

JAN 26 2022

A BILL FOR AN ACT

RELATING TO THE ENFORCEMENT OF LAWS.

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

PART I

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

The legislature further finds that Act 184, Session Laws of Hawaii 2019, directed the legislative reference bureau to update 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, including
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 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;



(B) Amending the fines for certain fireworks violations;

(C) Clarifying 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; and

(D) Increasing the penalty for removing or extracting the pyrotechnic contents from any fireworks or articles pyrotechnic for certain uses;

(3) Authorize the sheriff division of the department of public safety to enforce the fireworks control law;

(4) Require the attorney general to establish an explosion detection technology working group; and

(5) Require the department of public safety to develop and implement a web-based reporting tool for illegal fireworks that will provide the counties with additional data to enforce the applicable fireworks laws.



PART II

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

"PART . ADJUDICATION OF FIREWORKS INFRACTIONS**§132D-A Definitions.** As used in this part:

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

"Fireworks infraction" means any violation of this chapter that is not explicitly classified as a felony or misdemeanor, any rule adopted pursuant to this part, or any county ordinance or rule enacted pursuant to this part.

"Hearing" means a proceeding conducted by the district court pursuant to section 132D-G at which the defendant to whom a notice of infraction was issued either admits to the fireworks 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 and the infraction's
7 title or 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) of this section, or as
18 otherwise specifically provided for in this part. This part
19 shall be applied uniformly throughout the State and in all
20 counties. Except as specifically provided otherwise in this



1 part, no fireworks infraction issued pursuant to this chapter
2 shall be classified as a criminal offense.

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

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

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



1 paragraph (1), the concurrent trial shall be held in the
2 appropriate district or family court of the circuit in which the
3 fireworks infraction was committed, whichever has jurisdiction
4 over the related criminal offense charged pursuant to the
5 applicable statute or rule of court; provided that:

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

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



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

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

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

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

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

(1) The defendant's civil liability for the fireworks infraction has not yet been adjudicated pursuant to section 132D-G, the court shall enter a judgment by default in favor of the State for the fireworks infraction unless the court determines that good cause



1 or excusable neglect exists for the defendant's
2 failure to appear; or

3 (2) The defendant's civil liability for the fireworks
4 infraction has been previously adjudicated pursuant to
5 section 132D-G, the judgment earlier entered in favor
6 of the State shall stand unless the court determines
7 that good cause or excusable neglect exists for the
8 defendant's failure to appear.

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

14 **§132D-C Venue and jurisdiction.** (a) All fireworks
15 infractions shall be adjudicated in the district and circuit
16 courts having jurisdiction over the location in which the
17 alleged infraction occurred, except as otherwise provided by
18 law.

19 (b) Except as otherwise provided by law, jurisdiction is
20 in the district court of the circuit where the alleged fireworks



1 infraction occurred. Except as otherwise provided in this part,
2 district court judges shall adjudicate fireworks infractions.

3 **§132D-D Notice of infraction; form; determination final**
4 **unless contested.** (a) A notice of infraction issued pursuant
5 to this part shall include the summons for the purposes of this
6 part. Whenever a notice of infraction is issued, the
7 defendant's signature, driver's license number or state
8 identification number, current address, and electronic mail
9 address shall be noted on the notice. If the defendant refuses
10 to sign the notice of infraction, the law enforcement officer
11 shall record this refusal on the notice and issue the notice to
12 the defendant. Individuals to whom a notice of infraction is
13 issued under this part need not be arraigned before the court,
14 unless required by rule of the supreme court.

15 (b) The form for the notice of infraction shall be
16 prescribed by rules of the district court and shall be uniform
17 throughout the State; provided that each judicial circuit may
18 include statutory, rule, or ordinance provisions on its
19 respective notice of infraction that differ from those of
20 another judicial circuit.



