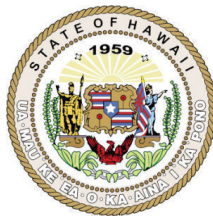


JOSH GREEN
GOVERNOR



JORDAN LOWE
DIRECTOR

MICHAEL S. VINCENT
Deputy Director
Administration

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'opalekana Lehulehu

1177 Alakea Street
Honolulu, Hawaii 96813
(808) 587-2562

Vacant
Deputy Director
Law Enforcement

No.

TESTIMONY ON SENATE BILL 498, SD 1
RELATING TO FIREWORKS.

Before the Senate Committees on Judiciary and Ways and Means
Friday, March 3, 2023; 10:00 a.m.
State Capitol Conference Room 211, Via Videoconference

WRITTEN TESTIMONY ONLY

Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran, and members of the Committees:

The Department of Law Enforcement (DLE) supports this bill.

This bill is an important step in establishing an illegal fireworks task force to plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks, develop a comprehensive strategic plan to stop the importation of illegal fireworks and explosives into Hawaii, promote compliance with the state fireworks control laws, and ensure the safety and security of the airports, harbors, and other facilities and institutions in the State against the discharge of illegal fireworks and explosives.

Thank you for the opportunity to testify in support of this bill.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 498, S.D. 1, RELATING TO FIREWORKS.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Friday, March 3, 2023

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Trista N. Speer,
Deputy Attorney General, at 587-2978)

Chairs Dela Cruz and Rhoads and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

The first new section being added to chapter 266, Hawaii Revised Statutes (HRS), by section 2 on page 3, lines 3-5, of the bill requires the Department of Public Safety (PSD) to "develop and implement a program to randomly inspect shipping containers arriving in Honolulu for illegal fireworks and explosives smuggled into the State." The purpose of the program is to address the problem of illegal fireworks, as set forth in the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011, prepared in accordance with Act 170, Session laws of Hawaii 2010 and the 2019 Legislative Reference Bureau report, *Blast from the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011*. The bill requires the shipping container inspection program to begin no later than October 1, 2023. Page 3, lines 5-6. The bill also requires PSD to adopt rules in accordance with chapter 91, HRS. Page 5, lines 5-6. The bill further appropriates general funds and establishes a special fund to be expended by PSD to administer the shipping container inspection program. Page 5, line 7, through page 6, line 15. The bill was amended in Senate Draft 1 to subject any person who tampers with secure container seals to a fine in an amount to be determined. Page 4, lines 19-20.

We are concerned that the requirement for PSD to inspect for illegal explosives in addition to illegal fireworks (page 2, line 8, and page 3, line 5), may be subject to challenge as violating article III, section 14, of the Hawai'i State Constitution, which requires that "[e]ach Law shall embrace but one subject, which shall be expressed in its title." The inclusion of illegal "explosives" in the program may be found to go beyond the scope of the subject expressed in the title of the bill, "fireworks." To address this constitutional concern, we recommend deleting the words, "and explosives" from page 2, line 8, as well as page 3, line 5, of the bill.

Additionally, article VII, section 5, of the Hawai'i Constitution requires that "[n]o public money shall be expended except pursuant to appropriations made by law." The bill establishes a special fund to support the shipping container inspection program and appropriates general funds to support this program. The bill does not appropriate any money for deposit into or expenditure out of the new "shipping container inspection program special fund," which raises the question of why the special fund is being established when it is not being used at all. Usually, there would be an appropriation of general funds into the special fund and also an appropriation out of the special fund so that the special fund moneys can be spent for program purposes. To actually utilize the new special fund, we recommend amending section 4 on page 6 of the bill and inserting a new section 5 to read as follows:

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 [for costs to establish and administer the shipping container inspection program, including the purchase, care, and handling of at least two explosive-sniffing dogs.] to be deposited into the shipping container inspection program special fund for the support and administration of the shipping container inspection program.

SECTION 5. There is appropriated out of the shipping container inspection program special fund the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 for the support and administration of the shipping container inspection program.

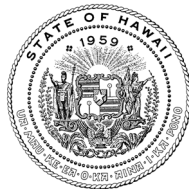
The sums appropriated shall be expended by the department of public safety for the purposes of this Act.

The current sections 5, 6, and 7, would then be renumbered as sections 6, 7, and 8.

We also note that the bill requires the program to begin no later than October 1, 2023. PSD will probably require additional time to adopt administrative rules, and to plan and implement the shipping container inspection program.

