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# A BILL FOR AN ACT

RELATING TO THE ENFORCEMENT OF LAWS.

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

1 PART I

2 SECTION 1. The legislature finds that the people of the  
3 State deserve to live in peace and security, without the public  
4 safety risks, health hazards, and traumatic impacts of illegal  
5 fireworks use. The legislature also finds that Act 170, Session  
6 Laws of Hawaii 2010, established an illegal fireworks task force  
7 to develop strategies and make recommendations to the  
8 legislature to address the illegal importation and use of  
9 fireworks in the State. Among other matters, the illegal  
10 fireworks task force recommended that the legislature consider  
11 increasing fireworks permit fees and violation fines to deter  
12 the use of illegal fireworks, decrease the supply of illegal  
13 fireworks in the State, and increase funding for prevention and  
14 enforcement efforts.

15 The legislature further finds that Act 184, Session Laws of  
16 Hawaii 2019, directed the legislative reference bureau to update  
17 the illegal fireworks task force's findings and recommendations.



1 In its report, the bureau noted that, although the legislature  
2 has introduced numerous measures to increase fireworks permit  
3 fees and violations fines since 2011, none of the measures were  
4 enacted.

5 The legislature further finds that technologies, such as  
6 ShotSpotter, which were originally developed to assist law  
7 enforcement in detecting gunshots, has shown the potential to  
8 assist police departments in enforcing fireworks laws. The  
9 legislature finds that these technologies allow law enforcement  
10 officers to instantly detect and locate the geographic origin of  
11 explosions caused by gunfire or illegal fireworks. The police  
12 department in Denver, Colorado, notes that this technology gives  
13 notice of gunshots within forty seconds and allows police to  
14 respond within twenty-five feet of the shot's origin. The  
15 legislature notes that ShotSpotter is currently being used by  
16 more than ninety cities nationwide, including Chicago, Illinois;  
17 Milwaukee, Wisconsin; and San Diego, California.

18 The legislature further finds that other technologies may  
19 assist law enforcement in data collection pertaining to illegal  
20 fireworks, including the web-based reporting tool created and  
21 supported by various agencies in Clark County, Nevada. The



1 legislature finds that the Clark County website has successfully  
2 forwarded thousands of complaints to Clark County law  
3 enforcement agencies since 2018.

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

13 The purpose of this Act is to:

- 14 (1) Establish an expeditious adjudication system for  
15 processing fireworks infractions, similar to the  
16 system for processing traffic infractions;
- 17 (2) Implement the recommendations of the 2010 illegal  
18 fireworks task force by:
  - 19 (A) Raising the fireworks display permit fee from  
20 \$110 to \$150;



- 1 (B) Increasing the fine for certain fireworks
- 2 violations from \$2,000 per violation to \$5,000
- 3 per violation;
- 4 (C) Clarifying that each aerial device, display
- 5 firework, or article pyrotechnic having a total
- 6 weight of twenty-five pounds or less that is
- 7 illegally imported, transferred, or sold
- 8 constitutes a separate violation; and
- 9 (D) Increasing the penalty for removing or extracting
- 10 the pyrotechnic contents from any fireworks or
- 11 articles pyrotechnic for certain uses;
- 12 (3) Authorize the sheriff division of the department of
- 13 public safety to enforce the fireworks control law;
- 14 (4) Require the attorney general to establish an explosion
- 15 detection technology working group; and
- 16 (5) Require the department of public safety to develop and
- 17 implement a web-based fireworks reporting tool that
- 18 will provide the counties with additional data to
- 19 enforce the applicable fireworks laws.



1 PART II

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

5 "PART . ADJUDICATION OF FIREWORKS INFRACTIONS

6 §132D-A Definitions. As used in this part:

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

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

16 "Hearing" means a proceeding conducted by the district  
17 court pursuant to section 132D-G at which the defendant to whom  
18 a notice of infraction was issued either admits to the fireworks  
19 infraction, contests the notice of infraction, or admits to the  
20 fireworks infraction but offers an explanation to mitigate the  
21 monetary assessment imposed.



