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A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1           SECTION 1. The legislature finds that improved enforcement  
2 of the fireworks control laws is necessary, not only to protect  
3 property from avoidable fire damage, but also to protect the  
4 community from fire- and explosion-related injuries, respiratory  
5 distress caused by the air pollution, and recurring trauma to  
6 afflicted persons due to loud explosions.

7           The legislature further finds that a more robust continuum  
8 of enforcement mechanisms must be established to promote  
9 compliance with the fireworks control laws, including graduated  
10 penalties for repeat or felony level offenses, enhanced  
11 penalties for offenses that result in injury or death, and a  
12 dedicated adjudication system for fireworks infractions, similar  
13 to the existing traffic infraction system. Creating a fireworks  
14 infractions system will allow law enforcement agencies and the  
15 judiciary to quickly and efficiently process low-level cases,  
16 while also allowing them to prioritize higher-level cases as  
17 appropriate.

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1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding to title 38 a new chapter to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 ADJUDICATION OF FIREWORKS INFRACTIONS

6 § -1 Definitions. As used in this chapter:

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

13 "Fireworks infraction" means any violation of chapter 132D,  
14 any rule adopted pursuant to chapter 132D, or any county  
15 ordinance or rule enacted pursuant to chapter 132D, for which  
16 the prescribed penalties do not include imprisonment and that  
17 are not otherwise specifically excluded from coverage of this  
18 chapter.

19 "Hearing" means a proceeding conducted by the district  
20 court pursuant to section -7 at which the defendant to whom a  
21 notice of infraction was issued either admits to the infraction,

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1 contests the infraction, or admits to the infraction but offers  
2 an explanation to mitigate the monetary assessment imposed.

3 "Law enforcement officer" means any employee of any county,  
4 state, federal, or military agency authorized by law to issue a  
5 notice of infraction.

6 "Notice of infraction" means the citation form that is  
7 issued to the defendant at or after the time of the fireworks  
8 infraction and notifies the defendant of the infraction the  
9 defendant is charged with committing.

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

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

16 § -2 **Applicability.** (a) All fireworks infractions,  
17 including fireworks infractions committed by minors, shall be  
18 adjudicated pursuant to this chapter, except as provided in  
19 subsection (b). This chapter shall be applied uniformly  
20 throughout the State and in all counties. No penal sanction  
21 that includes imprisonment shall apply to a violation of state  
22 statute or rule, or county ordinance or rule, that would

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1 constitute a fireworks infraction under this chapter. No  
2 fireworks infraction 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 chapter; provided that the court  
8 may 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 or 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 where the related criminal offense is a felony  
16 or is a misdemeanor for which the defendant has demanded a jury  
17 trial.

18 (c) If the defendant requests a trial pursuant to  
19 section -11, 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  
22 paragraph (1), the concurrent trial shall be held in the

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

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

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

19 (A) Any written or oral statement made by the  
20 defendant in proceedings conducted pursuant to  
21 section -6(b); and

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

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

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

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

13 (1) The defendant's civil liability for the fireworks  
14 infraction has not yet been adjudicated pursuant to  
15 section -7, the court shall enter a judgment by  
16 default in favor of the State for the fireworks  
17 infraction unless the court determines that good cause  
18 or excusable neglect exists for the defendant's  
19 failure to appear; or

20 (2) The defendant's civil liability for the fireworks  
21 infraction has been adjudicated previously pursuant to  
22 section -7, the judgment earlier entered in favor

1 of the State shall stand unless the court determines  
2 that good cause or excusable neglect exists for the  
3 defendant's failure to appear.

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

9 § -3 **Venue and jurisdiction.** (a) All fireworks  
10 infractions shall be adjudicated in the district and circuit  
11 where the alleged infraction occurred, except as otherwise  
12 provided by law.