Thank you for the opportunity to provide these comments.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON WAYS AND MEANS AND JUDICIARY
ON
SENATE BILL NO. 498, S.D. 1

March 3, 2023

10:00 a.m.

Room 211 and Videoconference

RELATING TO FIREWORKS

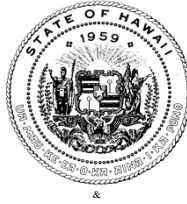
The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 498, S.D. 1, which amends Chapter 266, HRS, does the following: 1) establishes the Shipping Container Inspection Program (SCIP) and SCIP Special Fund (SCIPSF); 2) increases the maximum fine for each violation of the fireworks law; 3) requires the Department of Public Safety (PSD) to submit reports to the Legislature on implementation of the SCIP; and 4) appropriates \$1,000,000 in general funds to PSD for FY 24 and FY 25 for costs to establish and administer the SCIP, including the purchase, care and handling of at least two explosive-sniffing dogs.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should:

1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 498, S.D. 1, it is difficult to determine whether the SCIPSF would be self-sustaining.

Thank you for your consideration of our comments.



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 3, 2023
10:00 AM
State Capitol, Room 211

S.B. 498 S.D. 1
RELATING TO FIREWORKS

Senate Committees on Ways and Means & Judiciary

The Department of Transportation (DOT) provides **comments** on this measure that proposes a shipping container inspection program aimed at controlling and mitigating the use and spread of illegal fireworks.

DOT acknowledges the work completed by previous task forces on illegal fireworks, including the resulting reports and the findings therein. DOT also recognizes the recommendations for random cargo inspections. However, any additional inspection that occurs on a harbors facility means a separate allocation of an already constrained container cargo space that will jeopardize the timely and efficient offloading and movement of cargo. Therefore, DOT requests the committees' consideration of an amendment mandating that the inspections occur at a location away from a cargo terminal to avoid congestion at the commercial harbors.

DOT estimates that the \$1 fee per container proposed in this measure will likely total less than \$500,000 in the first year of the program. DOT offers this point of reference based on a total of 1.5 million twenty-foot equivalent units (TEU) that move annually across the state's commercial harbors. The majority of containers moving through the ports are 40-foot or 45-foot units, or 2/2.5 TEUs. Further, the estimation of the fees collected also excludes outbound cargo and empty containers. The annual appropriation would need to cover program costs that exceed the fees collected from the per container fee.

Thank you for the opportunity to provide these comments.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY

THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY



**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY**

**Thirty-Second State Legislature
Regular Session of 2023
State of Hawai`i**

March 3, 2023

RE: S.B. 498, S.D. 1; RELATING TO FIREWORKS.

Chair Dela Cruz, Chair Rhoads, Vice-Chair Keith-Agaran, Vice-Chair Gabbard, members of the Senate Committee on Ways and Means, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **support** of S.B. 498, H.D. 1, **with suggestions**.

The Department strongly supports any proposal that could effectively implement shipping container inspections as a means of minimizing the illegal importation of fireworks. To work hand-in-hand with this idea of addressing the "supply" of illegal fireworks, the Department respectfully asks the Committees to consider adding some simple amendments that could help to address the "demand" for illegal fireworks. Essentially, by separating out the federal codes regarding "aerial device" and "fireworks," from our state definitions for "aerial device" and "fireworks" (see HRS §132D-2), the Department believes prosecutors would be better positioned to prosecute these matters in the future. **Please see the attached document entitled "Proposed Amendments to Definitions."**

For years, Oahu residents have seen and heard evidence of illegal fireworks being set off at seemingly every street corner and public park on the island. Residents have become accustomed to the skies being lit up like a battlefield by illegal aerial devices, not only for New Year's Eve and Fourth of July, but for weeks before and after those special occasions. In recent years, many communities have been forced to endure an endless barrage of fireworks year-round. Concerns about the incessant noise of these illegal fireworks; effects on respiratory health and air quality; and

effects on those with post-traumatic stress disorder, are further heightened by the fact that national and local statistics have also shown a rise in firework related injuries.¹

According to the *Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011*², and the follow-up report, *Blast from the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011*³, it is very clear that nearly all fireworks in Hawaii entered the state through shipping containers. The Department concurs with this finding, and believes that new enforcement mechanisms and/or collaborative efforts are needed to address the illegal importation of fireworks into our state. As such, the Department welcomes and supports any effort (such as the one presented in S.B. 498) to bring multiple agencies together to engage, plan and implement strategies to cut off this supply chain at its entry point.