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

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

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

12 **§132D-B Applicability.** (a) All fireworks infractions,  
13 including fireworks infractions committed by minors, shall be  
14 adjudicated pursuant to this chapter, except as provided in  
15 section 132D-14(a), subsection (b), or as otherwise specifically  
16 provided for in this part. This part shall be applied uniformly  
17 throughout the State and in all counties. Except as  
18 specifically provided otherwise in this part, no fireworks  
19 infraction shall be classified as a criminal offense.

20 (b) Where a defendant is charged with a fireworks  
21 infraction and the fireworks infraction is committed in the same



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

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

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



1 over the related criminal offense charged pursuant to the  
2 applicable statute or rule of court; provided that:

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

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

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

20 (B) Any testimony given by the defendant in the trial  
21 on the fireworks infraction.





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

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

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

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

18           (2) The defendant's civil liability for the fireworks  
19 infraction has been previously adjudicated pursuant to  
20 section 132D-G, the judgment earlier entered in favor  
21 of the State shall stand unless the court determines



1           that good cause or excusable neglect exists for the  
2           defendant's failure to appear.

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

8           **§132D-C Venue and jurisdiction.** (a) All fireworks  
9 infractions shall be adjudicated in the district and circuit  
10 courts where the alleged infraction occurred, except as  
11 otherwise provided by law.

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

16           **§132D-D Notice of infraction; form; determination final**  
17 **unless contested.** (a) The notice of infraction shall include  
18 the summons for the purposes of this part. Whenever a notice of  
19 infraction is issued, the defendant's signature, driver's  
20 license number or state identification number, current address,  
21 and electronic mail address shall be noted on the notice. If



1 the defendant refuses to sign the notice of infraction, the law  
2 enforcement officer shall record this refusal on the notice and  
3 issue the notice to the defendant. Individuals to whom a notice  
4 of infraction is issued under this part need not be arraigned  
5 before the court, unless required by rule of the supreme court.

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

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

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

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

18 (2) A brief statement of the facts;

19 (3) A statement of the total amount to be paid for each  
20 fireworks infraction, which amount shall include any  
21 fee, surcharge, or cost required by statute,



1 ordinance, or rule, and the monetary assessment  
2 established pursuant to section 132D-H, to be paid by  
3 the defendant;

4 (4) A statement of the options provided in  
5 section 132D-E(b) for answering the notice and the  
6 procedures necessary to exercise the options;

7 (5) A statement that the defendant to whom the notice is  
8 issued shall answer, choosing one of the options  
9 specified in section 132D-E(b), within twenty-one days  
10 of issuance of the notice;

11 (6) A statement that failure to answer the notice of  
12 infraction within twenty-one days of issuance shall  
13 result in the entry of judgment by default for the  
14 State and may result in the assessment of a late  
15 penalty;

16 (7) A statement that, at a hearing requested to contest  
17 the notice of infraction conducted pursuant to  
18 section 132D-G, no law enforcement officer shall be  
19 present unless the defendant timely requests the court  
20 to have the law enforcement officer present, and that  
21 the standard of proof to be applied by the court is



- 1           whether a preponderance of the evidence proves that  
2           the specified fireworks infraction was committed;
- 3       (8) A statement that, at a hearing requested for the  
4           purpose of explaining mitigating circumstances  
5           surrounding the commission of the fireworks infraction  
6           or in consideration of a written request for  
7           mitigation, the defendant shall be considered to have  
8           committed the fireworks infraction;
- 9       (9) A space in which the signature of the defendant to  
10           whom the notice of infraction was issued may be  
11           affixed; and
- 12       (10) The date, time, and place at which the defendant to  
13           whom the notice of infraction was issued shall appear  
14           in court, if the defendant is required by the notice  
15           to appear in person at the hearing.
- 16       **§132D-E Answer required.** (a) A defendant who receives a  
17       notice of infraction shall answer the notice within twenty-one  
18       days of the date of issuance of the notice. There shall be  
19       included with the notice of infraction a preaddressed envelope  
20       directed to the designated district court.