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

18 § -4 **Notice of infraction; form; determination final**  
19 **unless contested.** (a) The notice of infraction shall include  
20 the summons for the purposes of this chapter. Whenever a notice  
21 of infraction is issued, and to the extent practicable, the  
22 defendant's signature, driver's license number or state

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1 identification number, current mailing address, and electronic  
2 mail address shall be included on the notice. If the defendant  
3 refuses to sign the notice of infraction, or refuses to provide  
4 any other required information, the law enforcement officer  
5 shall record this refusal on the notice and issue the notice to  
6 the defendant. Anyone to whom a notice of infraction is issued  
7 under this chapter need not be arraigned before the court,  
8 unless required by rule of the supreme court.

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

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

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

- 19 (1) A statement of the specific fireworks infraction for  
20 which the notice was issued;
- 21 (2) A brief statement of the facts;

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

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

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

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

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

18 (e) A citation shall not be dismissed for failure to  
19 include any information described in subsection (d).

20 § -5 **Answer required.** (a) A defendant who receives a  
21 notice of infraction shall answer the notice within twenty-one  
22 days of the date of issuance of the notice. There shall be

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

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

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

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

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

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

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

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

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1 the court as a statement given in court pursuant to  
2 section -6(c)(2).

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

8 § -6 Court action after answer or failure to answer.

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

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

14 (1) In the case of a fireworks infraction where the  
15 defendant requests a hearing at which the defendant  
16 will appear in person to contest the fireworks  
17 infraction, the court shall notify the defendant in  
18 writing of the date, time, and place of hearing to  
19 contest the notice of infraction. The notice of  
20 hearing shall be mailed to the address stated in the  
21 denying answer, or if none was given, to the address  
22 stated on the notice of infraction. If no address was

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1 provided, an electronic copy of the notice of hearing  
2 may be sent to the electronic mail address stated on  
3 the notice of infraction. The notification shall also  
4 advise the defendant that, if the defendant fails to  
5 appear at the hearing, the court shall enter judgment  
6 by default in favor of the State, as of the date of  
7 the scheduled hearing, and that the total amount  
8 specified in the default judgment shall be paid within  
9 thirty days of entry of default judgment; and  
10 (2) When a denying answer is accompanied by a written  
11 statement of the grounds on which the defendant  
12 contests the notice of infraction, the court shall  
13 proceed as provided in section -7(a) and shall  
14 notify the defendant of its decision, including the  
15 total amount assessed, if any, by mailing the notice  
16 of entry of judgment within forty-five days of the  
17 postmarked date of the answer to the address provided  
18 by the defendant in the denying answer, or if none was  
19 given, to the address given when the notice of  
20 infraction was issued. If no address was provided, an  
21 electronic copy of the notice of entry of judgment may  
22 be sent to the electronic mail address stated on the

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1 notice of infraction. The notice of entry of judgment  
2 shall also advise the defendant, if it is determined  
3 that the fireworks infraction was committed and  
4 judgment is entered in favor of the State, that the  
5 defendant has the right, within thirty days of entry  
6 of judgment, to request a trial and shall specify the  
7 procedures for doing so. The notice of entry of  
8 judgment shall also notify the defendant, if an amount  
9 is assessed by the court for monetary assessments,  
10 fees, surcharges, or costs, that if the defendant does  
11 not request a trial within the time specified in this  
12 paragraph, the total amount assessed shall be paid  
13 within thirty days of entry of judgment.

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

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

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1 hearing shall be mailed to the address stated in the  
2 answer, or if none was given, to the address stated on  
3 the notice of infraction. If no address was provided,  
4 an electronic copy of the notice of hearing may be  
5 sent to the electronic mail address stated on the  
6 notice of infraction. The notification shall also  
7 advise the defendant that, if the defendant fails to  
8 appear at the hearing, the court shall enter judgment  
9 by default in favor of the State, as of the date of  
10 the scheduled hearing, and that the total amount  
11 stated in the default judgment shall be paid within  
12 thirty days of entry of default judgment; and

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

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1 costs, the court shall also notify the defendant that  
2 the total amount shall be paid within thirty days of  
3 entry of judgment.