With the addition of the proposed language attached, we also believe that prosecutors would have more effective tools with which to prosecute would-be users of illegal fireworks, and we thank the Committees for your consideration of this matter.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** the passage of S.B. 498, H.D. 1, **with suggestions**. Thank you for the opportunity to testify on this matter.

¹ <https://www.cpsc.gov/s3fs-public/2021-Fireworks-Annual-Report.pdf>

² https://lrh.hawaii.gov/wp-content/uploads/2011_ReportOfTheIllegalFireworksTaskForce.pdf

³ https://lrh.hawaii.gov/wp-content/uploads/2019_BlastFromThePast.pdf

PROPOSED AMENDMENTS TO DEFINITIONS:

Section ____ . Section 132D-2, Hawaii Revised Statutes, is amended by amending the definitions of "aerial device" and "fireworks" to read as follows:

"Aerial device" means any fireworks [~~containing one hundred thirty milligrams or less of explosive materials~~] that produces an audible or visible effect and is designed to rise into the air and explode or detonate in the air, or to fly about above the ground, or to emit flaming balls [~~, and that is prohibited for use by any person who does not have a permit for display issued by a county under section 132D-16~~]. "Aerial devices" also includes but is not limited to devices classified as fireworks under UN0336 and UN0337 by the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations [~~include firework items~~] as containing one hundred thirty milligrams or less of explosive materials, and which are commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, flying pigs, and jumping jacks that move about the ground farther than a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, aerial shells, and mines.

"Fireworks" means any combustible or explosive composition, or any substance or combination of substances, [~~for article prepared for the purpose of producing~~] designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation, and meets the definition of aerial device or consumer or display fireworks as defined by this section. "Fireworks" also includes, but is not limited to any composition or device [~~and~~] that meets the definition of aerial device or consumer or display fireworks as defined by [~~this section and contained in~~] the regulations of the United States Department of Transportation as set forth in Title 49 Code of Federal Regulations. The term "fireworks" shall not include any explosives or pyrotechnics regulated under chapter 396 or automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its, or similar[~~other~~] devices [~~which contain twenty-five hundredths of a grain or less of explosive substance~~].

[NOTE: If the language above is added to S.B. 498, S.D. 1, we also suggest that Section 6 of that bill (at page 6, line 20) be amended to read → "Statutory material to be repealed is bracketed and stricken. New statutory material is underscored."]

LATE

TESTIMONY OF
LARRY S VERAY

TO THE COMMITTEES ON JUDICIARY & WAYS AND MEANS

IN STRONG SUPPORT OF SB498 SD1

March 2, 2023

Aloha, Chair Karl Rhoads, Chair Donovan Dela Cruz and respective Judiciary & Ways and Means committee members. Thank you for allowing me the opportunity to provide testimony in support of SB498 SD1 in preparation of the hearing on Friday, March 3, 2023 at 10:00 AM. I am Chair for the Pearl City Neighborhood Board No. 21; I am submitting this testimony representing our board as a whole and the numerous residents in Pearl City and the island of Oahu who are negatively impacted by illegal aerial fireworks. On January 25, 2022, the Pearl City Neighborhood Board unanimously passed a Fireworks Resolution specifically requesting the Hawaii Congressional and Legislative Representatives to request the Federal Government Law Enforcement Agencies to employ their resources to stop the tons of illegal fireworks being transported to Hawaii.

Numerous Hawaii residents have complained about illegal aerial fireworks that are negatively impacting their daily lives with bad actor neighbors and individuals launching low altitude extremely loud aerial bomb firework explosions at all hours of the day, all year around and primarily targeting neighborhoods late evenings while people are resting or at sleep. Bad actor individuals have modified illegal fireworks into Improvised Explosive Devices (IED) such as pipe bombs to create a much greater low altitude loud explosions which severely impacts the health and safety of the elderly in care homes, disabled Vets with PTSD, children and family pets with some pets running away from home and being hit by vehicles.

Previously the State Legislature took action on illegal aerial fireworks with increasing fines and developing a task force in the year 2010 comprised of the Federal Government representatives from ATF, U.S Customs, U.S. Coast Guard, HPD, HFD and port facilities commercial shipping companies; however, this task force did not produce results or any interdiction of illegal fireworks at our port facilities due to the excuse of inspectors claiming there are too many containers to be inspected and the community perception of possible corruption with inspectors.