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

5 (1) Admit the commission of the fireworks infraction in  
6 one of the following ways:

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

18 (B) Via the Internet or by telephone, by submitting  
19 payment of the total amount stated on the notice  
20 of infraction. Payment via the Internet or by



1 telephone shall be by an approved credit or debit  
2 card;

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

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



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

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

9 **§132D-F Court action after answer or failure to answer.**

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

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

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





1 defendant in the denying answer, or if none was given,  
2 to the address provided by the 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 shall also advise the defendant  
7 that, if the defendant fails to appear at the hearing,  
8 the court shall enter judgment by default in favor of  
9 the State, as of the date of the scheduled hearing,  
10 and that the total amount specified in the default  
11 judgment shall be paid within thirty days of entry of  
12 default judgment; and

13 (2) When a denying answer is accompanied by a written  
14 statement of the grounds on which the defendant  
15 contests the notice of infraction, the court shall  
16 proceed as provided in section 132D-G(a) and shall  
17 notify the defendant of its decision, including the  
18 total amount assessed, if any, by mailing the notice  
19 of entry of judgment within forty-five days of the  
20 postmarked date of the answer to the address provided  
21 by the defendant in the denying answer, or if none was



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

18 (c) When an answer admitting commission of the firework  
19 infraction but seeking to explain mitigating circumstances is  
20 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 notice shall  
13 also advise the defendant that, if the defendant fails  
14 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 the defendant when the  
19 notice of infraction was issued. The notice of entry of default  
20 judgment shall advise the defendant that the total amount  
21 specified in the default judgment shall be paid within thirty



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



1 neglect and notify the defendant of its decision on the  
2 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 instance of  
9 noncompliance with a rule associated with the  
10 processing of fireworks infractions, in addition to  
11 any monetary assessment imposed by the court,  
12 regardless of whether the monetary assessment is  
13 suspended.

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

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



1           **§132D-I Time computation.** In computing any period of time  
2 prescribed or allowed by this part, the day of the act, event,  
3 or default from which the period of time begins to run shall not  
4 be included. The last day of the period so computed shall be  
5 included, unless it is a Saturday, Sunday, or legal holiday, in  
6 which event the period runs until the end of the next day that  
7 is not a Saturday, Sunday, or legal holiday. Intermediate  
8 Saturdays, Sundays, and legal holidays shall be included.  
9 Whenever an act required to be performed under this part may be  
10 accomplished by mail, the act shall be deemed to have been  
11 performed on the date of the postmark on the mailed article.

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

- 17           (1) To conduct fireworks infraction hearings and impose  
18           monetary assessments;
- 19           (2) To permit deferral of monetary assessments or impose  
20           community service in lieu of monetary assessments;



- 1 (3) To dismiss a notice of infraction, with or without
- 2 prejudice, or set aside a judgment for the State;
- 3 (4) To issue penal summonses and bench warrants and
- 4 initiate contempt of court proceedings in proceedings
- 5 conducted pursuant to section 132D-K;
- 6 (5) To issue penal summonses and bench warrants and
- 7 initiate failure to appear proceedings in proceedings
- 8 conducted pursuant to section 132D-D(d)(10); and
- 9 (6) To exercise other powers the court finds necessary and
- 10 appropriate to carry out the purposes of this part.

11 **§132D-K Trial and concurrent trial.** (a) There shall be  
 12 no right to trial unless the defendant contests the notice of  
 13 infraction pursuant to section 132D-G. If, after proceedings to  
 14 contest the notice of infraction, a determination is made that  
 15 the defendant committed the fireworks infraction, judgment shall  
 16 enter in favor of the State. The defendant may request a trial  
 17 pursuant to the Hawaii rules of evidence and the rules of the  
 18 district court; provided that any request for trial shall be  
 19 made within thirty days of entry of judgment. If, after  
 20 appearing in person at a hearing to contest the notice of  
 21 infraction, the defendant requests a trial at the conclusion of



1 the hearing, the court shall provide the defendant with the  
2 trial date as soon as practicable.