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

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

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

8 (2) A brief statement of the facts;

9 (3) A statement of the total amount to be paid for each
10 fireworks infraction, which amount shall include any
11 fee, surcharge, or cost required by statute,
12 ordinance, or rule, and the monetary assessment
13 established pursuant to section 132D-H, to be paid by
14 the defendant;

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

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



1 (6) A statement that failure to answer the notice of
2 infraction within twenty-one days of issuance shall
3 result in the entry of judgment by default for the
4 State and may result in the assessment of a late
5 penalty;

6 (7) A statement that, at a hearing requested to contest
7 the notice of infraction conducted pursuant to
8 section 132D-G, the law enforcement officer who issued
9 the notice of infraction shall not be present unless
10 the defendant timely requests the court to have the
11 law enforcement officer present, and that the standard
12 of proof to be applied by the court is whether a
13 preponderance of the evidence proves that the
14 specified fireworks infraction was committed;

15 (8) A statement that, at a hearing requested for the
16 purpose of explaining mitigating circumstances
17 surrounding the commission of the fireworks infraction
18 or in consideration of a written request for
19 mitigation, the defendant shall be considered to have
20 committed the fireworks infraction;



1 (9) A space in which the signature of the defendant to
2 whom the notice of infraction was issued may be
3 affixed; and

4 (10) The date, time, and place at which the defendant to
5 whom the notice of infraction was issued shall appear
6 in court, if the defendant is required by the notice
7 to appear in person at the hearing.

8 **§132D-E Answer required.** (a) A defendant who receives a
9 notice of infraction shall answer the notice within twenty-one
10 days of the date of issuance of the notice. There shall be
11 included with the notice of infraction a preaddressed envelope
12 directed to the designated district court.

13 (b) If notice of infraction does not require a defendant
14 to appear in person at a hearing as set forth in section
15 132D-D(d)(10), in answering the notice of infraction, the
16 defendant shall have the following options:

17 (1) Admit to the commission of the fireworks infraction
18 using one of the following methods:

19 (A) By mail or in person, by completing the
20 appropriate portion of the notice of infraction
21 or preaddressed envelope and submitting the



1 completed portion to the authority specified on
2 the notice together with payment of the total
3 amount stated on the notice of infraction.

4 Payment by mail shall be in the form of a check,
5 money order, or by an approved credit or debit
6 card. Payment in person shall be in the form of
7 United States currency, check, money order, or by
8 an approved credit or debit card; or

9 (B) Via the Internet or by telephone, by submitting
10 payment of the total amount stated on the notice
11 of infraction. Payment via the Internet or by
12 telephone shall be by an approved credit or debit
13 card;

14 (2) Deny the commission of the fireworks infraction and
15 request a hearing to contest the fireworks infraction
16 by completing the appropriate portion of the notice of
17 infraction or preaddressed envelope and submitting the
18 completed portion, either by mail or in person, to the
19 authority specified on the notice. In lieu of
20 appearing in person at a hearing, the defendant may
21 submit a written statement of grounds on which the



1 defendant contests the notice of infraction, which
2 shall be considered by the court as a statement given
3 in court pursuant to section 132D-G(a); or

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

15 (c) When answering the notice of infraction, the defendant
16 shall affix the defendant's signature to the answer and shall
17 state the address at which the defendant will accept future
18 mailings from the court. No other response shall constitute an
19 answer for purposes of this part.

20 **§132D-F Court action after answer or failure to answer.**

21 (a) When an answer admitting to the commission of a fireworks



1 infraction pursuant to section 132D-E(b)(1) is received, the
2 court shall enter judgment in favor of the State in the total
3 amount specified in the notice of infraction.

4 (b) When an answer denying the commission of a fireworks
5 infraction pursuant to section 132D-E(b)(2) is received, the
6 court shall proceed as follows:

7 (1) In the case of a fireworks infraction in which the
8 defendant requests a hearing at which the defendant
9 will appear in person to contest the fireworks
10 infraction, the court shall notify the defendant in
11 writing of the date, time, and location of hearing to
12 contest the notice of infraction. The notice of
13 hearing shall be mailed to the address provided by the
14 defendant in the denying answer, or if none was
15 provided, to the address provided by the defendant
16 when the notice of infraction was issued, or if none
17 was provided, to the electronic mail address provided
18 by the defendant when the notice of infraction was
19 issued. The notice shall also advise the defendant
20 that, if the defendant fails to appear at the hearing,
21 the court shall enter judgment by default in favor of



1 the State, as of the date of the scheduled hearing,
2 and that the total amount specified in the default
3 judgment shall be paid within thirty days of entry of
4 default judgment; and