Although the Pearl City Neighborhood Board is in support of SB498 SD1 with adding more resources to inspect incoming shipping containers, we believe the best solution is targeting the organized crime ring that is making millions of dollars from the Trojan Horse containers repacked in the mainland. The Federal Government agencies have the capability to track containers and those suspect containers could be targeted on the West Coast prior to the containers being shipped to Hawaii thus reducing the amount of containers that have to be inspected in Hawaii. We most strongly urge you to pass SB498 SD1 because this action would mitigate the number of fireworks getting into the bad actors' hands.

Very respectfully,

Larry S. Veray



Hawaiian Humane Society

People for animals. Animals for people.

2700 Waiialae Avenue Honolulu, Hawaii 96826
808.356.2200 • HawaiianHumane.org

Date: March 1, 2023

To: Chairs Sen. Karl Rhoads and Donovan M. Dela Cruz
Vice Chairs Sen. Mike Gabbard and Gilbert S.C. Keith-Agaran
and Members of the Committees on Judiciary, and Ways and Means

Submitted By: Stephanie Kendrick, Director of Community Engagement
Hawaiian Humane Society, 808-356-2217

RE: Testimony in support of SB 498, SD1: Relating to Fireworks
Friday, March 3, 2023, 10 a.m., Room 211 & Videoconference

On behalf of the Hawaiian Humane Society, thank you for considering our support for Senate Bill 498, SD1, which establishes the shipping container inspection program and shipping container inspection program special fund; increases the maximum fine for each violation of the fireworks law; and requires the Department of Public Safety to submit reports to the Legislature on implementation of the shipping container inspection program.

Hawaiian Humane favors any attempt to remove fireworks from residential neighborhoods by keeping these dangerous products out of our state entirely and/or enhancing enforcement. This measure aims to do both and it has our support.

At what should be joyous times for local families, illegal fireworks fill our neighborhoods with unexpected explosions that terrorize pets and people alike. Hawaiian Humane has long educated our community about keeping pets safe from the terror of fireworks around New Years and July 4, but these bombs increasingly go off for months at a time. That makes it impossible for pet owners to prepare and creates sustained stress on people and animals, which can do lasting damage to their emotional and physical health. Neither people nor animals should have to take tranquilizers just to survive the impacts of illegal behavior by their neighbors.

We urge the committees to pass this measure. Mahalo for your consideration.

Testimony of Matson Navigation Company, Inc.
Comments of SB498, SD1
Before the Committees on Ways and Means and
Judiciary
Friday, March 3, 2023

Dear Chair Dela Cruz, Chair Rhoads, Vice Chair Keith-Agaran, Vice Chair Gabbard, and Members of the Committees:

Matson Navigation Company, Inc. (Matson) appreciates the amendments contained in SB498, SD1 Relating to State Fireworks. Matson supports the intent of SB498, SD1 and respectfully offers amendments. This measure, among other things, requires the Department of Public Safety, in collaboration with the Department of Transportation, and other state and federal agencies to conduct random cargo container inspections for illegal fireworks and explosives beginning no later than October 1, 2023, and increases the cost of living in Hawaii by increasing shipping costs to offset the cost of this program.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable, and efficient cargo transportation and logistics to timely service our residents and businesses who depend on these goods, vehicles, materials, and fuel on all major islands.

SB498, SD1 allows for but does not require inspections to take place away from an active harbor area. Matson respectfully requests this measure be amended to require all container inspections conducted pursuant to this measure to occur at a secure and safe facility away from the commercial harbors to allow timely discharge of shipping containers at each of the commercial harbors, and avoid unnecessary delays and traffic congestion. Our operations run twenty-four hours a day, seven days a week and Honolulu Harbor is at full capacity. Any random inspection that takes place within the already congested commercial harbors on each of the major islands could cause significant delays in offloading and out-gating of cargo and unsafe traffic congestion. As a result, these inspections must take place outside of the commercial harbors to avoid disruption of goods transported within the State and interference with the users' respective operations at these harbors.

This measure also fails to address fireworks and explosives that enter the State through other modes of transportation beyond commercial shipping containers. For example, on January 3, 2023, Hawaii News Now reported that an investigation was underway after nearly 100 pounds of illegal aerial fireworks were confiscated from a mailroom at Oahu Community Correctional Center. A corrections officer was suspected of having the boxes mailed to the jail using an inmate's name. All entities involved in moving cargo to the islands via other modes of transportation should be included in any proposed inspection mandate including other mail and packaging carriers. This could include the United States Postal Service, other mail carriers, airlines, air cargo carriers, recreational boat owners, and the related industry groups.