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

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

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

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

20 (2) Any testimony given by the defendant in the trial on  
21 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:



1           1. By amending the definition of "license" to read:  
 2           ""License" means a nontransferable, formal authorization,  
 3 valid for a period not to exceed one calendar year from the date  
 4 of issuance and which the department is hereby authorized to  
 5 issue under this [~~chapter 7~~] part, to engage in the act or acts  
 6 specifically designated herein."

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

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

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

- 17           (1) The use of flares, noisemakers, or signals for  
 18 warning, pest control, or illumination purposes by  
 19 police and fire departments, utility companies,  
 20 transportation agencies, and other governmental or  
 21 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



1 section 132D-3 shall not allow purchase for more than one event  
2 as set forth in section 132D-3. The application shall be made  
3 on a form setting forth the dates for which the permit shall be  
4 valid, the location where the permitted activity is to occur,  
5 and the name of the proprietor or, if a partnership, the name of  
6 the partnership and the names of all partners or, if a  
7 corporation, the name of the corporation and the names of its  
8 officers. The permit application may be denied if the proposed  
9 use of 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-10, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§132D-10 Permits.** A permit shall be required for the  
16 purchase and use of:

17 (1) Any consumer fireworks commonly known as firecrackers  
18 upon payment of a fee of \$25;

19 (2) Any aerial devices, display fireworks, or articles  
20 pyrotechnic for the purposes of section 132D-16 upon  
21 payment of a fee of [~~\$110;~~] \$150; and



1 (3) Any consumer fireworks for the purposes of  
2 section 132D-5 or for cultural uses that occur at any  
3 time other than during the periods prescribed in  
4 section 132D-3(1) upon a payment of a fee of \$25."

5 SECTION 10. Section 132D-11, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) The fee for the license required under section 132D-7  
8 shall be \$3,000 for importers, \$2,000 for each wholesaler's  
9 site, \$1,000 for each storage site, and \$500 for each retailer's  
10 site for each year or fraction of a year in which the licensee  
11 plans to conduct business and shall be payable to the county.

12 The license fees shall be used solely by each county fire  
13 department to pay for the salary of an auditor of fireworks and  
14 articles pyrotechnic records and all expenses incurred to  
15 fulfill the duties required, including the inspection of  
16 inventory and storage facilities, maintenance of required  
17 records, and the training of the auditor. The auditor shall  
18 monitor strict inventory and recordkeeping requirements to  
19 ensure that sales of fireworks or articles pyrotechnic are made  
20 only to license or permit holders under this [~~chapter.~~] part.

21 The county shall provide an exemption from the fees under this



1 section to nonprofit community groups for importation and  
2 storage of fireworks or articles pyrotechnic for displays once a  
3 year."

4 SECTION 11. Section 132D-14, Hawaii Revised Statutes, is  
5 amended by amending its title and subsections (a) and (b) to  
6 read as follows:

7 "~~§132D-14~~ **Penalty**~~[-];~~ fireworks infractions. (a) Any  
8 person:

9 (1) Importing aerial devices, display fireworks, or  
10 articles pyrotechnic without having a valid license  
11 under section 132D-7 shall be guilty of a class C  
12 felony; provided that each aerial device, display  
13 firework, or article pyrotechnic having a total weight  
14 of twenty-five pounds or less that is imported in  
15 violation of this paragraph shall constitute a  
16 separate violation;

17 (2) Purchasing, possessing, setting off, igniting, or  
18 discharging aerial devices, display fireworks, or  
19 articles pyrotechnic without a valid permit under  
20 sections 132D-10 and 132D-16, or storing, selling, or  
21 possessing aerial devices, display fireworks, or



1 articles pyrotechnic without a valid license under  
2 section 132D-7, or allowing an individual to possess,  
3 set off, ignite, or otherwise cause to explode any  
4 aerial device in violation of section 132D-14.5:

5 (A) If the total weight of the aerial devices,  
6 display fireworks, or articles pyrotechnic is  
7 twenty-five pounds or more, shall be guilty of a  
8 class C felony; or

9 (B) If the total weight of the aerial devices,  
10 display fireworks, or articles pyrotechnic is  
11 less than twenty-five pounds, shall be guilty of  
12 a misdemeanor;

13 (3) Who transfers or sells aerial devices, display  
14 fireworks, or articles pyrotechnic to a person who  
15 does not have a valid permit under sections 132D-10  
16 and 132D-16, shall be guilty of a class C felony;  
17 provided that each aerial device, display firework, or  
18 article pyrotechnic having a total weight of  
19 twenty-five pounds or less that is transferred or sold  
20 in violation of this paragraph shall constitute a  
21 separate violation; and



1 (4) Who removes or extracts the pyrotechnic contents from  
2 any fireworks or articles pyrotechnic and uses the  
3 contents to construct fireworks, articles pyrotechnic,  
4 or a fireworks or articles pyrotechnic related device  
5 shall be guilty of a [~~misdemeanor.~~] class C felony.

6 (b) Except as provided in subsection (a) or as otherwise  
7 specifically provided for in this chapter, any person violating  
8 any other provision of this chapter, shall be fined [~~not~~] no  
9 more than [\$2,000] \$5,000 for each violation[-], subject to the  
10 adjudication proceedings under part \_\_\_\_ . Notwithstanding any  
11 provision to the contrary in this section, any person violating  
12 section 132D-14.5 shall be fined at least \$500 and no more than  
13 \$2,000[-], subject to the adjudication proceedings under  
14 part \_\_\_\_ ."

15 SECTION 12. Section 132D-17.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§132D-17.5[+] **County ordinances.** (a) Nothing in this  
18 [~~chapter~~] part shall be construed to supersede or in any manner  
19 affect a county fireworks ordinance; provided that the ordinance  
20 is at least as stringent in the control or prohibition of  
21 fireworks as the law under this [~~chapter.~~] part.



1 (b) Nothing in this [~~chapter~~] part shall prohibit a county  
2 from enacting ordinances that are more stringent in the control  
3 or prohibition of fireworks than this [~~chapter.~~] part."

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

6 "**§132D-20 Enforcement; probable cause for arrest.** (a)

7 This [~~chapter~~] part shall be enforced by each county~~[-]~~;  
8 provided that the sheriff division of the department of public  
9 safety may assist each county in the enforcement of this part.

10 The counties and the sheriff division are authorized to enforce  
11 and administer the provisions of this [~~chapter.~~] part.

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

16 (1) Statements from individuals who witnessed the offense,  
17 even if those individuals are not law enforcement  
18 officers; and

19 (2) Photographs, video recordings, or other recordings  
20 that show the commission of the offense and can be  
21 authenticated by one or more witnesses; provided that





1 a recording made using an unmanned aerial vehicle  
2 shall be exempt from the requirement of authentication  
3 by one or more witnesses.

4 For the purposes of this subsection:

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

7 "Unmanned aerial vehicle" means any aerial vehicle that is  
8 operated without the possibility of direct human intervention  
9 within or on the aerial vehicle. The term "unmanned aerial  
10 vehicle" does not include a remote-controlled airplane."

11 SECTION 14. Section 571-41, Hawaii Revised Statutes, is  
12 amended by amending subsection (f) to read as follows:

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



1 the matter had been adjudicated and disposed of by a family  
2 court."

3 SECTION 15. Section 601-3.7, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

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

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

10 (2) Fees prescribed by the supreme court by rule of court  
11 for electronic document certification, electronic  
12 copies of documents, and for providing bulk access to  
13 electronic court records and compilations of data; and

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

16 SECTION 16. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$ or so  
18 much thereof as may be necessary for fiscal year 2021-2022 and  
19 the same sum or so much thereof as may be necessary for fiscal  
20 year 2022-2023 to update the judiciary information management



1 system to implement the adjudications process established by  
2 this part.