5 (2) When a denying answer is accompanied by a written
6 statement of the grounds on which the defendant
7 contests the notice of infraction, the court shall
8 proceed as provided in section 132D-G(a) and shall
9 notify the defendant of the court's decision,
10 including the total amount assessed, if any, by
11 mailing the notice of entry of judgment within forty-
12 five days of the postmarked date of the answer to the
13 address provided by the defendant in the denying
14 answer, or if none was provided, to the address
15 provided by the defendant when the notice of
16 infraction was issued, or if none was provided, to the
17 electronic mail address provided by the defendant when
18 the notice of infraction was issued. The notice of
19 entry of judgment shall also advise the defendant, if
20 it is determined that the fireworks infraction was
21 committed and judgment is entered in favor of the



1 State, that the defendant has the right, within thirty
2 days of entry of judgment, to request a trial and
3 specify the procedures for doing so. If an amount is
4 assessed by the court for monetary assessments, fees,
5 surcharges, or costs, then the notice of entry of
6 judgment shall also notify the defendant that, if the
7 defendant does not request a trial within the time
8 specified in this paragraph, the total amount assessed
9 shall be paid within thirty days of entry of judgment.

10 (c) When an answer admitting commission of the firework
11 infraction but seeking to explain mitigating circumstances
12 pursuant to section 132D-E(b)(3) is received, the court shall
13 proceed as follows:

14 (1) In the case of a fireworks infraction in which the
15 defendant requests a hearing at which the defendant
16 will appear in person to explain mitigating
17 circumstances, the court shall notify the defendant in
18 writing of the date, time, and location of the hearing
19 to explain mitigating circumstances. The notice of
20 hearing shall be mailed to the address provided by the
21 defendant in the answer, or if none was provided, to



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

11 (2) If a written explanation is included with an answer
12 admitting commission of the fireworks infraction, the
13 court shall enter judgment for the State and, after
14 reviewing the explanation, determine the total amount
15 of the monetary assessments, fees, surcharges, or
16 costs to be assessed, if any. The court shall then
17 notify the defendant of the total amount to be paid
18 for the fireworks infraction, if any. There shall be
19 no appeal from the judgment. If the court assesses an
20 amount for monetary assessments, fees, surcharges, or
21 costs, the court shall also notify the defendant that



1 the total amount shall be paid within thirty days of
2 entry of judgment.

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

6 (e) Whenever judgment by default in favor of the State is
7 entered, the court shall mail a notice of entry of default
8 judgment to the address provided by the defendant when the
9 notice of infraction was issued, or if none was provided, to the
10 electronic mail address provided by the defendant when the
11 notice of infraction was issued. The notice of entry of default
12 judgment shall advise the defendant that the total amount
13 specified in the default judgment shall be paid within thirty
14 days of entry of default judgment and shall explain the
15 procedure for setting aside a default judgment. Judgment by
16 default for the State entered pursuant to this part may be set
17 aside pending final disposition of the fireworks infraction upon
18 written application of the defendant and posting of an
19 appearance bond equal to the amount of the total amount
20 specified in the default judgment and any other assessment
21 imposed pursuant to section 132D-H. The application shall show



1 good cause or excusable neglect for the defendant's failure to
2 take action necessary to prevent entry of judgment by default.
3 Thereafter, the court shall determine whether good cause or
4 excusable neglect exists for the defendant's failure to take
5 action necessary to prevent entry of judgment by default. If
6 the court determines that good cause does exist, the application
7 to set aside default judgment shall be granted, the default
8 judgment shall be set aside, and the notice of infraction shall
9 be disposed of pursuant to this part. If the court determines
10 that good cause does not exist, the application to set aside
11 default judgment shall be denied, the appearance bond shall be
12 forfeited and applied to satisfy the amounts due under the
13 default judgment, and the notice of infraction shall be finally
14 disposed. In either case, the court shall determine the
15 existence of good cause or excusable neglect and notify the
16 defendant of the court's decision on the application in writing.

