had been hanging by it's neck for 18 hours. Please give us some tools to help police enforce the law. Photographs and video should be enough for the police to issue a ticket and hefty fine.

HB-89

Submitted on: 2/7/2019 7:30:50 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa J Sims	Individual	Support	No

Comments:

Not only are there many illegal fireworks being discharged but the noise and litter is a great problem. Police must stop the import of the fireworks as enforcement is virtually impossible. Illegal fireworks are being shipped to Hawaii in containers that are not being checked. Animals and people, especially with PTSD, are greatly affected.

LATE

HB-89

Submitted on: 2/7/2019 8:29:16 PM
Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lori Juilfs	Individual	Support	No

Comments:

I support HB89 for several reasons.

1) We're not taking a "right" away from anyone. We are encouraging and helping our law enforcement to be able to enforce existing laws. Why do we have a law about illegal fireworks then make it nearly impossible to enforce the law. They are illegal for a reason!

2) We have illegal fireworks begin at least 1 month before and continue last at least 1 month after both New Years or Fourth of July. During New Years 2016, 2017 and 2018 we had neighbors on 3 sides of our home setting off illegal fireworks for about 6 hours straight. We had burning pieces of exploded fireworks and shrapnel falling in our yard and on our roof constantly. It was extremely frightening having to stand outside with a hose in order to protect our home if needed. We're too afraid to leave our home with nobody there in case a fire did start. The ground is just too dry (especially on the Kona side of Hawai'i Island).

3) My husband and I are elderly and have several health problems. The noise that comes from the illegal fireworks is EXTREME and so, so stressful. It's also difficult to breathe with all of the sulfur in the air from the illegal firework.

4) I have Muscular Distrophy and have a service dog. She's very well trained and is able to notify me when I need to take more medication. Normal fireworks don't upset her but the illegal fireworks sound like we're surrounded by constant bombs going off for hours and hours.

All I'm asking is to please help law enforcement be able to stop the illegal firework more easily. A video from a neighbor, a picture or word of mouth so that an officer could go talk to and warn or fine the people breaking the law.

Mahalo for considering this issue. It has become extreme and out of control.

With aloha,

Lori Juilfs

LATE

HB-89

Submitted on: 2/7/2019 9:48:40 PM
Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cj	Individual	Support	No

Comments:

It sounds like a war zone, and my pets have been traumatized, as we have.

Please, we need help.

HB-89

Submitted on: 2/7/2019 10:45:35 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Jean Minor	Individual	Support	No

Comments:

I support this bill because it is terrifying to listen to what sounds like enemy shelling - not just for one night - but for WEEKS leading up to, and beyond the holiday. And then the big messes - no one cleans up when they're done, so it's all left to blow around or wash down into rivers and the ocean. A enighbor should be able to complain without having to have an officer witness the illegal ones.

LATE

HB-89

Submitted on: 2/7/2019 11:46:22 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
DyannaYost	Individual	Support	No

Comments:

For the first time we had illegal fireworks in our subdivision this New Year, which started early and continued until well after 1 AM. We are 25 miles out of town and on water catchment. Water is a commodity to those of us here. Not only are the illegal fireworks terrible for our pets as I heard dogs howling and barking due to the sheer terror from the loud bombs. Our homes are in jeopardy too. If one home burns, it could spread to others. Please help stop illegal fireworks in our neighborhoods statewide.

Mahalo,

Dyanna Yost

HB-89

Submitted on: 2/8/2019 9:38:44 AM

Testimony for PVM on 2/8/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Oppose	Yes

Comments:

WE STRONGLY OPPOSE THIS BILL. WE NEED TO END THE PROHIBITION ON FIREWORKS, WHICH IS A PART OF OUR BLENDED LOCAL CULTURE. INSTEAD, WE NEED COMMON SENSE LEGISLATION THAT HOLDS ACCOUNTABLE PERMITTEES TO SAFELY SET OFF FIREWORKS.

LATE

HB-89

Submitted on: 2/8/2019 11:07:34 AM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anastasia Shirai	Individual	Oppose	No

Comments:

HB-89

Submitted on: 2/8/2019 11:39:14 AM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Taky Tzimeas	Individual	Support	No

Comments:

<p>Letter:</p>	<p>How many of us are spending our first day in this new year bleary eyed and too tired to function properly from lack of sleep? How many of us are feeling this way not from spending a night in celebration but instead from a night of terror? Yes, our neighborhoods have been turned into war zones with the full acquiescence of our elected officials and law enforcement.</p> <p>I think a majority of our residents feel the same way I do about the illegal fireworks. Certainly most of our pet owners dread New Year's and the 4th of July because they know the evening of sheer terror our pets go through with every explosion that the illegal fireworks produce. Pets think it's the end of the world! We have laws against cruelty to animals; is this not condoned cruelty to animals on a wholesale level?</p> <p>At some point as a society we must balance the scales as to allowing freedom to act in a certain way verses the harm such freedom causes. I think the use of fireworks is part of a cultural practice for some people and for others just a fun activity. The use of legal fireworks is a good thing for those reasons. But the use of illegal fireworks is not a good thing, as they are dangerous. This is largely due to the excessive amount of explosive material used to make them loud. Also, illegal fireworks are dangerous fire hazards when used as rockets with no way to reliably control their trajectory. Almost every neighborhood has at least one demented sadist that enjoys inflicting pain</p>
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throughout the night and will set off explosions several hours after the allowed time.

Apparently these sadists have graduated from pulling wings off of flies to terrorizing their neighborhoods Too many now engage in this activity.

So, law enforcement, and our elected representatives, when is enough, enough? Please don't tell me you can't do anything about the illegal fireworks.! Law enforcement, please, we are talking about the importation of tons of illegal fireworks. This happens twice a year during a narrow time period. Your network of intelligence gathering will lead you to the importer and wholesalers if you choose to crack down on them. Really not a priority? O.K. how about our elected representatives, not a priority to enact laws that HPD and the state can enforce, with severe penalties against the importers and wholesalers?

Please, those of you out there who feel like I do about this out of control problem, make some phone calls or e-mail your concerns, make your voice heard. Cracking down on those who profit from transporting and wholesaling of the illegal fireworks will put a stop to this madness. without a lot of voices this issue will be drowned out by the sounds of large illegal explosives!

HB-89

Submitted on: 2/8/2019 5:23:25 PM

Testimony for PVM on 2/8/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Frances Moniz	Individual	Support	No

Comments:

This past NewYear Celebration was bad. Fireworks begin more than a week before D day and continued at least a week afterward. The Bombs were horrid to the point that you could see shock waves in the air. It made walls & roof rattle. The explosions were severe. I had to bring dogs into the house as they were terrified. My Husband who is recovering from a stroke was constantly startled. It was quite un nerving for me.

I don't oppose fireworks but do oppose those loud Bombs.