This measure also fails to state specifically that the Department of Public Safety shall have jurisdiction over and take possession of any fireworks or explosives found in connection with the container inspections conducted. This measure must be amended to determine which state agency shall have jurisdiction over and possession of any contraband discovered during a random inspection for the purposes of public safety. Matson does not take a position on which state agency should have jurisdiction over and possession of such items.

For purposes of safety to explosive-sniffing dogs, their human handlers, and humans handling the discharge of cargo, we strongly suggest requiring the use of explosive-sniffing dogs to be allowed only in inspections conducted away from an active harbor. Marine terminals involve the use of very heavy machinery to move containers that are also very heavy. An empty container weighs approximately 8,159 pounds and a full container can weigh up to 67,000 pounds. Matson moves thousands of shipping containers every single day to ensure the flow of commerce. It is absolutely necessary to guarantee the safety of explosive sniffing dogs and human handlers. The only way to ensure their safety is to make sure their work is completed away from an active marine terminal.

If your Committees intend to pass this measure, we request the following amendments:

Page 2, line 19 to page 3, line 6: "**§266-A [Shipping container] Cargo inspection program.**

(a) The department of public safety, in collaboration with the departments of defense and transportation, and any federal agencies, including any of the United States armed services, and private organizations involved with [shipping] transporting cargo into the State, shall develop and implement a program to randomly inspect all cargo, including shipping containers, arriving in Honolulu for illegal fireworks and explosives being brought into the State. The program shall begin no later than October 1, 2023. We respectfully request that your Committee make conforming amendments throughout the measure.

Page 3, lines 9 to 10: **“(1) Include the use of explosive-sniffing dogs to inspect incoming [shipping containers] cargo to the greatest extent reasonable at a secure site located away from a commercial harbor.”**

Page 3, lines 18 to 20: "Inspect all **[shipping containers] cargo** containing legal fireworks using personnel who are able to distinguish legal fireworks from illegal fireworks **at a designated secure site located away from a commercial harbor**; and"

Page 4 lines 9 to 12: **“(d) The department of public safety shall coordinate and conduct the random inspection of [shipping containers] cargo at a secure and safe location away from a commercial harbor pursuant to this section. The Hawaii national guard may be utilized to assist in the random inspection of [shipping containers] cargo.”**

Page 4, lines 17 to 18: **“(f) Any contraband discovered during a [shipping container] cargo inspection shall be investigated by a law enforcement agency. The law enforcement agency shall take jurisdiction over and possession of any contraband discovered during the cargo inspection.”**

Matson also requests that your Committees **delete the increase to the cost of goods in Hawaii on page 4, lines 3 through 8** and replace it with a more equitable general fund appropriation only. Hawaii residents already pay some of the highest prices in the nation for goods due to factors such as high rent and utility costs. Imposing additional fees on goods will further exacerbated the high cost of living. Placing inspection fees on containers only will drive up the cost of goods while not addressing the issue of contraband entering into the State through other modes of cargo transportation. A general fund appropriation will not drive up the cost of goods.

Thank you for considering our suggested amendments. Additionally, we urge your Committees to ensure it has carefully considered the jurisdictional issues that may arise with private-sector organized labor. Matson believes the amendments contained in SB498, SD1 were a good start to begin to address the issue of illegal fireworks flowing into the community and appreciates the opportunity to be part of the ongoing discussion.

Testimony of the Hawaii Harbor Users Group
Comments of SB498, SD1
Before the Committees on Ways and Means and
Judiciary
Friday, March 3, 2023

Dear Chair Dela Cruz, Chair Rhoads, Vice Chair Keith-Agaran, Vice Chair Gabbard, and Members of the Committees:

The Hawaii Harbor Users Group (HHUG) is a non-profit maritime transportation industry group comprised of key commercial harbor users statewide. HHUG appreciates the amendments contained in SB498, SD1 Relating to State Fireworks. HHUG respectfully offers amendments. This measure, among other things, requires the Department of Public Safety, in collaboration with the Department of Transportation, and other state and federal agencies to conduct random cargo container inspections for illegal fireworks and explosives beginning no later than October 1, 2023, and increases the cost of living in Hawaii by increasing shipping costs to offset the cost of this program.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable, and efficient cargo transportation and logistics to timely service our residents and businesses who depend on these goods, vehicles, materials, and fuel on all major islands.