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

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

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

15 § -7 Hearings. (a) In proceedings to contest a notice  
16 of infraction where the defendant to whom the notice was issued  
17 has timely requested a hearing and appears at the hearing:

18 (1) In lieu of the personal appearance by the law  
19 enforcement officer who issued the notice of  
20 infraction, the court shall consider the notice of  
21 infraction and any other relevant evidence, together

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1 with any oral or written statement by the defendant to  
2 whom the notice of infraction was issued;

3 (2) The court may compel by subpoena the attendance of the  
4 officer who issued the notice of fireworks infraction  
5 and other witnesses from whom it may wish to hear;

6 (3) The standard of proof to be applied by the court shall  
7 be whether, by a preponderance of the evidence, the  
8 court finds that the fireworks infraction was  
9 committed; and

10 (4) After due consideration of the evidence and arguments,  
11 if any, the court shall determine whether commission  
12 of the infraction has been established. Where the  
13 commission of the fireworks infraction has not been  
14 established, judgment in favor of the defendant,  
15 dismissing the notice of infraction or any count  
16 therein with prejudice, shall be entered in the  
17 record. Where it has been established that the  
18 fireworks infraction was committed, the court shall  
19 enter judgment in favor of the State and shall assess  
20 a monetary assessment pursuant to section -8,  
21 together with any fees, surcharges, or costs. The  
22 court also shall inform the person of the right to

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1 request a trial pursuant to section -11. If the  
2 person requests a trial at the time of the hearing,  
3 the court shall provide the person with the trial date  
4 as soon as practicable.

5 (b) In proceedings to explain mitigating circumstances  
6 where the person to whom the notice of infraction was issued has  
7 timely requested a hearing and appears at the hearing:

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

12 (2) After the court has received the explanation, the  
13 court may enter judgment in favor of the State and may  
14 assess a monetary assessment pursuant to section -  
15 8, together with any fees, surcharges, or costs;

16 (3) The court, after receiving the explanation, may vacate  
17 the admission and enter judgment in favor of the  
18 defendant, dismissing the notice of infraction or any  
19 count therein with prejudice, where the explanation  
20 establishes that the infraction was not committed; and

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

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1 (c) If a person, for whom a hearing has been scheduled to  
2 contest the notice of infraction or to explain mitigating  
3 circumstances, fails to appear at the hearing, the court shall  
4 enter judgment by default for the State and take action as  
5 provided in section -6(e).

6 § -8 **Monetary assessments.** (a) A defendant found to  
7 have committed a fireworks infraction shall be assessed a  
8 monetary assessment not to exceed the maximum fine specified in  
9 the law or rule defining the fireworks infraction. The court  
10 shall consider the defendant's financial circumstances, if  
11 disclosed, in determining the monetary assessment.

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

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

17 (2) The cost of service of a penal summons issued pursuant  
18 to this chapter.

19 (c) In addition to any monetary assessment imposed for a  
20 fireworks infraction, the court shall impose administrative  
21 costs of \$20 for each fireworks infraction in which judgment is  
22 entered in favor of the State. The clerk of the district court

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1 shall deposit the administrative costs collected into the  
2 judiciary computer system special fund pursuant to section 601-  
3 3.7.

4 (d) Upon request of a defendant claiming inability to pay  
5 a monetary assessment, the court may grant an extension of the  
6 period in which the monetary assessment shall be paid or may  
7 impose community service in lieu thereof.

8 (e) At any point before full payment of a monetary  
9 assessment, any person who suffers a change in financial  
10 circumstances may request a hearing to modify the monetary  
11 assessment or to request community service in lieu thereof.

12 § -9 **Time computation.** In computing any period of time  
13 prescribed or allowed by this chapter, the day of the act,  
14 event, or default from which the period of time begins to run  
15 shall not be included. The last day of the period so computed  
16 shall be included, unless it is a Saturday, Sunday, or state  
17 holiday, in which event the period runs until the end of the  
18 next day that is not a Saturday, Sunday, or state holiday.  
19 Intermediate Saturdays, Sundays, and state holidays shall be  
20 included. Whenever an act required to be performed under this  
21 chapter may be accomplished by mail, the act shall be deemed to

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1 have been performed on the date of the postmark on the mailed  
2 article.

