
A BILL FOR AN ACT

RELATING TO FIREWORKS INFRACTIONS.

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

1 SECTION 1. The legislature finds that the enforcement of
2 the fireworks control law is wanting. The legislature further
3 finds that enforcement is necessary to protect property from
4 avoidable fire damage and to protect persons from fire- and
5 explosion-related injuries, respiratory distress caused by the
6 air pollution, and retraumatizing persons with the loud
7 explosions.

8 The legislature further finds that alternative enforcement
9 mechanisms should be considered to promote compliance with the
10 fireworks control law. One alternative enforcement mechanism
11 would be an expeditious adjudication system for fireworks
12 infractions, similar to the system for processing traffic
13 infractions. This system would allow the judiciary to
14 expediently process violations of the fireworks control law,
15 allowing the judiciary to reserve resources for the cases that
16 require the resources.



1 The purpose of this Act is to establish an expeditious
2 adjudication system for processing fireworks infractions,
3 similar to the system for processing traffic infractions.

4 SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 **"PART . ADJUDICATION OF FIREWORKS INFRACTIONS**

8 **§132D-A Definitions.** As used in this part:

9 "Concurrent trial" means a trial proceeding held in the
10 district or family court in which the defendant is tried
11 simultaneously in a civil case for any charged fireworks
12 infraction and in a criminal case for any related criminal
13 offense, with trials to be held in one court on the same date
14 and at the same time.

15 "Fireworks infraction" means any violation of this chapter,
16 any rule adopted pursuant to this chapter, or any county
17 ordinance or rule enacted pursuant to this chapter.

18 "Hearing" means a proceeding conducted by the district
19 court pursuant to section 132D-G at which the defendant to whom
20 a notice of infraction was issued either admits to the fireworks
21 infraction, contests the notice of infraction, or admits to the



1 fireworks infraction but offers an explanation to mitigate the
2 monetary assessment imposed.

3 "Notice of infraction" means the citation form that is
4 issued to the defendant at or after the time of the fireworks
5 infraction and notifies the defendant of the civil infraction
6 the defendant is charged with committing, whatever its title or
7 denomination.

8 "Related criminal offense" means any criminal violation or
9 crime, committed in the same course of conduct as a fireworks
10 infraction, for which the defendant is arrested or charged.

11 "Trial" means a trial conducted by the district court
12 pursuant to the rules of the district court and Hawaii rules of
13 evidence.

14 **§132D-B Applicability.** (a) All fireworks infractions,
15 including fireworks infractions committed by minors, shall be
16 adjudicated pursuant to this chapter, except as provided in
17 section 132D-14(a), subsection (b), or as otherwise specifically
18 provided for in this part. This part shall be applied uniformly
19 throughout the State and in all counties. Except as
20 specifically provided otherwise in this part, no fireworks
21 infraction shall be classified as a criminal offense.



1 (b) Where a defendant is charged with a fireworks
2 infraction and the fireworks infraction is committed in the same
3 course of conduct as a criminal offense for which the offender
4 is arrested or charged, the fireworks infraction shall be
5 adjudicated pursuant to this part; provided that the court may
6 schedule any initial appearance, hearing, or trial on the
7 fireworks infraction at the same date, time, and place as the
8 arraignment, hearing, or trial on the related criminal offense.

9 Notwithstanding this subsection and subsection (c), the
10 court shall not schedule any initial appearance, hearing, or
11 trial on the fireworks infraction at the same date, time, and
12 place as the arraignment, hearing, or trial on the related
13 criminal offense where the related criminal offense is a felony
14 or misdemeanor for which the defendant has demanded a jury
15 trial.

16 (c) If the defendant requests a trial pursuant to
17 section 132D-K, the trial shall be held in the district court of
18 the circuit in which the fireworks infraction was committed. If
19 the court schedules a concurrent trial pursuant to
20 paragraph (1), the concurrent trial shall be held in the
21 appropriate district or family court of the circuit in which the



1 fireworks infraction was committed, whichever has jurisdiction
2 over the related criminal offense charged pursuant to the
3 applicable statute or rule of court; provided that:

4 (1) The district or family court, for the purpose of
5 trial, may schedule a civil trial on the fireworks
6 infraction on the same date and at the same time as a
7 criminal trial on the related criminal offense
8 charged. The court shall enter a civil judgment as to
9 the fireworks infraction and a judgment of conviction
10 or acquittal as to the related criminal offense
11 following the concurrent trial; and

12 (2) If the trial on the fireworks infraction is held
13 separately from and before trial on any related
14 criminal offense, the following shall be inadmissible
15 in the prosecution or trial of the related criminal
16 offense, except as expressly provided by the Hawaii
17 rules of evidence:

18 (A) Any written or oral statement made by the
19 defendant in proceedings conducted pursuant to
20 section 132D-F(b); and



1 (B) Any testimony given by the defendant in the trial
2 on the fireworks infraction.