SB498, SD1 allows for but does not require inspections to take place away from an active harbor area. HHUG respectfully requests this measure be amended to require all container inspections conducted pursuant to this measure to occur at a secure and safe facility away from the commercial harbors to allow timely discharge of shipping containers at each of the commercial harbors, and avoid unnecessary delays and traffic congestion. Several of our members' operations run twenty-four hours a day, seven days a week and Honolulu Harbor is at full capacity. Any random inspection that takes place within the already congested commercial harbors on each of the major islands could cause significant delays in offloading and out-gating of cargo and unsafe traffic congestion. As a result, these inspections must take place outside of the commercial harbors to avoid disruption of goods transported within the State and interference with the users' respective operations at these harbors.

This measure also fails to address fireworks and explosives that enter the State through other modes of transportation beyond commercial shipping containers. For example, on January 3, 2023, Hawaii News Now reported that an investigation was underway after nearly 100 pounds of illegal aerial fireworks were confiscated from a mailroom at Oahu Community Correctional Center. A corrections officer was suspected of having the boxes mailed to the jail using an inmate's name. All entities involved in moving cargo to the islands via other modes of transportation should be included in any proposed inspection mandate including other mail and packaging carriers. This could include the United States Postal Service, other mail carriers, airlines, air cargo carriers, recreational boat owners, and the related industry groups.

This measure also fails to state specifically that the Department of Public Safety shall have jurisdiction over and take possession of any fireworks or explosives found in connection with the

container inspections conducted. This measure must be amended to determine which state agency shall have jurisdiction over and possession of any contraband discovered during a random inspection for the purposes of public safety. HHUG takes no position on which state agency should have jurisdiction over and possession of such items.

For purposes of safety to explosive-sniffing dogs, their human handlers, and humans handling the discharge of cargo, we strongly suggest requiring the use of explosive-sniffing dogs to be allowed only in inspections conducted away from an active harbor. Marine terminals involve the use of very heavy machinery to move containers that are also very heavy. An empty container weighs approximately 8,159 pounds and a loaded container can weigh up to 67,000 pounds. HHUG members move thousands of shipping containers every single day to ensure the flow of commerce. It is absolutely necessary to guarantee the safety of explosive sniffing dogs and human handlers. The only way to ensure their safety is to make sure their work is completed away from an active marine terminal.

If your Committees intend to pass this measure, we request the following amendments:

Page 2, line 19 to page 3, line 6: "~~§266-A [Shipping container] Cargo inspection program.~~ (a) The department of public safety, in collaboration with the departments of defense and transportation, and any federal agencies, including any of the United States armed services, and private organizations involved with ~~[shipping] transporting cargo~~ into the State, shall develop and implement a program to randomly inspect ~~all cargo, including shipping containers,~~ arriving in Honolulu for illegal fireworks and explosives being brought into the State. The program shall begin no later than October 1, 2023." We respectfully request that your Committee make conforming amendments throughout the measure.

Page 3, lines 9 to 10: "(1) Include the use of explosive-sniffing dogs to inspect incoming ~~[shipping containers] cargo~~ to the greatest extent reasonable ~~at a secure site located away from a commercial harbor;~~"

Page 3, lines 18 to 20: "Inspect all ~~[shipping containers] cargo~~ containing legal fireworks using personnel who are able to distinguish legal fireworks from illegal fireworks ~~at a designated secure site located away from a commercial harbor;~~ and"

Page 4 lines 9 to 12: "(d) The department of public safety shall coordinate and conduct the random inspection of ~~[shipping containers] cargo~~ at a secure and safe location away from a commercial harbor pursuant to this section. The Hawaii national guard may be utilized to assist in the random inspection of ~~[shipping containers] cargo.~~"

Page 4, lines 17 to 18: "(f) Any contraband discovered during a ~~[shipping container] cargo~~ inspection shall be investigated by a law enforcement agency. ~~The law enforcement agency shall take jurisdiction over and possession of any contraband discovered during the cargo inspection.~~"

HHUG also requests that your Committees ~~delete the increase to the cost of goods in Hawaii on page 4, lines 3 through 8~~ and replace it with a more equitable general fund appropriation only. Hawaii residents already pay some of the highest prices in the nation for goods due to factors such as high rent and utility costs. Imposing additional fees on goods will further exacerbated the high cost of living. Placing inspection fees on containers only will drive up the cost of goods while not addressing the issue of contraband entering into the State through other modes of cargo transportation. A general fund appropriation will not drive up the cost of goods.

Thank you for considering our suggested amendments. Additionally, we urge your Committees to ensure they have carefully considered the jurisdictional issues that may arise with private-sector organized labor. HHUG believes the amendments contained in SB498, SD1 were a good start to begin to address the issue of illegal fireworks flowing into the community and appreciates the opportunity to be part of the ongoing discussion.