3 § -10 Powers of the district court judge hearing cases  
4 pursuant to this chapter. (a) A district court judge hearing  
5 cases pursuant to this chapter shall have all the powers of a  
6 district court judge under chapter 604, including the following  
7 powers:

- 8 (1) To conduct fireworks infraction hearings and impose  
9 monetary assessments;
- 10 (2) To permit deferral of monetary assessments or impose  
11 community service in lieu thereof;
- 12 (3) To dismiss a notice of infraction, with or without  
13 prejudice, or set aside a judgment for the State;
- 14 (4) To issue penal summonses and bench warrants and  
15 initiate contempt of court proceedings in proceedings  
16 conducted pursuant to section -11;
- 17 (5) To issue penal summonses and bench warrants and  
18 initiate failure to appear proceedings in proceedings  
19 conducted pursuant to section -4(d)(10); and
- 20 (6) To exercise other powers the court finds necessary and  
21 appropriate to carry out the purposes of this chapter.

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1           §   -11 Trial and concurrent trial. (a) There shall be  
2 no right to trial unless the defendant contests the notice of  
3 infraction pursuant to section   -7. If, after proceedings to  
4 contest the notice of infraction, a determination is made that  
5 the defendant committed the fireworks infraction, judgment shall  
6 enter in favor of the State. The defendant may request a trial  
7 pursuant to the Hawaii rules of evidence and the rules of the  
8 district court; provided that any request for trial shall be  
9 made within thirty days of entry of judgment. If, after  
10 appearing in person at a hearing to contest the notice of  
11 infraction, the defendant requests a trial at the conclusion of  
12 the hearing, the court shall provide the defendant with the  
13 trial date as soon as practicable.

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

21           (c) If trial on the fireworks infraction is held before  
22 trial on any related criminal offense, the following shall be

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1 inadmissible in the subsequent prosecution or trial of the  
2 related criminal offense:

3 (1) Any written or oral statement made by the defendant in  
4 proceedings conducted pursuant to section -6(b);  
5 and

6 (2) Any testimony given by the defendant in the trial on  
7 the fireworks infraction.

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

11 (d) In any concurrent trial, the State shall be  
12 represented by a prosecuting attorney of the county in which the  
13 infraction and related crime occurred. Proof of the defendant's  
14 commission of the infraction shall be by a preponderance of the  
15 evidence, and proof of the related criminal offense shall be by  
16 proof beyond a reasonable doubt. The concurrent trial shall be  
17 conducted pursuant to the rules of the appropriate court, Hawaii  
18 rules of evidence, and Hawaii rules of penal procedure.

19 § -12 Rules. (a) The supreme court may adopt rules of  
20 procedure for the conduct of all proceedings pursuant to this  
21 chapter.

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1 (b) Chapter 626 shall not apply in proceedings conducted  
2 pursuant to this chapter, except for the rules governing  
3 privileged communications, and proceedings conducted under  
4 section -11.

5 (c) Notwithstanding section 604-17, while the court is  
6 sitting in any matter pursuant to this chapter, the court shall  
7 not be required to preserve the testimony or proceedings, except  
8 proceedings conducted pursuant to section -11 and proceedings  
9 in which the fireworks infraction is heard on the same date and  
10 time as any related criminal offense.

11 (d) The prosecuting attorney shall not participate in  
12 fireworks infraction proceedings conducted pursuant to this  
13 chapter, except proceedings pursuant to section -11 and  
14 proceedings in which a related criminal offense is scheduled for  
15 arraignment, hearing, or concurrent trial.

16 (e) Chapter 91 shall not apply in proceedings before the  
17 court.

18 (f) Except as otherwise provided in section -2, chapter  
19 571 and the Hawaii family court rules shall not apply in any  
20 proceedings conducted pursuant to this chapter."