3 These statements or testimony shall not be deemed a
4 waiver of the defendant's privilege against
5 self-incrimination in connection with any related
6 criminal offense.

7 (d) In no event shall section 701-109 preclude prosecution
8 for a related criminal offense where a fireworks infraction
9 committed in the same course of conduct has been adjudicated
10 pursuant to this part.

11 (e) If the defendant fails to appear at any scheduled
12 court date before the date of trial or concurrent trial and:

13 (1) The defendant's civil liability for the fireworks
14 infraction has not yet been adjudicated pursuant to
15 section 132D-G, the court shall enter a judgment by
16 default in favor of the State for the fireworks
17 infraction unless the court determines that good cause
18 or excusable neglect exists for the defendant's
19 failure to appear; or

20 (2) The defendant's civil liability for the fireworks
21 infraction has been previously adjudicated pursuant to



1 section 132D-G, the judgment earlier entered in favor
2 of the State shall stand unless the court determines
3 that good cause or excusable neglect exists for the
4 defendant's failure to appear.

5 (f) If the defendant fails to appear at any scheduled
6 court date before concurrent trial or fails to appear for
7 concurrent trial scheduled pursuant to subsection (c)(1), the
8 court shall enter a disposition pursuant to the Hawaii rules of
9 penal procedure for the criminal offense.

10 **§132D-C Venue and jurisdiction.** (a) All fireworks
11 infractions shall be adjudicated in the district and circuit
12 courts where the alleged infraction occurred, except as
13 otherwise provided by law.

14 (b) Except as otherwise provided by law, jurisdiction is
15 in the district court of the circuit where the alleged fireworks
16 infraction occurred. Except as otherwise provided in this part,
17 district court judges shall adjudicate fireworks infractions.

18 **§132D-D Notice of infraction; form; determination final**
19 **unless contested.** (a) The notice of infraction shall include
20 the summons for the purposes of this part. Whenever a notice of
21 infraction is issued, the defendant's signature, driver's



1 license number or state identification number, current address,
2 and electronic mail address shall be noted on the notice. If
3 the defendant refuses to sign the notice of infraction, the law
4 enforcement officer shall record this refusal on the notice and
5 issue the notice to the defendant. Individuals to whom a notice
6 of infraction is issued under this part need not be arraigned
7 before the court, unless required by rule of the supreme court.

8 (b) The form for the notice of infraction shall be
9 prescribed by rules of the district court, which shall be
10 uniform throughout the State; provided that each judicial
11 circuit may include differing statutory, rule, or ordinance
12 provisions on its respective notice of infraction.

13 (c) A notice of infraction that is generated by the use of
14 electronic equipment or that bears the electronically stored
15 image of any person's signature, or both, shall be valid under
16 this part.

17 (d) The notice of infraction shall include the following:

18 (1) A statement of the specific fireworks infraction for
19 which the notice was issued;

20 (2) A brief statement of the facts;



- 1 (3) A statement of the total amount to be paid for each
2 fireworks infraction, which amount shall include any
3 fee, surcharge, or cost required by statute,
4 ordinance, or rule, and the monetary assessment
5 established pursuant to section 132D-H, to be paid by
6 the defendant;
- 7 (4) A statement of the options provided in
8 section 132D-E(b) for answering the notice and the
9 procedures necessary to exercise the options;
- 10 (5) A statement that the defendant to whom the notice is
11 issued shall answer, choosing one of the options
12 specified in section 132D-E(b), within twenty-one days
13 of issuance of the notice;
- 14 (6) A statement that failure to answer the notice of
15 infraction within twenty-one days of issuance shall
16 result in the entry of judgment by default for the
17 State and may result in the assessment of a late
18 penalty;
- 19 (7) A statement that, at a hearing requested to contest
20 the notice of infraction conducted pursuant to
21 section 132D-G, no law enforcement officer shall be



1 present unless the defendant timely requests the court
 2 to have the law enforcement officer present, and that
 3 the standard of proof to be applied by the court is
 4 whether a preponderance of the evidence proves that
 5 the specified fireworks infraction was committed;

6 (8) A statement that, at a hearing requested for the
 7 purpose of explaining mitigating circumstances
 8 surrounding the commission of the fireworks infraction
 9 or in consideration of a written request for
 10 mitigation, the defendant shall be considered to have
 11 committed the fireworks infraction;

12 (9) A space in which the signature of the defendant to
 13 whom the notice of infraction was issued may be
 14 affixed; and

15 (10) The date, time, and place at which the defendant to
 16 whom the notice of infraction was issued shall appear
 17 in court, if the defendant is required by the notice
 18 to appear in person at the hearing.