WRITTEN TESTIMONY ONLY
March 3, 2023

Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

RE: Senate Bill 498, S.D. 1 – RELATING TO FIREWORKS
Hearing date: March 3, 2023, 10:00 a.m.

Aloha Chair Rhoads, Chair Dela Cruz, Vice Chair Gabbard, Vice Chair Keith-Agaran, and Members of the Committees:

Thank you for the opportunity to submit testimony on behalf of Young Brothers, LLC (“YB”) offering COMMENTS for Senate Bill 498, S.D. 1 – Relating to Fireworks.

YB is a common carrier by water, transporting property by tug and barge between the islands of O‘ahu, Hawai‘i, Kaua‘i, Maui, Moloka‘i, and Lāna‘i. YB is currently the only water carrier authorized to transport property under Chapter 271G, Hawaii Revised Statutes (“HRS”) (i.e., the Hawaii Water Carrier Act), subject to the regulatory authority of the Public Utilities Commission of the State of Hawaii (“PUC”). Since 1900, customers across Hawaii have relied on YB’s frequent, regular, and universal sailings to serve as the bridge that connects all communities in this island-state.

This measure would, among other things, require the Department of Public Safety, in collaboration with the Department of Transportation and other state and federal agencies, to conduct random cargo container inspections for illegal fireworks and explosives beginning no later than October 1, 2023.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii’s imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable and efficient cargo transportation and logistics to timely service our residents and businesses who depend on these goods, vehicles, materials and fuel on all major islands.

The SD1 for this measure allows for, but does not require, inspections to take place away from an active harbor area. YB respectfully requests this measure be amended to require all container inspections conducted pursuant to this measure to occur at a secure and safe facility away from the commercial harbors to allow timely discharge of shipping containers at each of the commercial harbors, and avoid unnecessary

delays and traffic congestion. Any random inspection that takes place within the already congested commercial harbors on each of the major islands could cause significant delays in offloading and out-gating of cargo as well as unsafe traffic congestion at and around the ports. As a result, these inspections must take place outside of the commercial harbors to avoid disruption of goods transported within the State and to avoid interference with operations at these harbors.

This measure also fails to address fireworks and explosives that enter the State through other modes of transportation beyond commercial shipping containers. For example, on January 3, 2023, Hawaii News Now reported that an investigation was underway after nearly 100 pounds of illegal aerial fireworks were confiscated from a mailroom at Oahu Community Correctional Center. A corrections officer was suspected of having the boxes mailed to the jail using an inmate's name. All entities involved in moving cargo to the islands via other modes of transportation should be included in any proposed inspection mandate, including other mail and packaging carriers, airlines, air cargo carriers, recreational boat owners, and the related industry groups.

Furthermore, this measure must be amended to determine which state agency shall have jurisdiction over and possession of any contraband discovered during a random inspection for the purposes of public safety.

Finally, for purposes of safety to explosive-sniffing dogs, their human handlers, and humans handling the discharge of cargo, we strongly suggest requiring the use of explosive-sniffing dogs to be allowed only in inspections conducted away from an active harbor.

If your Committees intend to pass this measure, YB requests that the Committees consider adoption of the amendments proposed in the concurrent testimony of the Hawaii Harbor Users Group (“HHUG”).

Thank you for your service to the State of Hawaii, and for the opportunity to testify offering comments on this measure.

Sincerely,

Kris Nakagawa
Vice President, External and Legal Affairs

SB-498-SD-1

Submitted on: 2/28/2023 6:54:08 PM

Testimony for WAM on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cheryl Reeser	Individual	Support	Written Testimony Only

Comments:

Aloha,

We need to do as much as possible to curb illegal fireworks from port and warehouse inspections, package scanning, and creating task forces to deal with this growing problem. It has gotten to the point that it is not safe to go outside in many neighborhoods in Hawaii due to these illegal bombs that go off not only on July 4 and December 31, but for months prior and after these holidays. Since when do we tolerate illegal, unpoliced explosives being set off in neighborhoods by anyone without any consequences? Please devote resources to this problem as it gets progressively worse every year. Undercover police task forces to bust dealers and buyers should also be happening. Right now there are no consequences to this terror we are allowing in our neighborhoods. This is not Hawai'i.

Mahalo for your consideration.

SB-498-SD-1

Submitted on: 3/1/2023 8:12:40 AM

Testimony for WAM on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of SD1. Thank you.