17 **§132D-G Hearings.** (a) In proceedings to contest a notice
18 of infraction in which the defendant to whom the notice was
19 issued has timely requested a hearing and appears at the
20 hearing:



- 1 (1) In lieu of the personal appearance by the law
2 enforcement officer who issued the notice of
3 infraction, the court shall consider the notice of
4 infraction and any other written report made by the
5 law enforcement officer, if provided to the court by
6 the law enforcement officer, together with any oral or
7 written statement by the defendant to whom the notice
8 of infraction was issued;
- 9 (2) The standard of proof to be applied by the court shall
10 be whether, by a preponderance of the evidence, the
11 court finds that the fireworks infraction was
12 committed; and
- 13 (3) After due consideration of the evidence and arguments,
14 if any, the court shall determine whether commission
15 of the fireworks infraction has been established. If
16 the commission of the fireworks infraction has not
17 been established, judgment in favor of the defendant,
18 dismissing the notice of infraction or any count
19 therein with prejudice, shall be entered into the
20 record. If it has been established that the fireworks
21 infraction was committed, the court shall enter



1 judgment in favor of the State and shall assess a
2 monetary assessment pursuant to section 132D-H,
3 together with any fees, surcharges, or costs. The
4 court also shall inform the defendant of the
5 defendant's right to request a trial pursuant to
6 section 132D-K.

7 (b) In proceedings to explain mitigating circumstances in
8 which the defendant to whom the notice of infraction was issued
9 has timely requested a hearing and appears at the hearing:

10 (1) The procedure shall be limited to the issue of
11 mitigating circumstances. A defendant who requests to
12 explain the circumstances shall not be permitted to
13 contest the notice of infraction;

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

19 (3) If the explanation establishes that the infraction was
20 not committed, the court, after receiving the
21 explanation, may vacate the admission and enter



1 judgment in favor of the defendant, dismissing the
2 notice of infraction or any count therein with
3 prejudice; and

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

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

10 **§132D-H Monetary assessments.** (a) A defendant found to
11 have committed a fireworks infraction shall be assessed a
12 monetary assessment pursuant to section 132D-14.

13 (b) In addition to any monetary assessment imposed for a
14 fireworks infraction, the court may impose additional
15 assessments for:

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

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

20 (3) The administrative costs of \$20 for each instance of
21 noncompliance with a rule associated with the



1 processing of fireworks infractions, in addition to
2 any monetary assessment imposed by the court,
3 regardless of whether the monetary assessment is
4 suspended.

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

8 (d) The court may grant to a defendant claiming inability
9 to pay the monetary assessment an extension of the period in
10 which the monetary assessment shall be paid or may impose
11 community service in lieu of payment of the monetary assessment.

12 **§132D-I Time computation.** In computing any period of time
13 prescribed or allowed by this part, the day of the act, event,
14 or default from which the period of time begins to run shall not
15 be included. The last day of the period so computed shall be
16 included, unless it is a Saturday, Sunday, or legal holiday, in
17 which event the period runs until the end of the next day that
18 is not a Saturday, Sunday, or legal holiday. Intermediate
19 Saturdays, Sundays, and legal holidays shall be included.

20 Whenever an act required to be performed under this part may be



1 accomplished by mail, the act shall be deemed to have been
2 performed on the date of the postmark on the mailed article.

3 **§132D-J Powers of the district court judge hearing cases**
4 **pursuant to this part.** A district court judge hearing cases
5 pursuant to this part shall have all the powers of a district
6 court judge under chapter 604, including the following powers:

7 (1) To conduct fireworks infraction hearings and impose
8 monetary assessments;

9 (2) To permit deferral of monetary assessments or impose
10 community service in lieu of monetary assessments;

11 (3) To dismiss a notice of infraction, with or without
12 prejudice, or set aside a judgment for the State;

13 (4) To issue penal summonses and bench warrants and
14 initiate contempt of court proceedings arising from
15 proceedings conducted pursuant to section 132D-K;

16 (5) To issue penal summonses and bench warrants and
17 initiate failure to appear proceedings arising from
18 proceedings conducted pursuant to section
19 132D-D(d)(10); and

20 (6) To exercise other powers the court finds necessary and
21 appropriate to carry out the purposes of this part.



§132D-K Trial and concurrent trial.

(a) There shall be no right to trial unless the defendant contests the notice of infraction pursuant to section 132D-G. If, after proceedings to contest the notice of infraction, a determination is made that the defendant committed the fireworks infraction, judgment shall be entered in favor of the State. The defendant may request a trial pursuant to the Hawaii rules of evidence and the rules of the district court; provided that any request for trial shall be made within thirty days of entry of judgment. If, after appearing in person at a hearing to contest the notice of infraction, the defendant requests a trial at the conclusion of the hearing, the court shall provide the defendant with the trial date as soon as practicable.