19 **§132D-E Answer required.** (a) A defendant who receives a
 20 notice of infraction shall answer the notice within twenty-one
 21 days of the date of issuance of the notice. There shall be



1 included with the notice of infraction a preaddressed envelope
2 directed to the designated district court.

3 (b) Provided that the notice of infraction does not
4 require an appearance in person at a hearing as set forth in
5 section 132D-D(d)(10), in answering a notice of infraction, a
6 defendant shall have the following options:

7 (1) Admit the commission of the fireworks infraction in
8 one of the following ways:

9 (A) By mail or in person, by completing the
10 appropriate portion of the notice of infraction
11 or preaddressed envelope and submitting it to the
12 authority specified on the notice together with
13 payment of the total amount stated on the notice
14 of infraction. Payment by mail shall be in the
15 form of a check, money order, or by an approved
16 credit or debit card. Payment in person shall be
17 in the form of United States currency, check,
18 money order, or by an approved credit or debit
19 card; or

20 (B) Via the Internet or by telephone, by submitting
21 payment of the total amount stated on the notice



1 of infraction. Payment via the Internet or by
2 telephone shall be by an approved credit or debit
3 card;

4 (2) Deny the commission of the fireworks infraction and
5 request a hearing to contest the fireworks infraction
6 by completing the appropriate portion of the notice of
7 infraction or preaddressed envelope and submitting it,
8 either by mail or in person, to the authority
9 specified on the notice. In lieu of appearing in
10 person at a hearing, the defendant may submit a
11 written statement of grounds on which the defendant
12 contests the notice of infraction, which shall be
13 considered by the court as a statement given in court
14 pursuant to section 132D-G(a); or

15 (3) Admit the commission of the fireworks infraction and
16 request a hearing to explain circumstances mitigating
17 the fireworks infraction by completing the appropriate
18 portion of the notice of infraction or preaddressed
19 envelope and submitting it, either by mail or in
20 person, to the authority specified on the notice. In
21 lieu of appearing in person at a hearing, the



1 defendant may submit a written explanation of the
2 mitigating circumstances, which shall be considered by
3 the court as a statement given in court pursuant to
4 section 132D-G(b).

5 (c) When answering the notice of infraction, the defendant
6 shall affix the defendant's signature to the answer and shall
7 state the address at which the defendant will accept future
8 mailings from the court. No other response shall constitute an
9 answer for purposes of this part.

10 **§132D-F Court action after answer or failure to answer.**

11 (a) When an admitting answer is received, the court shall enter
12 judgment in favor of the State in the total amount specified in
13 the notice of infraction.

14 (b) When a denying answer is received, the court shall
15 proceed as follows:

16 (1) In the case of a fireworks infraction where the
17 defendant requests a hearing at which the defendant
18 will appear in person to contest the fireworks
19 infraction, the court shall notify the defendant in
20 writing of the date, time, and place of hearing to
21 contest the notice of infraction. The notice of



1 hearing shall be mailed to the address provided by
2 defendant in the denying answer, or if none was given,
3 to the address provided by defendant when the notice
4 of infraction was issued, or if none was provided, to
5 the electronic mail address provided by the defendant
6 when the notice of infraction was issued. The
7 notification shall also advise the defendant that, if
8 the defendant fails to appear at the hearing, the
9 court shall enter judgment by default in favor of the
10 State, as of the date of the scheduled hearing, and
11 that the total amount specified in the default
12 judgment shall be paid within thirty days of entry of
13 default judgment; and

14 (2) When a denying answer is accompanied by a written
15 statement of the grounds on which the defendant
16 contests the notice of infraction, the court shall
17 proceed as provided in section 132D-G(a) and shall
18 notify the defendant of its decision, including the
19 total amount assessed, if any, by mailing the notice
20 of entry of judgment within forty-five days of the
21 postmarked date of the answer to the address provided



1 by the defendant in the denying answer, or if none was
2 given, to the address provided by defendant when the
3 notice of infraction was issued, or if none was
4 provided, to the electronic mail address provided by
5 the defendant when the notice of infraction was
6 issued. The notice of entry of judgment shall also
7 advise the defendant, if it is determined that the
8 fireworks infraction was committed and judgment is
9 entered in favor of the State, that the defendant has
10 the right, within thirty days of entry of judgment, to
11 request a trial and shall specify the procedures for
12 doing so. The notice of entry of judgment shall also
13 notify the defendant, if an amount is assessed by the
14 court for monetary assessments, fees, surcharges, or
15 costs, that if the defendant does not request a trial
16 within the time specified in this paragraph, the total
17 amount assessed shall be paid within thirty days of
18 entry of judgment.

