

JAN 22 2016

A BILL FOR AN ACT

RELATING TO CARGO INSPECTIONS.

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

1 SECTION 1. The legislature finds that the 2016 New Year's
2 celebration on Oahu saw a significant increase in the use of
3 illegal aerial fireworks. From November through December of
4 2015 over 3,000 complaints were made to the Honolulu police
5 department regarding firework usage. The number of arrests for
6 fireworks violations also increased over this time and an
7 historical home in Ewa caught fire and sustained thousands of
8 dollars of damage as a result of an illegal aerial firework.
9 The ease of importing illegal explosives into the State is a
10 public safety concern that impacts all Hawaii residents and
11 businesses.

12 The legislature further finds that the inspection of
13 shipping containers, whether by the State or counties, is a
14 major element in the fight against terrorism and illegal
15 fireworks. Particularly in light of the State's geographical
16 isolation and the numerous containers arriving by ship, it is
17 imperative that the State broaden its inspection of incoming



1 shipping containers. Over ninety per cent of the more than two
2 hundred thousand shipping cargo containers that arrive in Hawaii
3 each year are from the continental United States. Only a small
4 fraction of these containers, however, are inspected by
5 government agencies. The lack of sufficient cargo inspections
6 means that there is ample opportunity for illegal fireworks and
7 explosives to be smuggled into the State. The legislature also
8 finds that increased inspections need to be carefully crafted to
9 avoid delays and inefficiencies in harbor operations that could
10 impede commerce. One approach is to use explosive-sniffing
11 dogs, which the sheriff division of the department of public
12 safety currently have at their disposal, to inspect cargo after
13 arrival at the harbors.

14 The legislature further finds that the Report of the
15 Illegal Fireworks Task Force to the Legislature for the Regular
16 Session of 2011, which was prepared in accordance with Act 170,
17 Session Laws of Hawaii 2010, made recommendations in an effort
18 to reduce illegal firework use and importation. These
19 recommendations include increased fireworks fees and fines,
20 increased random inspections of cargo containers, and promotion
21 of cooperation among stakeholders.



1 The purpose of this Act is to implement recommendations
2 from the Report of the Illegal Fireworks Task Force to the
3 Legislature for the Regular Session of 2011 and establish a
4 shipping container inspection program using explosive-sniffing
5 dogs to inspect cargo shipments after arrival at the harbors.

6 SECTION 2. Chapter 266, Hawaii Revised Statutes, is
7 amended by adding three new sections to be appropriately
8 designated and to read as follows:

9 "§266-A Power to inspect shipping containers. (a) In
10 addition to any other powers provided by law, the department of
11 public safety, sheriff division, may in its discretion inspect
12 any shipping container situated anywhere at any commercial
13 harbor, as defined in section 266-1, or work site to detect and
14 confiscate any material constituting a threat directly or
15 indirectly to the security of life or property in Hawaii,
16 including explosives, but excluding fireworks regulated under
17 chapter 132D.

18 (b) The department of public safety, sheriff division, may
19 collaborate with any federal agency, including any of the United
20 States armed services, and state and county agencies to
21 effectuate this section. The department of public safety shall



1 serve as the lead state agency to coordinate the inspection of
2 shipping containers pursuant to this section.

3 (c) This section shall supersede any labor work rules or
4 contracts that are contrary to the intent of this section.

5 §266-B Shipping container inspection program. (a) The
6 department of public safety, in collaboration with the
7 departments of defense and transportation, and any federal
8 agencies, including any of the United States armed services,
9 state agencies, and private organizations involved with shipping
10 cargo into the State, shall develop and implement a program to
11 randomly inspect shipping containers arriving in Honolulu for
12 illegal fireworks and explosives smuggled into the State. The
13 program shall begin no later than October 1, 2016.

