

JAN 18 2019

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. Chapter 132D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§132D- Liability of property owner. Any resident of a
5 dwelling who knowingly allows an individual to possess, set off,
6 ignite, or otherwise cause to explode any aerial device while on
7 the property where the dwelling is located shall be deemed to be
8 in violation of this chapter and shall be subject to the
9 penalties thereunder."

10 SECTION 2. Section 132D-2, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending the definitions of "aerial device",
13 "articles pyrotechnic", and "consumer fireworks" to read:

14 "Aerial device" means any fireworks [~~containing one~~
15 hundred thirty milligrams or less of explosive materials] that
16 produces an audible or visible effect and is designed to rise
17 into the air and explode or detonate in the air or to fly about



1 above the ground, and that is prohibited for use by any person
2 who does not have a permit for display issued by a county under
3 section 132D-16. [~~"Aerial devices" classified as fireworks~~
4 ~~under UN0336 and UN0337 by the United States Department of~~
5 ~~Transportation as set forth in Title 49 Code of Federal~~
6 ~~Regulations include firework items commonly known as bottle~~
7 ~~rockets, sky rockets, missile type rockets, helicopters,~~
8 ~~torpedoes, daygo bombs, roman candles, flying pigs, and jumping~~
9 ~~jacks that move about the ground farther than a circle with a~~
10 ~~radius of twelve feet as measured from the point where the item~~
11 ~~was placed and ignited, aerial shells, and mines.]~~

12 "Articles pyrotechnic" means pyrotechnic devices for
13 professional use similar to consumer fireworks in chemical
14 composition and construction but not intended for consumer use
15 that meet the weight limits for consumer fireworks but are not
16 labeled as such[, ~~and that are classified as UN0431 or UN0432 by~~
17 ~~the United States Department of Transportation)].~~

18 "Consumer fireworks" means any fireworks designed primarily
19 for retail sale to the public during authorized dates and times,
20 that produces visible or audible effects by combustion, and that
21 is designed to remain on or near the ground and, while



1 stationary or spinning rapidly on or near the ground, emits
2 smoke, a shower of colored sparks, whistling effects, flutter
3 sparks, or balls of colored sparks, and includes combination
4 items that contain one or more of these effects. [~~"Consumer
5 fireworks" shall comply with the construction, chemical
6 composition, and labeling regulations of the United States
7 Consumer Product Safety Commission as set forth in Title 16 Code
8 of Federal Regulations and fireworks classified as UN0336 and
9 UN0337 by the United States Department of Transportation as set
10 forth in Title 49 Code of Federal Regulations.~~] "Consumer
11 fireworks" include firework items commonly known as firecrackers
12 that are single paper cylinders not exceeding one and one-half
13 inches in length excluding the fuse and one-quarter of an inch
14 in diameter and contain a charge of not more than fifty
15 milligrams of pyrotechnic composition, snakes, sparklers,
16 fountains, and cylindrical or cone fountains that emit effects
17 up to a height not greater than twelve feet above the ground,
18 illuminating torches, bamboo cannons, whistles, toy smoke
19 devices, wheels, and ground spinners that when ignited remain
20 within a circle with a radius of twelve feet as measured from
21 the point where the item was placed and ignited, novelty or



1 trick items, combination items, and other fireworks of like
2 construction that are designed to produce the same or similar
3 effects."

4 2. By amending the definitions of "display fireworks" and
5 "fireworks" to read:

6 "Display fireworks" means any fireworks designed primarily
7 for exhibition display by producing visible or audible effects
8 ~~[and classified as display fireworks or contained in the~~
9 ~~regulations of the United States Department of Transportation~~
10 ~~and designated as UN0333, UN0334, or UN0335, and includes~~
11 ~~salutes containing more than two grains (one hundred and thirty~~
12 ~~milligrams) of explosive materials, aerial shells containing~~
13 ~~more than forty grams of pyrotechnic compositions, and other~~
14 ~~display pieces which exceed the limits of explosive materials~~
15 ~~for classification as "consumer fireworks". This term also~~
16 ~~includes fused setpieces containing components, which together~~
17 ~~exceed fifty milligrams of salute power]. The use of display~~
18 fireworks shall be prohibited for use by any person who does not
19 have a display permit issued by a county.

20 "Fireworks" means any combustible or explosive composition,
21 or any substance or combination of substances, or article



1 prepared for the purpose of producing a visible or audible
2 effect by combustion, explosion, deflagration, or detonation and
3 that meets the definition of aerial device or consumer or
4 display fireworks as defined by this section [~~and contained in~~
5 ~~the regulations of the United States Department of~~
6 ~~Transportation as set forth in Title 49 Code of Federal~~
7 ~~Regulations]~~. The term "fireworks" shall not include any
8 explosives or pyrotechnics regulated under chapter 396 or
9 automotive safety flares, nor shall the term be construed to
10 include toy pistols, toy cannons, toy guns, party poppers, pop-
11 its, or other devices which contain twenty-five hundredths of a
12 grain or less of explosive substance."

13 SECTION 3. Section 132D-20, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§132D-20 Enforcement [-]; probable cause for arrest. (a)

16 This chapter shall be enforced by each county. The counties are
17 authorized to enforce and administer the provisions of this
18 chapter.

19 (b) Arrests for offenses under this chapter or under a
20 county fireworks ordinance shall be made in compliance with



1 chapter 803. Probable cause for the arrests may be established
2 based on:

- 3 (1) Statements from individuals who witnessed the offense,
- 4 even if those individuals are not law enforcement
- 5 officers; and
- 6 (2) Photographs, video recordings, or other recordings
- 7 that show the commission of the offense and can be
- 8 authenticated by one or more witnesses."

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 268

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S.B. NO. 268

Report Title:

Fireworks; Arrests; Probable Cause

Description:

Allows probable cause for fireworks offenses to be established from statements from witnesses and photographs, video, and other recordings authenticated by witnesses. Simplifies definitions of aerial device, articles pyrotechnics, consumer fireworks, display fireworks, and fireworks. Establishes offense applicable to property residents for aerial devices possessed or set off on their property by others.

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