3 The sums appropriated shall be expended by the judiciary  
4 for the purposes of this part.

5 PART III

6 SECTION 17. (a) The attorney general shall establish an  
7 explosion detection technology working group to study the  
8 feasibility of purchasing and deploying explosion detection  
9 technology for the purpose of assisting the police department in  
10 each county having a population of more than five hundred  
11 thousand in locating and responding to explosions caused by the  
12 illegal use of firearms and fireworks.

13 (b) Members of the working group shall include the:

14 (1) Attorney general;

15 (2) Chief of the police department for each county having  
16 a population of more than five hundred thousand;

17 (3) Prosecuting attorney for each county having a  
18 population of more than five hundred thousand; and

19 (4) Members of the state fire council.

20 SECTION 18. The explosion detection technology working  
21 group shall submit a report of its findings and recommendations,



1 including any proposed legislation, to the legislature no later  
2 than twenty days prior to the convening of the regular session  
3 of 2022.

4 SECTION 19. The explosion detection technology working  
5 group shall cease to exist on February 1, 2022.

6 PART IV

7 SECTION 20. (a) The department of public safety shall  
8 collaborate with county law enforcement agencies to develop and  
9 implement a statewide web-based reporting tool for illegal  
10 fireworks that will allow data to be shared with county law  
11 enforcement agencies for the purpose of assisting county law  
12 enforcement agencies to accurately identify problematic  
13 geographic areas and subsequently plan targeted methods of  
14 enforcement.

15 (b) The statewide web-based fireworks reporting tool shall  
16 include the following features:

- 17 (1) Anonymous reporting functions;
- 18 (2) A location reporting mechanism that uses an  
19 interactive global positioning system map of the State  
20 to allow for precise address reporting;



- 1 (3) A picture and video upload feature to allow for the
- 2 submission of evidence;
- 3 (4) An optional contact information submission feature;
- 4 and
- 5 (5) Report-generating features, accessible only by state
- 6 and county law enforcement agencies.

7 (c) Data collected through this statewide web-based  
8 fireworks reporting tool shall not include public report  
9 generating features; provided that state and county law  
10 enforcement agencies may provide anonymous data for public  
11 information.

12 SECTION 21. 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 for the department of public safety to develop  
17 and implement a statewide web-based reporting tool for illegal  
18 fireworks; provided that the department shall collaborate with  
19 county law enforcement agencies in the development and  
20 implementation of the statewide web-based fireworks reporting  
21 tool.



1           The sums appropriated shall be expended by the department  
2 of public safety for the purposes of this part.

3                                   PART VI

4           SECTION 22. This Act does not affect rights and duties  
5 that matured, penalties that were incurred, and proceedings that  
6 were begun before its effective date.

7           SECTION 23. If any provision of this Act, or the  
8 application thereof to any person or circumstance, is held  
9 invalid, the invalidity does not affect other provisions or  
10 applications of the Act that can be given effect without the  
11 invalid provision or application, and to this end the provisions  
12 of this Act are severable.

13           SECTION 24. In codifying the new sections added by  
14 section 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17           SECTION 25. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19           SECTION 26. This Act shall take effect on May 6, 2137.



**Report Title:**

Fireworks; Explosions; Working Group; Internet; Public Safety;  
Fireworks Infractions; Adjudication; Judiciary; Appropriation

**Description:**

Establishes an expeditious adjudication system for the processing of fireworks infractions. Increases the fireworks display permit fee from \$110 to \$150 and the fine for certain fireworks violations from \$2,000 per violation to \$5,000 per violation. Clarifies that each aerial device, display firework, or article pyrotechnic having a total weight of twenty-five pounds or less that is illegally imported, transferred, or sold constitutes a separate violation. Increases the penalty for removing or extracting the pyrotechnic contents. Authorizes the sheriff division to enforce the fireworks control law. Requires the attorney general to establish an explosion detection technology working group. Requires the department of public safety to develop and implement a web-based fireworks reporting tool. Appropriates funds. Effective 5/6/2137. (HD1)

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