19 (c) When an answer admitting commission of the firework
20 infraction but seeking to explain mitigating circumstances is
21 received, the court shall proceed as follows:



- 1 (1) In the case of a fireworks infraction where the
2 defendant requests a hearing at which the defendant
3 will appear in person to explain mitigating
4 circumstances, the court shall notify the defendant in
5 writing of the date, time, and place of the hearing to
6 explain mitigating circumstances. The notice of
7 hearing shall be mailed to the address provided by the
8 defendant in the answer, or if none was given, to the
9 address provided by the defendant when the notice of
10 infraction was issued, or if none was provided, to the
11 electronic mail address provided by the defendant when
12 the notice of infraction was issued. The notification
13 shall also advise the defendant that, if the defendant
14 fails to appear at the hearing, the court shall enter
15 judgment by default in favor of the State, as of the
16 date of the scheduled hearing, and that the total
17 amount stated in the default judgment must be paid
18 within thirty days of entry of default judgment; and
19 (2) If a written explanation is included with an answer
20 admitting commission of the fireworks infraction, the
21 court shall enter judgment for the State and, after



1 reviewing the explanation, determine the total amount
2 of the monetary assessments, fees, surcharges, or
3 costs to be assessed, if any. The court shall then
4 notify the defendant of the total amount to be paid
5 for the fireworks infraction, if any. There shall be
6 no appeal from the judgment. If the court assesses an
7 amount for monetary assessments, fees, surcharges, or
8 costs, the court shall also notify the defendant that
9 the total amount shall be paid within thirty days of
10 entry of judgment.

11 (d) If the defendant fails to answer within twenty-one
12 days of issuance of the notice of infraction, the court shall
13 take action as provided in subsection (e).

14 (e) Whenever judgment by default in favor of the State is
15 entered, the court shall mail a notice of entry of default
16 judgment to the address provided by the defendant when the
17 notice of infraction was issued, or if none was provided, to the
18 electronic mail address provided by defendant when the notice of
19 infraction was issued. The notice of entry of default judgment
20 shall advise the defendant that the total amount specified in
21 the default judgment shall be paid within thirty days of entry



1 of default judgment and shall explain the procedure for setting
2 aside a default judgment. Judgment by default for the State
3 entered pursuant to this part may be set aside pending final
4 disposition of the fireworks infraction upon written application
5 of the defendant and posting of an appearance bond equal to the
6 amount of the total amount specified in the default judgment and
7 any other assessment imposed pursuant to section 132D-H. The
8 application shall show good cause or excusable neglect for the
9 defendant's failure to take action necessary to prevent entry of
10 judgment by default. Thereafter, the court shall determine
11 whether good cause or excusable neglect exists for the
12 defendant's failure to take action necessary to prevent entry of
13 judgment by default. If so, the application to set aside
14 default judgment shall be granted, the default judgment shall be
15 set aside, and the notice of infraction shall be disposed of
16 pursuant to this part. If not, the application to set aside
17 default judgment shall be denied, the appearance bond shall be
18 forfeited and applied to satisfy amounts due under the default
19 judgment, and the notice of infraction shall be finally
20 disposed. In either case, the court shall determine the



1 existence of good cause or excusable neglect and notify the
2 defendant of its decision on the application in writing.

3 **§132D-G Hearings.** (a) In proceedings to contest a notice
4 of infraction where the defendant to whom the notice was issued
5 has timely requested a hearing and appears at the hearing:

6 (1) In lieu of the personal appearance by the law
7 enforcement officer who issued the notice of
8 infraction, the court shall consider the notice of
9 infraction and any other written report made by the
10 law enforcement officer, if provided to the court by
11 the law enforcement officer, together with any oral or
12 written statement by the defendant to whom the notice
13 of infraction was issued;

14 (2) The standard of proof to be applied by the court shall
15 be whether, by a preponderance of the evidence, the
16 court finds that the fireworks infraction was
17 committed; and

18 (3) After due consideration of the evidence and arguments,
19 if any, the court shall determine whether commission
20 of the fireworks infraction has been established.