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

4 "§132D-A General fireworks or articles pyrotechnic  
5 prohibitions in the second degree. (a) A person commits the  
6 offense of general fireworks or articles pyrotechnic  
7 prohibitions in the second degree if the person intentionally,  
8 knowingly, or recklessly sets off, ignites, discharges, or  
9 otherwise causes to explode any aerial devices, display  
10 fireworks, or articles pyrotechnic:

- 11 (1) Within one thousand feet of any operating hospital,  
12 licensed convalescent home, licensed home for the  
13 elderly, zoo, licensed animal shelter, or licensed  
14 animal hospital;
- 15 (2) In any school building, or on any school grounds or  
16 yards without first obtaining authorization from  
17 appropriate school officials;
- 18 (3) On any highway, alley, street, sidewalk, or other  
19 public way; in any park; on any public beach; in any  
20 officially designated forest or wildlife preserve;  
21 within fifty feet of a canefield; or within one

1           thousand feet of any building used for public worship  
2           during the periods when services are held; or

3           (4) Within five hundred feet of any dwelling.

4           (b) The state of mind requirement for the offense under  
5 subsection (a) (1), (3), and (4) shall not be applicable to  
6 whether the person was aware that the person was within the  
7 designated distance from an operating hospital, licensed  
8 convalescent home, licensed home for the elderly, zoo, licensed  
9 animal shelter, or licensed animal hospital, canefield, building  
10 used for public worship, or hotel. A person shall be strictly  
11 liable with respect to the attendant circumstance that the  
12 person was within the designated distance from a prohibited  
13 place, at the time of incident.

14           (c) Except as provided in subsection (d), (e), and (f),  
15 the offense of general fireworks or articles pyrotechnic  
16 prohibitions in the second degree shall be a misdemeanor.

17           (d) The offense of general fireworks or articles  
18 pyrotechnic prohibitions in the second degree shall be a class C  
19 felony if the person has been convicted one or more times for  
20 any offense under this chapter within ten years of the current  
21 offense.

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1        (e) The offense of general fireworks or articles  
2 pyrotechnic prohibitions in the second degree shall be a class B  
3 felony if any of the aerial devices, display fireworks, or  
4 articles pyrotechnic set off, ignited, discharged, or otherwise  
5 caused to explode in the commission of the offense cause  
6 substantial bodily injury to another person.

7        (f) The offense of general fireworks or articles  
8 pyrotechnic prohibitions in the second degree shall be a class A  
9 felony if any of the aerial devices, display fireworks, or  
10 articles pyrotechnic set off, ignited, discharged, or otherwise  
11 caused to explode in the commission of the offense cause serious  
12 bodily injury or death to another person.

13        (g) The state of mind requirement for subsections (e) and  
14 (f) shall not be applicable to whether the person was aware the  
15 aerial devices, display fireworks, or articles pyrotechnic  
16 caused or would cause the injury or death. A person shall be  
17 strictly liable with respect to the result that the aerial  
18 devices, display fireworks, or articles pyrotechnic caused the  
19 injury or death.

20        §132D-B Sending or receiving fireworks or articles  
21 pyrotechnic by air delivery; prohibited. (a) A person commits  
22 the offense of sending or receiving fireworks or articles

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1 pyrotechnic by air delivery if the person intentionally,  
2 knowingly, or recklessly sends or receives any amount of  
3 consumer fireworks, aerial devices, display fireworks, or  
4 articles pyrotechnic via any form of air delivery, including but  
5 not limited to any private courier, commercial carrier, mail or  
6 postal services.

7 (b) Except as provided in subsections (c) and (d), the  
8 offense of sending or receiving fireworks or articles  
9 pyrotechnic by air delivery shall be a class C felony.

10 (c) The offense of sending or receiving fireworks or  
11 articles pyrotechnic by air delivery shall be a class B felony  
12 if:

13 (1) The person has been convicted one or more times for  
14 any offense under this chapter within ten years of the  
15 current offense; or

16 (2) The total weight of the consumer fireworks, aerial  
17 devices, display fireworks, and articles pyrotechnic  
18 sent or received in the commission of the offense is  
19 five pounds or more but less than twenty-five pounds.

20 (d) The offense of sending or receiving fireworks or  
21 articles pyrotechnic by air delivery shall be a class A felony  
22 if the total weight of the consumer fireworks, aerial devices,

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1 display fireworks, and articles pyrotechnic sent or received in  
2 the commission of the offense is twenty-five pounds or more.