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



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

4 (d) If trial on the fireworks infraction is held prior to
5 a trial on any related criminal offense, the following shall be
6 inadmissible in the subsequent prosecution or trial of the
7 related criminal offense:

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

11 (2) Any testimony given by the defendant in the trial on
12 the fireworks infraction.

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

16 (e) In any concurrent trial, the State shall be
17 represented by a prosecuting attorney of the county in which the
18 fireworks infraction and related crime occurred. Proof of the
19 defendant's commission of the fireworks infraction shall be by a
20 preponderance of the evidence, and proof of the related criminal
21 offense shall be by proof beyond a reasonable doubt. The



1 concurrent trial shall be conducted pursuant to the rules of the
2 appropriate court, Hawaii rules of evidence, and Hawaii rules of
3 penal procedure.

4 **§132D-L Rules.** (a) The supreme court may adopt rules of
5 procedure for the conduct of all proceedings pursuant to this
6 part.

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

10 (c) Notwithstanding section 604-17, while the court is
11 sitting in any matter pursuant to this part, the court shall not
12 be required to preserve the testimony or proceedings, except
13 proceedings conducted pursuant to section 132D-K and proceedings
14 in which the fireworks infraction is heard on the same date and
15 time as any related criminal offense.

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



1 (e) Chapter 91 shall not apply in proceedings before the
2 court.

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

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

9 **"PART I. GENERAL PROVISIONS"**

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

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

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

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

19 "Permit" means a nontransferable, formal authorization,
20 valid for a period not to exceed one calendar year from the date
21 of issuance and which a county is hereby authorized to issue



1 under this [~~chapter~~] part, to engage in the act or acts
2 specifically designated herein."

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

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

- 7 (1) The use of flares, noisemakers, or signals for
8 warning, pest control, or illumination purposes by
9 police and fire departments, utility companies,
10 transportation agencies, and other governmental or
11 private agencies or persons, including agricultural
12 operations, in connection with emergencies, their
13 duties, or business;
- 14 (2) The sale or use of blank cartridges for a show or
15 theater, or for signal, commercial, or institutional
16 purposes in athletics or sports;
- 17 (3) The purchase and use of consumer fireworks, aerial
18 devices, display fireworks, or articles pyrotechnic:
- 19 (A) In a movie, television production, or theatrical
20 production for which valid permits have been issued
21 by a county pursuant to section 132D-10; and



1 (B) In a movie or television production for which
2 valid permits have been issued by the department
3 of business, economic development, and tourism
4 pursuant to section 201-14, or for which permits
5 have been approved by the authority having
6 jurisdiction; and

7 (4) The testing, disposal, or destruction of illegal
8 fireworks by an agency with authority to enforce this
9 ~~[chapter.]~~ part."

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

12 "**§132D-7 License or permit required.** A person shall not:

13 (1) Import, store, offer to sell, or sell, at wholesale or
14 retail, aerial devices, display fireworks, articles
15 pyrotechnic, or consumer fireworks unless the person
16 has a valid license issued by the county; or

17 (2) Possess aerial devices, display fireworks, or articles
18 pyrotechnic without a valid license to import, store,
19 or sell aerial devices, display fireworks, or articles
20 pyrotechnic, or a valid display permit as provided for
21 in this ~~[chapter.]~~ part."



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

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

4 "(b) Each storage, wholesaling, and retailing site shall
5 be required to obtain a separate license. The license shall
6 specify the date of issuance or effect and the date of
7 expiration, which shall be March 31 of each year. The
8 application shall be made on a form setting forth the date upon
9 which the storage, sale, or offers for sale are to begin, the
10 address of the location of the licensee, and the name of the
11 proprietor, or, if a partnership, the name of the partnership
12 and the names of all partners or, if a corporation, the name of
13 the corporation and the name of its officers. Any license
14 issued pursuant to this [~~chapter~~] part may be revoked by the
15 county if the licensee violates any provision of this chapter or
16 if the licensee stores or handles the fireworks in [~~such~~] a
17 manner as to present an unreasonable safety hazard."