21 Where the commission of the fireworks infraction has



1 not been established, judgment in favor of the
2 defendant, dismissing the notice of infraction or any
3 count therein with prejudice, shall be entered in the
4 record. Where it has been established that the
5 fireworks infraction was committed, the court shall
6 enter judgment in favor of the State and shall assess
7 a monetary assessment pursuant to section 132D-H,
8 together with any fees, surcharges, or costs. The
9 court also shall inform the defendant of the right to
10 request a trial pursuant to section 132D-K. If the
11 defendant requests a trial at the time of the hearing,
12 the court shall provide the defendant with the trial
13 date as soon as practicable.

14 (b) In proceedings to explain mitigating circumstances
15 where the defendant to whom the notice of infraction was issued
16 has timely requested a hearing and appears at the hearing:

17 (1) The procedure shall be limited to the issue of
18 mitigating circumstances. A defendant who requests to
19 explain the circumstances shall not be permitted to
20 contest the notice of infraction;



1 (2) After the court has received the explanation, the
2 court may enter judgment in favor of the State and may
3 assess a monetary assessment pursuant to
4 section 132D-H, together with any fees, surcharges, or
5 costs;

6 (3) The court, after receiving the explanation, may vacate
7 the admission and enter judgment in favor of the
8 defendant, dismissing the notice of infraction or any
9 count therein with prejudice, where the explanation
10 establishes that the infraction was not committed; and

11 (4) There shall be no appeal from the judgment.

12 (c) If a defendant for whom a hearing has been scheduled
13 to contest the notice of infraction or to explain mitigating
14 circumstances fails to appear at the hearing, the court shall
15 enter judgment by default for the State and take action as
16 provided in section 132D-F(e).

17 **§132D-H Monetary assessments.** (a) A defendant found to
18 have committed a fireworks infraction shall be assessed a
19 monetary assessment pursuant to section 132D-14.



1 (b) In addition to any monetary assessment imposed for a
2 fireworks infraction, the court may impose additional
3 assessments for:

4 (1) Failure to pay a monetary assessment by the scheduled
5 date of payment;

6 (2) The cost of service of a penal summons issued pursuant
7 to this part; or

8 (3) The administrative costs of \$20 for each noncompliance
9 with a rule associated with the processing of
10 fireworks infractions, in addition to any monetary
11 assessment imposed by the court, regardless of whether
12 the monetary assessment is suspended.

13 (c) The clerk of the district court shall deposit the
14 administrative costs collected into the judiciary computer
15 system special fund pursuant to section 601-3.7.

16 (d) The court may grant to a defendant claiming inability
17 to pay an extension of the period in which the monetary
18 assessment shall be paid or may impose community service in lieu
19 of the monetary assessment.

20 **§132D-I Time computation.** In computing any period of time
21 prescribed or allowed by this part, the day of the act, event,



1 or default from which the period of time begins to run shall not
2 be included. The last day of the period so computed shall be
3 included, unless it is a Saturday, Sunday, or legal holiday, in
4 which event the period runs until the end of the next day that
5 is not a Saturday, Sunday, or legal holiday. Intermediate
6 Saturdays, Sundays, and legal holidays shall be included.
7 Whenever an act required to be performed under this part may be
8 accomplished by mail, the act shall be deemed to have been
9 performed on the date of the postmark on the mailed article.

10 **§132D-J Powers of the district court judge hearing cases**
11 **pursuant to this part.** (a) A district court judge hearing
12 cases pursuant to this part shall have all the powers of a
13 district court judge under chapter 604, including the following
14 powers:

- 15 (1) To conduct fireworks infraction hearings and impose
16 monetary assessments;
- 17 (2) To permit deferral of monetary assessments or impose
18 community service in lieu of monetary assessments;
- 19 (3) To dismiss a notice of infraction, with or without
20 prejudice, or set aside a judgment for the State;



- 1 (4) To issue penal summonses and bench warrants and
2 initiate contempt of court proceedings in proceedings
3 conducted pursuant to section 132D-K;
- 4 (5) To issue penal summonses and bench warrants and
5 initiate failure to appear proceedings in proceedings
6 conducted pursuant to section 132D-D(d)(10); and
- 7 (6) To exercise other powers the court finds necessary and
8 appropriate to carry out the purposes of this part.
- 9 **§132D-K Trial and concurrent trial.** (a) There shall be
10 no right to trial unless the defendant contests the notice of
11 infraction pursuant to section 132D-G. If, after proceedings to
12 contest the notice of infraction, a determination is made that
13 the defendant committed the fireworks infraction, judgment shall
14 enter in favor of the State. The defendant may request a trial
15 pursuant to the Hawaii rules of evidence and the rules of the
16 district court; provided that any request for trial shall be
17 made within thirty days of entry of judgment. If, after
18 appearing in person at a hearing to contest the notice of
19 infraction, the defendant requests a trial at the conclusion of
20 the hearing, the court shall provide the defendant with the
21 trial date as soon as practicable.