3 §132D-C Distributing fireworks or articles pyrotechnic to  
4 non-permit holder. (a) A person commits the offense of

5 distributing fireworks or articles pyrotechnic to non-permit  
6 holder when the person, who holds a valid license required

7 pursuant to section 132D-7, intentionally, knowingly, or

8 recklessly distributes consumer fireworks, aerial devices,

9 display fireworks, or articles pyrotechnic to another person who

10 does not have a valid permit required pursuant to sections 132D-

11 10 and 132D-16.

12 (b) Except as provided in subsection (c) and (d), the

13 offense of distributing fireworks or articles pyrotechnic to

14 non-permit holder shall be a class C felony.

15 (c) The offense of distributing fireworks or articles

16 pyrotechnic to non-permit holder shall be a class B felony if:

17 (1) The person has been convicted one or more times for

18 any offense under this chapter within ten years of the

19 current offense; or

20 (2) Any of the consumer fireworks, aerial devices, display

21 fireworks, or articles pyrotechnic distributed in the

1           commission of the offense cause substantial bodily  
2           injury to another person.

3           (d) The offense of distributing fireworks or articles  
4 pyrotechnic to non-permit holder shall be a class A felony if  
5 any of the consumer fireworks, aerial devices, display  
6 fireworks, or articles pyrotechnic distributed in the commission  
7 of the offense cause serious bodily injury or death to another  
8 person.

9           (e) The state of mind requirement for subsections (c) (2)  
10 and (d) shall not be applicable to whether the person was aware  
11 the consumer fireworks, aerial devices, display fireworks, or  
12 articles pyrotechnic caused or would cause the injury or death.  
13 A person shall be strictly liable with respect to the result  
14 that the consumer fireworks, aerial devices, display fireworks,  
15 or articles pyrotechnic caused the injury or death.

16           §132D-D Removal or extraction of pyrotechnic contents;  
17 prohibited. Any person who removes or extracts the pyrotechnic  
18 contents from any consumer fireworks, aerial devices, display  
19 fireworks, or articles pyrotechnic shall be guilty of a class C  
20 felony.

21           §132D-E Consumer fireworks prohibitions. (a) It shall be  
22 unlawful for any person to:

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1        (1) Purchase, possess, set off, ignite, discharge, or  
2        otherwise cause to explode any consumer fireworks  
3        without a permit required pursuant to section 132D-10;  
4        or

5        (2) Set off, ignite, discharge, or otherwise cause to  
6        explode any consumer fireworks at any time not within  
7        the periods for use prescribed in section 132D-3.

8        (b) It shall be unlawful for any person to distribute  
9        consumer fireworks:

10       (1) More than five calendar days before the time periods  
11       for permissible use under section 132D-3; or

12       (2) After 12:01 a.m. on New Year's Day, 6:00 p.m. on  
13       Chinese New Year's Day, or 8:00 p.m. on the Fourth of  
14       July.

15       (c) The state of mind requirement for the offense under  
16       subsections (a) (2) and (b) shall not be applicable to whether  
17       the person was aware of the date or time at the time of offense,  
18       or whether the date and time of offense fell within the  
19       prohibited periods. A person shall be strictly liable with  
20       respect to the date and time of any act proven to have occurred,  
21       and with respect to the attendant circumstance that the date and

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1 time fell within the prohibited dates and times provided in  
2 subsections (a)(2) and (b).

3 (d) Any person who violates subsection (a) shall be subject  
4 to a \$200 fine; any person who violates subsection (b) shall be  
5 subject to a \$1,000 fine; and any person who violates this  
6 section shall be subject to proceedings under chapter ;  
7 provided that nothing in this section shall be construed to  
8 prohibit prosecution under section 132D-7, 132D-8.6, or any  
9 other provision under this chapter.

10 §132D-F Refusal to provide identification. (a) Except as  
11 provided in subsection (b), any person detained for violating  
12 this chapter shall provide the person's name and current mailing  
13 address, or any proof thereof, upon the lawful order or  
14 direction of any law enforcement officer in the course and scope  
15 of the officer's duties to enforce this chapter.

16 (b) If the officer has reasonable grounds to believe that  
17 the person is being deceptive or misleading in providing the  
18 person's name or address, the person shall provide proof  
19 thereof, upon the lawful order or direction of the law  
20 enforcement officer.