SB-498-SD-1

Submitted on: 3/1/2023 10:51:39 AM

Testimony for WAM on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair and Committee Members,

I **STRONGLY SUPPORT** SB498 SD1 that establishes the Shipping Container Inspection Program and shipping container inspection program special fund.

This year will be 12 years since a ban was enacted to stop illegal fireworks. The current laws are not working because it is out of control and overwhelming for enforcement. Another big concern are cases NOT being PROSECUTED.

The 13,449 pounds of illegal fireworks confiscated in August 2022 by Coast Guard inspectors is evidence of the amount entering our Honolulu ports. The Multi-Agency Strike Force Operation that included several Federal and State agencies shows this can work to increase port security and eventually curtail the amount of illegal fireworks entering our state. Inspections at ports could provide leads to those illegally importing and selling.

Can anything be done about prosecuting cases?

PLEASE READ the Civil Beat’s article "Honolulu Fireworks Cases Almost Always Get Dismissed. Here's What We Found About Why They Fizzle" in the link provided below this paragraph. It appears fireworks cases are being dismissed by way of violators’ “cockamamie” excuses, even though some diligent HPD officers are taking the time to cite and turn-in evidence. Disturbing is Allan Badua who is a repeat offender. A December 2020 news report shows over 400 lbs of fireworks were confiscated at a Makiki home, but per Civil Beat’s article court records show NO charges were ever filed. Ridiculous is the quote from the prosecutor’s office that “the difficulty of proving that a device meets the legal definition of a ‘firework’ or ‘aerial device’ since the evidence ‘explodes in the sky’.” “But again, HPD officers often confiscate the spent explosives and ones that have not been set off yet.” What needs to change?

[https://www.civilbeat.org/?p=1542312&utm_source=Civil+Beat+Master+List&utm_campaign=f89747baad-EMAIL_CAMPAIGN_2023_03_01_06_10&utm_medium=email&utm_term=0-f89747baad-\[LIST_EMAIL_ID\]&mc_cid=f89747baad&mc_eid=f210d416e0](https://www.civilbeat.org/?p=1542312&utm_source=Civil+Beat+Master+List&utm_campaign=f89747baad-EMAIL_CAMPAIGN_2023_03_01_06_10&utm_medium=email&utm_term=0-f89747baad-[LIST_EMAIL_ID]&mc_cid=f89747baad&mc_eid=f210d416e0)

The Civil Beat article said HPD does see and cite when on patrol and they can serve as witnesses. They do this for speeding tickets, why not fireworks? Prosecutors think witnesses do not want to come forth to testify because they may agitate a neighbor. But what about the risk of

retaliation and the risk of injury obtaining evidence? Some have taken videos of violators lighting fuses of aerials only to be told by HPD you have to be able to see their face. Would you go close enough to someone lighting an aerial to capture their face? There are a couple of incidents where neighbors have turned in users and experienced retaliation. One received verbal threats, and another had their car tires punctured three days in a row.

Every year complaints are growing. Injuries, fatalities, pollution, health concerns, property damage, noise pollution, harm to animals and pets. The aerials and the bombs are the worst. I have pictures of the debris that I've collected that land and scatter all over my yard and roof. No sense saving it to turn-in because they are spent fireworks, and because they exploded in the sky from a street over, I can't use it as evidence. Am I supposed to walk around the block to get video and risk getting hit by fireworks, receive threats, possible retaliation? People are not the same. Many of the tubes have chemical hunks still stuck in them. They are toxic to animals. One year it tore one of our screens. Remember the incident in Ewa that shattered multiple car windows and damaged two cars, one so bad it could no longer be driven? I wonder who has to pay for all this damage? What about solar panels? What about the fatalities and serious injuries? Are they so soon forgotten?

The community needs to be better protected. The amount of illegal fireworks entering the state needs to be reduced so effective enforcement and prosecution can take place.

Please **SUPPORT SB498 SD1**. Thank you for the opportunity to testify.

SB-498-SD-1

Submitted on: 3/1/2023 5:43:21 PM

Testimony for WAM on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carol Fahy	Individual	Support	Written Testimony Only

Comments:

Please pass this as a first step toward greater support of citizens who suffer because of the overwhelming explosions in our neighborhoods. It has become impossible to live on Oahu due to the unfettered use of fireworks and bombs. These are not time limited as some would say...they go on in my area of Kahaluu from 6pm to 2am some days...many days. Please help us citizens by stopping the influx of fireworks through the ports.