1 (b) At the time of trial, the State shall be represented
2 by a prosecuting attorney of the county in which the fireworks
3 infraction occurred. The prosecuting attorney shall orally
4 recite the charged fireworks infraction in court before
5 commencement of the trial. Proof of the defendant's commission
6 of the fireworks infraction shall be by a preponderance of the
7 evidence.

8 (c) Appeals from judgments entered after a trial on the
9 notice of infraction may be taken in the manner provided for
10 appeals from district court civil judgments.

11 (d) If trial on the fireworks infraction is held before
12 trial on any related criminal offense, the following shall be
13 inadmissible in the subsequent prosecution or trial of the
14 related criminal offense:

- 15 (1) Any written or oral statement made by the defendant in
16 proceedings conducted pursuant to section 132D-F(b);
17 and
18 (2) Any testimony given by the defendant in the trial on
19 the fireworks infraction.



1 The statement or testimony, or both, shall not be deemed a
2 waiver of the defendant's privilege against self-incrimination
3 in connection with any related criminal offense.

4 (e) In any concurrent trial, the State shall be
5 represented by a prosecuting attorney of the county in which the
6 fireworks infraction and related crime occurred. Proof of the
7 defendant's commission of the fireworks infraction shall be by a
8 preponderance of the evidence, and proof of the related criminal
9 offense shall be by proof beyond a reasonable doubt. The
10 concurrent trial shall be conducted pursuant to the rules of the
11 appropriate court, Hawaii rules of evidence, and Hawaii rules of
12 penal procedure.

13 **§132D-L Rules.** (a) The supreme court may adopt rules of
14 procedure for the conduct of all proceedings pursuant to this
15 part.

16 (b) Chapter 626 shall not apply in proceedings conducted
17 pursuant to this part, except for the rules governing privileged
18 communications, and proceedings conducted under section 132D-K.

19 (c) Notwithstanding section 604-17, while the court is
20 sitting in any matter pursuant to this part, the court shall not
21 be required to preserve the testimony or proceedings, except



1 proceedings conducted pursuant to section 132D-K and proceedings
2 in which the fireworks infraction is heard on the same date and
3 time as any related criminal offense.

4 (d) The prosecuting attorney shall not participate in
5 fireworks infraction proceedings conducted pursuant to this
6 part, except proceedings pursuant to section 132D-K and
7 proceedings in which a related criminal offense is scheduled for
8 arraignment, hearing, or concurrent trial.

9 (e) Chapter 91 shall not apply in proceedings before the
10 court.

11 (f) Except as otherwise provided in section 132D-B,
12 chapter 571 and the Hawaii family court rules shall not apply in
13 any proceedings conducted pursuant to this part."

14 SECTION 3. Chapter 132D, Hawaii Revised Statutes, is
15 amended by designating sections 132D-1 to 132D-21 as part I and
16 inserting a title before section 132D-1 to read as follows:

17 **"PART I. GENERAL PROVISIONS"**

18 SECTION 4. Section 132D-2, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending the definition of "license" to read:



1 ""License" means a nontransferable, formal authorization,
2 valid for a period not to exceed one calendar year from the date
3 of issuance and which the department is hereby authorized to
4 issue under this [~~chapter,~~] this part, to engage in the act or
5 acts specifically designated herein."

6 2. By amending the definition of "permit" to read:

7 ""Permit" means a nontransferable, formal authorization,
8 valid for a period not to exceed one calendar year from the date
9 of issuance and which a county is hereby authorized to issue
10 under this [~~chapter,~~] part, to engage in the act or acts
11 specifically designated herein."

12 SECTION 5. Section 132D-6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§132D-6 Exceptions.** The prohibitions in section 132D-5
15 do not apply to:

16 (1) The use of flares, noisemakers, or signals for
17 warning, pest control, or illumination purposes by
18 police and fire departments, utility companies,
19 transportation agencies, and other governmental or
20 private agencies or persons, including agricultural



- 1 operations, in connection with emergencies, their
2 duties, or business;
- 3 (2) The sale or use of blank cartridges for a show or
4 theater, or for signal, commercial, or institutional
5 purposes in athletics or sports;
- 6 (3) The purchase and use of consumer fireworks, aerial
7 devices, display fireworks, or articles pyrotechnic:
- 8 (A) In a movie, television production, or theatrical
9 production for which valid permits have been issued
10 by a county pursuant to section 132D-10; and
- 11 (B) In a movie or television production for which
12 valid permits have been issued by the department
13 of business, economic development, and tourism
14 pursuant to section 201-14, or for which permits
15 have been approved by the authority having
16 jurisdiction; and
- 17 (4) The testing, disposal, or destruction of illegal
18 fireworks by an agency with authority to enforce this
19 ~~chapter.~~ part."