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

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



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

3 "**§132D-9 Application for permit.** The permit required
4 under section 132D-10 or 132D-16 shall be issued by the county
5 or its authorized designees and be nontransferable. The county
6 or its authorized designees shall issue all permits for which
7 complete applications have been submitted and ~~[which]~~ that
8 contain only correct information. The permit shall specify the
9 date of issuance or effect and the date of expiration but in no
10 case for a period to exceed one year. The permit for the
11 purchase of consumer fireworks for the purposes of section
12 132D-3 shall not allow purchase for more than one event as set
13 forth in section 132D-3. The application shall be made on a
14 form setting forth the dates for which the permit shall be
15 valid, the location where the permitted activity is to occur,
16 and the name of the proprietor or, if a partnership, the name of
17 the partnership and the names of all partners or, if a
18 corporation, the name of the corporation and the names of its
19 officers. The permit application may be denied if the proposed
20 use of fireworks or articles pyrotechnic presents a substantial
21 inconvenience to the public or presents an unreasonable fire or



1 safety hazard. Any permit issued pursuant to this [~~chapter~~]
2 part shall be prominently displayed in public view at the site."

3 SECTION 9. Section 132D-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§132D-10 Permits.** A permit shall be required for the
6 purchase and use of:

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

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

12 (3) Any consumer fireworks for the purposes of section
13 132D-5 or for cultural uses that occur at any time
14 other than during the periods prescribed in section
15 132D-3(1) upon a payment of a fee of \$25."

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

18 "(a) The fee for the license required under section 132D-7
19 shall be \$3,000 for importers, \$2,000 for each wholesaler's
20 site, \$1,000 for each storage site, and \$500 for each retailer's
21 site for each year or fraction of a year in which the licensee



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

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

18 "**§132D-14 Penalty[+]; fireworks infractions.** (a) Any
19 person:

20 (1) Importing aerial devices, display fireworks, or
21 articles pyrotechnic without having a valid license



1 under section 132D-7 shall be guilty of a class C
2 felony; provided that each aerial device, display
3 firework, or article pyrotechnic having a total weight
4 of twenty-five pounds or less that is imported in
5 violation of this paragraph shall constitute a
6 separate criminal act;

7 (2) Purchasing, possessing, setting off, igniting, or
8 discharging aerial devices, display fireworks, or
9 articles pyrotechnic without a valid permit under
10 sections 132D-10 and 132D-16, or storing, selling, or
11 possessing aerial devices, display fireworks, or
12 articles pyrotechnic without a valid license under
13 section 132D-7, or allowing an individual to possess,
14 set off, ignite, or otherwise cause to explode any
15 aerial device in violation of section 132D-14.5:

16 (A) If the total weight of the aerial devices,
17 display fireworks, or articles pyrotechnic is
18 twenty-five pounds or more, shall be guilty of a
19 class C felony; or

20 (B) If the total weight of the aerial devices,
21 display fireworks, or articles pyrotechnic is



1 less than twenty-five pounds, shall be guilty of
2 a misdemeanor;

3 (3) Who transfers or sells aerial devices, display
4 fireworks, or articles pyrotechnic to a person who
5 does not have a valid permit under sections 132D-10
6 and 132D-16, shall be guilty of a class C felony;
7 provided that each aerial device, display firework, or
8 article pyrotechnic having a total weight of
9 twenty-five pounds or less that is transferred or sold
10 in violation of this paragraph shall constitute a
11 separate criminal act; and

12 (4) Who removes or extracts the pyrotechnic contents from
13 any fireworks or articles pyrotechnic and uses the
14 contents to construct fireworks, articles pyrotechnic,
15 or a fireworks or articles pyrotechnic related device
16 shall be guilty of a ~~[misdemeanor.]~~ class C felony.

17 (b) Except as provided in subsection (a) or as otherwise
18 specifically provided for in this chapter~~[.]~~ as a felony or
19 misdemeanor, any person violating any other provision of this
20 chapter, shall be fined ~~[not more than \$2,000]~~ \$5,000 for each
21 violation~~[.]~~, subject to the adjudication proceedings under



1 part . Notwithstanding any provision to the contrary in this
2 section, any person violating section 132D-14.5 shall be fined
3 ~~[at least]~~ \$500 ~~[and no more than]~~ for a single violation or
4 \$2,000[-] for multiple violations, subject to the adjudication
5 proceedings under part ."