21 (c) Refusal to provide identification pursuant to this  
22 section shall be a petty misdemeanor.

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1           §132D-G Requirements of carrier. (a) Any carrier or  
2 person shipping consumer fireworks, aerial devices, display  
3 fireworks, or articles pyrotechnic:

4           (1) Into the State shall notify the appropriate county  
5 official and designated state law enforcement agencies  
6 at the time the booking is made and, in any case, no  
7 later than fourteen days before arrival into the  
8 State; or

9           (2) Interisland within the State shall notify the  
10 appropriate county official and designated state law  
11 enforcement agencies at the time the booking is made  
12 and, in any case, no later than five days before  
13 departing from the island of origin;

14 provided that the notification shall include, when applicable,  
15 but need not be limited to the container identification number,  
16 manifest, bill of lading, consignee, freight forwarder, sailing  
17 vessel name, route number, date of departure, and estimated date  
18 of arrival.

19           (b) For a first offense, or any offense not committed  
20 within five years of a prior judgment for the State under this  
21 section, the carrier or person shall be subject to a \$1,000  
22 fine.

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1        (c) For a second offense committed within five years of a  
2 prior judgment for the State under this section, the carrier or  
3 person shall be subject to a \$2,000 fine.

4        (d) For a third or subsequent offense committed within  
5 five years of two or more prior judgements for the State under  
6 this section, the carrier or person shall be subject to a \$5,000  
7 fine.

8        (e) All violations of this section shall be subject to  
9 proceedings under chapter . Nothing in this section shall be  
10 construed to prohibit criminal prosecution under section 132D-  
11 8.6 or any other section of this chapter."

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

14        1. By adding five new definitions to be appropriately  
15 inserted and to read:

16        "Carrier" means any shipper or anyone who transports  
17 goods, merchandise, property, or people by rail car, aircraft,  
18 motor vehicle, or vessel.

19        "Distribute" or "distribution" means to sell, transfer,  
20 deliver to another, give or deliver to another, or to leave,  
21 barter, exchange with another, or to offer or agree to do the  
22 same.

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1        "Dwelling" means a building that is used or usually used by  
2 a person for lodging.

3        "Serious bodily injury" means bodily injury that creates a  
4 substantial risk of death or which causes serious, permanent  
5 disfigurement, or protracted loss or impairment of the function  
6 of any bodily member or organ.

7        "Substantial bodily injury" means bodily injury that  
8 causes:

9        (1) A major avulsion, laceration, or penetration of the  
10 skin;

11        (2) A burn of at least second degree severity;

12        (3) A bone fracture;

13        (4) A serious concussion; or

14        (5) A tearing, rupture, or corrosive damage to the  
15 esophagus, viscera, or other internal organs."

16        2. By amending the definition of "aerial device" to read:

17        "Aerial device" means any fireworks [~~containing one~~  
18 ~~hundred thirty milligrams or less of explosive materials that~~  
19 ~~produces an audible or visible effect and is designed to rise]~~  
20 that upon ignition, discharge, or otherwise being set off rises  
21 more than twelve feet into the air and [~~explode or detonate]~~  
22 then combusts, explodes, deflagrates, or detonates in the air,

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1 shoots or emits flaming balls, or [~~to fly about above the~~  
2 ~~ground, and that is prohibited for use by any person who does~~  
3 ~~not have a permit for display issued by a county under section~~  
4 ~~132D-16. "Aerial devices"] shoots or emits sparks.  
5 Alternatively, "aerial device" may include but is not limited to  
6 any device classified as fireworks under UN0336 and UN0337 by  
7 the United States Department of Transportation as set forth in  
8 Title 49 Code of Federal Regulations [~~include~~], which contains  
9 one hundred thirty milligrams or less of explosive materials,  
10 including firework items commonly known as bottle rockets, sky  
11 rockets, missile-type rockets, helicopters, torpedoes, daygo  
12 bombs, roman candles, flying pigs, and jumping jacks that move  
13 about the ground farther than a circle with a radius of twelve  
14 feet as measured from the point where the item was placed and  
15 ignited, aerial shells, and mines."~~