20 SECTION 6. Section 132D-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§132D-7 License or permit required.** A person shall not:
2 (1) Import, store, offer to sell, or sell, at wholesale or
3 retail, aerial devices, display fireworks, articles
4 pyrotechnic, or consumer fireworks unless the person
5 has a valid license issued by the county; or
6 (2) Possess aerial devices, display fireworks, or articles
7 pyrotechnic without a valid license to import, store,
8 or sell aerial devices, display fireworks, or articles
9 pyrotechnic, or a valid display permit as provided for
10 in this [~~chapter.~~] part."

11 SECTION 7. Section 132D-8, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) Each storage, wholesaling, and retailing site shall
15 be required to obtain a separate license. The license shall
16 specify the date of issuance or effect and the date of
17 expiration, which shall be March 31 of each year. The
18 application shall be made on a form setting forth the date upon
19 which the storage, sale, or offers for sale are to begin, the
20 address of the location of the licensee, and the name of the
21 proprietor, or, if a partnership, the name of the partnership



1 and the names of all partners or, if a corporation, the name of
2 the corporation and the name of its officers. Any license
3 issued pursuant to this [~~chapter~~] part may be revoked by the
4 county if the licensee violates any provision of this chapter or
5 if the licensee stores or handles the fireworks in [~~such~~] a
6 manner as to present an unreasonable safety hazard."

7 2. By amending subsection (f) to read:

8 "(f) Any license issued pursuant to this [~~chapter~~] part
9 shall be prominently displayed in public view at each licensed
10 location."

11 SECTION 8. Section 132D-9, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§132D-9 Application for permit.** The permit required
14 under section 132D-10 or 132D-16 shall be issued by the county
15 or its authorized designees and be nontransferable. The county
16 or its authorized designees shall issue all permits for which
17 complete applications have been submitted and [~~which~~] that
18 contain only correct information. The permit shall specify the
19 date of issuance or effect and the date of expiration but in no
20 case for a period to exceed one year. The permit for the
21 purchase of consumer fireworks for the purposes of section 132D-



1 3 shall not allow purchase for more than one event as set forth
 2 in section 132D-3. The application shall be made on a form
 3 setting forth the dates for which the permit shall be valid, the
 4 location where the permitted activity is to occur, and the name
 5 of the proprietor or, if a partnership, the name of the
 6 partnership and the names of all partners or, if a corporation,
 7 the name of the corporation and the names of its officers. The
 8 permit application may be denied if the proposed use of
 9 fireworks or articles pyrotechnic presents a substantial
 10 inconvenience to the public or presents an unreasonable fire or
 11 safety hazard. Any permit issued pursuant to this [~~chapter~~
 12 part] shall be prominently displayed in public view at the site."

13 SECTION 9. Section 132D-11, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) The fee for the license required under section 132D-7
 16 shall be \$3,000 for importers, \$2,000 for each wholesaler's
 17 site, \$1,000 for each storage site, and \$500 for each retailer's
 18 site for each year or fraction of a year in which the licensee
 19 plans to conduct business and shall be payable to the county.
 20 The license fees shall be used solely by each county fire
 21 department to pay for the salary of an auditor of fireworks and



1 articles pyrotechnic records and all expenses incurred to
 2 fulfill the duties required, including the inspection of
 3 inventory and storage facilities, maintenance of required
 4 records, and the training of the auditor. The auditor shall
 5 monitor strict inventory and recordkeeping requirements to
 6 ensure that sales of fireworks or articles pyrotechnic are made
 7 only to license or permit holders under this [~~chapter.~~] part.
 8 The county shall provide an exemption from the fees under this
 9 section to nonprofit community groups for importation and
 10 storage of fireworks or articles pyrotechnic for displays once a
 11 year."

12 SECTION 10. Section 132D-14, Hawaii Revised Statutes, is
 13 amended as follows:

14 1. By amending its title to read:
 15 "**§132D-14 Penalty[-]; fireworks infractions.**"

16 2. By amending subsection (b) to read:
 17 "(b) Except as provided in subsection (a) or as otherwise
 18 specifically provided for in this chapter, any person violating
 19 any other provision of this chapter, shall be fined [~~not~~] no
 20 more than \$2,000 for each violation[-], subject to the
 21 adjudication proceedings under part _____. Notwithstanding any



1 provision to the contrary in this section, any person violating
2 section 132D-14.5 shall be fined at least \$500 and no more than
3 \$2,000[-], subject to the adjudication proceedings under
4 part _____."