14 (b) The shipping container inspection program shall:

15 (1) Include the use of explosive-sniffing dogs to inspect
16 incoming shipping containers to the greatest
17 reasonable extent;

18 (2) Prioritize resources toward high risk containers over
19 low risk containers; for purposes of this paragraph
20 "low risk container" includes shipping containers
21 containing goods to be delivered to the military,



1 state or county agencies, established businesses, and
2 major retailers;

3 (3) Conduct the majority of inspections away from ports,
4 to allow timely removal of shipping containers and
5 avoid off-loading delays;

6 (4) Inspect all shipping containers containing legal
7 fireworks using personnel who are able to distinguish
8 commercial fireworks from illegal fireworks;

9 (5) Include random inspections of freight forwarder
10 warehouses and other facilities where consolidated
11 cargo transported from any state harbor to the final
12 destination is segregated and prepared for delivery;

13 (6) Include random inspections of common carriers, at the
14 discretion of the department of public safety, sheriff
15 division; and

16 (7) Balance safety concerns with commercial interests to
17 avoid increases in consumer costs.

18 (c) Beginning July 1, 2016, the department of
19 transportation shall assess a fee of \$1 for each shipping
20 container arriving in the State. Beginning July 1, 2017, the
21 department of transportation shall assess a fee of \$2 for each



1 shipping container arriving in the State. All fees received by
2 the department of transportation pursuant to this subsection
3 shall be deposited into the shipping container inspection
4 program special fund established under section 266-C.

5 (d) The department of public safety shall coordinate and
6 conduct the random inspection of shipping containers pursuant to
7 this section, as authorized under section 266-A. The Hawaii
8 national guard may be utilized to assist in the random
9 inspection of shipping containers.

10 (e) The department of public safety may request funding
11 from the federal government for homeland security and port
12 security measures and work with the military to secure other
13 funding sources for the purposes of the program.

14 (f) The department of public safety shall adopt rules in
15 accordance with chapter 91 for the purposes of this section.

16 **§266-C Shipping container inspection program special fund.**

17 (a) There is established in the state treasury the shipping
18 container inspection program special fund, into which shall be
19 deposited:

20 (1) Appropriations by the legislature to the special fund;



1 (2) Gifts, donations, and grants from public agencies and
2 private persons; and

3 (3) All proceeds collected by the department of
4 transportation from shipping container import fees
5 under section 266-B(c).

6 (b) All moneys in the special fund shall be used for
7 support and administration of the shipping container inspection
8 program established under section 266-B."

9 SECTION 3. Section 132D-14, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Except as provided in subsection (a) or as otherwise
12 specifically provided for in this chapter, any person violating
13 any other provision of this chapter, shall be fined not more
14 than [~~\$2,000~~] \$5,000 for each violation."

15 SECTION 4. No later than twenty days prior to the
16 convening of the 2017 and 2018 regular sessions, the department
17 of public safety shall submit to the legislature a report on the
18 implementation of the shipping container inspection program
19 established pursuant to this Act. The report shall include
20 findings and recommendations, including costs expended to date,



1 the estimated cost of operating the program, and any proposed
2 legislation.

3 SECTION 5. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$250,000 or so much
5 thereof as may be necessary for fiscal year 2016-2017 to be
6 deposited into the shipping container inspection program special
7 fund established pursuant to this Act.

8 SECTION 6. There is appropriated out of the shipping
9 container inspection program special fund the sum of \$250,000 or
10 so much thereof as may be necessary for fiscal year 2016-2017
11 for costs to establish and administer the shipping container
12 inspection program, including the purchase, care, and handling
13 of at least two explosive-sniffing dogs.

14 The sum appropriated shall be expended by the department of
15 public safety for the purposes of this Act.

16 SECTION 7. In codifying the new sections added by section
17 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.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval;
2 provided that sections 5 and 6 of this Act shall take effect on
3 July 1, 2016.

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Report Title:

Department of Public Safety; Sheriff Division; Department of Transportation; Shipping Container Inspection Program; Illegal Fireworks; Explosives; Fees; Penalties; Appropriation

Description:

Increases fines for violations of the fireworks control law. Authorizes the department of public safety, sheriff division, to inspect shipping containers for explosives and illegal fireworks. Requires DPS, in collaboration with DOD, DOT, and other federal and state agencies, to establish a shipping container inspection program to randomly inspect shipping containers for illegal fireworks and explosives using explosive-sniffing dogs. Requires DOT to assess a fee of \$1 on all shipping containers for FY 2016-2017 and a fee of \$2 thereafter to fund the program. Establishes the shipping container inspection program special fund. Makes an appropriation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