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

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

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

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

18 "**\$132D-20 Enforcement; probable cause for arrest.** (a)
19 This ~~[chapter]~~ part shall be enforced by each county[-];
20 provided that the sheriff division of the department of public
21 safety may assist each county in the enforcement of this part.



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

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

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

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

16 For the purposes of this subsection:

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

19 "Unmanned aerial vehicle" means any aerial vehicle that is
20 operated without the possibility of direct human intervention



1 within or on the aerial vehicle. The term "unmanned aerial
2 vehicle" does not include a remote-controlled airplane."

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

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

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

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



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

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

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

9 SECTION 16. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so much
11 thereof as may be necessary for fiscal year 2022-2023 to update
12 the judiciary information management system to implement the
13 adjudication process established by this part.

14 The sum appropriated shall be expended by the judiciary for
15 the purposes of this part.

16 PART III

17 SECTION 17. (a) The attorney general shall establish an
18 explosion detection technology working group to study the
19 feasibility of purchasing and deploying explosion detection
20 technology for the purpose of assisting the police department in
21 each county having a population of more than five hundred



1 thousand in locating and responding to explosions caused by the
2 illegal use of firearms and fireworks.

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

4 (1) Attorney general;

5 (2) Chief of the police department of each county having a
6 population of more than five hundred thousand;

7 (3) Prosecuting attorney of each county having a
8 population of more than five hundred thousand; and

9 (4) Each member of the state fire council.

10 SECTION 18. The explosion detection technology working
11 group shall submit a report of its findings and recommendations,
12 including any proposed legislation, to the legislature no later
13 than twenty days prior to the convening of the regular session
14 of 2023.

15 SECTION 19. The explosion detection technology working
16 group shall cease to exist on June 30, 2023.

17 PART IV

18 SECTION 20. (a) The department of public safety shall
19 collaborate with county law enforcement agencies to develop and
20 implement a statewide web-based reporting tool for illegal
21 fireworks that will allow data to be shared with county law



1 enforcement agencies for the purpose of assisting county law
2 enforcement agencies in accurately identifying problematic
3 geographic areas and subsequently plan targeted methods of
4 enforcement.

5 (b) The statewide web-based reporting tool for illegal
6 fireworks shall include the following features:

7 (1) Anonymous reporting functions;

8 (2) A location reporting mechanism that uses an
9 interactive global positioning system map of the State
10 to allow for precise address reporting;

11 (3) A picture and video upload feature to allow for the
12 submission of evidence;

13 (4) An optional contact information submission feature;
14 and

15 (5) Report-generating features, accessible only by state
16 and county law enforcement agencies.

17 (c) Data collected through the statewide web-based
18 reporting tool for illegal fireworks shall not include public
19 report generating features; provided that state and county law
20 enforcement agencies may provide anonymous data for public
21 information.



1 SECTION 21. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2022-2023 for the
4 department of public safety to develop and implement a statewide
5 web-based reporting tool for illegal fireworks; provided that
6 the department shall collaborate with county law enforcement
7 agencies in the development and implementation of the statewide
8 web-based reporting tool for illegal fireworks.

9 The sum appropriated shall be expended by the department of
10 public safety for the purposes of this part.

11 PART V

12 SECTION 22. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 23. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



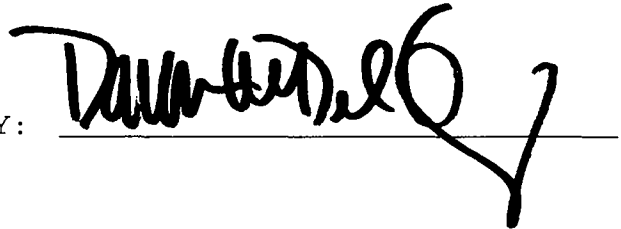
1 SECTION 24. In codifying the new sections added by
2 section 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 25. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 26. This Act shall take effect on July 1, 2022.

8

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to read "Dan Claitor", is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish at the end.

Report Title:

Judiciary; AG; PSD; Fireworks; Adjudication; Enforcement;
Working Group; Appropriations

Description:

Establishes an expeditious adjudication system for the processing of fireworks infractions. Increases the fireworks display permit fee and the fine for certain fireworks violations. Clarifies what constitutes a separate violation. Increases the penalty for removing or extracting 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 reporting tool for illegal fireworks. Appropriates moneys.

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