5 SECTION 11. Section 132D-17.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§132D-17.5[+] **County ordinances.** (a) Nothing in this
8 [~~chapter~~] part shall be construed to supersede or in any manner
9 affect a county fireworks ordinance; provided that the ordinance
10 is at least as stringent in the control or prohibition of
11 fireworks as the law under this [~~chapter.~~] part.

12 (b) Nothing in this [~~chapter~~] part shall prohibit a county
13 from enacting ordinances that are more stringent in the control
14 or prohibition of fireworks than this chapter. Honolulu city
15 ordinance prohibiting the importation of consumer fireworks into
16 Honolulu was an ordinance that was "more stringent in the
17 control or prohibition of fireworks" enacted within the city's
18 power granted under this [~~chapter.~~] part."

19 SECTION 12. Section 132D-20, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§132D-20 Enforcement; probable cause for arrest.** (a)

2 This [~~chapter~~] part shall be enforced by each county. The
3 counties are authorized to enforce and administer the provisions
4 of this [~~chapter.~~] part

5 (b) Arrests for offenses under this [~~chapter~~] part or
6 under a county fireworks ordinance shall be made in compliance
7 with chapter 803. The facts and circumstances to establish
8 probable cause for an arrest may include but are not limited to:

9 (1) Statements from individuals who witnessed the offense,
10 even if those individuals are not law enforcement
11 officers; and

12 (2) Photographs, video recordings, or other recordings
13 that show the commission of the offense and can be
14 authenticated by one or more witnesses; provided that
15 a recording made using an unmanned aerial vehicle
16 shall be exempt from the requirement of authentication
17 by one or more witnesses.

18 For the purposes of this subsection:

19 "Other recording" includes any photograph or a video made
20 using an unmanned aerial vehicle.



1 "Unmanned aerial vehicle" means any aerial vehicle that is
2 operated without the possibility of direct human intervention
3 within or on the aerial vehicle. The term "unmanned aerial
4 vehicle" does not include a remote-controlled airplane."

5 SECTION 13. Section 571-41, Hawaii Revised Statutes, is
6 amended by amending subsection (f) to read as follows:

7 "(f) The judge, or the senior judge if there is more than
8 one, may by order confer concurrent jurisdiction on a district
9 court created under chapter 604 to hear and dispose of cases of
10 violation of traffic laws or ordinances, or fireworks infraction
11 rules established pursuant to part of chapter 132D, by
12 children, provision to the contrary in section 571-11 or
13 elsewhere notwithstanding. The exercise of jurisdiction over
14 children by district courts shall, nevertheless, be considered
15 noncriminal in procedure and result in the same manner as though
16 the matter had been adjudicated and disposed of by a family
17 court."

18 SECTION 14. Section 601-3.7, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:



1 "(a) There is established in the state treasury a special
2 fund to be known as the judiciary computer system special fund,
3 which shall contain the following:

4 (1) Moneys collected from administrative fees pursuant to
5 section 287-3(a);

6 (2) Fees prescribed by the supreme court by rule of court
7 for electronic document certification, electronic
8 copies of documents, and for providing bulk access to
9 electronic court records and compilations of data; and

10 (3) Fees pursuant to sections 132D-H(b)(3), 607-4(b)(10),
11 and 607-5(c)(32)."

12 SECTION 15. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2021-2022 and
15 the same sum or so much thereof as may be necessary for fiscal
16 year 2022-2023 to update the judiciary information management
17 system to implement the adjudications process established by
18 this Act.

19 The sums appropriated shall be expended by the judiciary
20 for the purposes of this Act.



1 SECTION 16. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 17. In codifying the new sections added by
5 section 2 and referenced in section 14 of this Act, the revisor
6 of statutes shall substitute appropriate section numbers for the
7 letters used in designating the new sections in this Act.

8 SECTION 18. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 19. This Act shall take effect on January 1, 2050.



H.B. NO. 1245 H.D. 2

Report Title:

Fireworks; Fireworks Infractions; Adjudication; Judiciary;
Appropriation

Description:

Establishes an expeditious adjudication system for the
processing of fireworks infractions. Appropriates funds.
Effective 1/1/2050. (HD2)

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

2021-1815 HB1245 HD2 HMSO