16 3. By amending the definition of "consumer fireworks" to  
17 read:

18 ""Consumer fireworks" means any fireworks [~~designed~~  
19 ~~primarily for retail sale to the public during authorized dates~~  
20 ~~and times,~~] that upon ignition, discharge, or otherwise being  
21 set off produces visible or audible effects [~~by combustion~~], and  
22 that [~~is designed to remain~~] remains on or near the ground and,

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

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1 the point where the item was placed and ignited, novelty or  
2 trick items, combination items, and other fireworks of like  
3 construction that are designed to produce the same or similar  
4 effects."

5 4. By amending the definition of "display fireworks" to  
6 read:

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

21 5. By amending the definition of "fireworks" to read:

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

19            6. By amending the definition of "import" to read:

20            ""Import" (and any nounal, verbal, adjectival, adverbial,  
21 and other equivalent form of the term used interchangeably in  
22 this chapter) means to bring or attempt to bring [~~fireworks]~~

1 into the State or to cause [~~fireworks~~] to be brought into the  
2 State[~~-~~] any aerial devices, articles pyrotechnic, consumer  
3 fireworks, or display fireworks, as defined in this section or  
4 as defined by the United States Department of Transportation as  
5 set forth in Title 49 Code of Federal Regulations, and includes  
6 [~~fireworks~~] any aerial devices, articles pyrotechnic, consumer  
7 fireworks, or display fireworks labeled or designated as  
8 samples, even if not intended for retail sale."

9 7. By amending the definition of "pyrotechnic composition"  
10 or "pyrotechnic contents" to read:

11 "Pyrotechnic composition" or "pyrotechnic contents" means  
12 the combustible or explosive component of consumer fireworks[~~-~~],  
13 aerial devices, display fireworks, and articles pyrotechnic."

14 8. By repealing the definition of "law enforcement or fire  
15 officer".

16 [~~"Law enforcement or fire officer" means any~~  
17 ~~law enforcement officer having police power or county fire~~  
18 ~~department officer, including firefighters."]~~

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

21 "§132D-5 General fireworks or articles pyrotechnic  
22 prohibitions[~~-~~] in the first degree. (a) It shall be unlawful

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1 for any person [~~without a permit issued under section 132D-10 by~~  
2 ~~a county fire department~~] to:

3 [~~(1)~~] ~~Remove or extract the pyrotechnic contents from any~~  
4 ~~fireworks or articles pyrotechnics;~~

5 ~~(2)]~~ (1) Throw, catapult, or otherwise manually propel any  
6 ignited [~~fireworks:~~] consumer fireworks, aerial  
7 devices, display fireworks, or articles pyrotechnic:

8 (A) From, at, or into a vehicle;

9 (B) At a person or an animal; [~~and~~] or

10 (C) From above the first floor of any building; or

11 [~~(3)]~~ (2) Set off, ignite, discharge, or otherwise cause to  
12 explode any [~~fireworks:~~] consumer fireworks, aerial  
13 devices, display fireworks, or articles pyrotechnic:

14 (A) [~~Above~~] From above the first floor of any  
15 building;

16 (B) In any vehicle;

17 [~~(C)~~] ~~At any time not within the periods for use~~  
18 ~~prescribed in section 132D-3;~~

19 ~~(D)~~ ~~Within one thousand feet of any operating~~  
20 ~~hospital, licensed convalescent home, licensed~~  
21 ~~home for the elderly, zoo, licensed animal~~  
22 ~~shelter, or licensed animal hospital;~~

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1           ~~(E) In any school building, or on any school grounds~~  
2           ~~and yards without first obtaining authorization~~  
3           ~~from appropriate school officials;~~

4           ~~(F) On any highway, alley, street, sidewalk, or other~~  
5           ~~public way; in any park; on any public beach; in~~  
6           ~~any officially designated forest or wildlife~~  
7           ~~preserve; within fifty feet of a canefield; or~~  
8           ~~within one thousand feet of any building used for~~  
9           ~~public worship during the periods when services~~  
10           ~~are held; and~~

11           ~~(G) Within five hundred feet of any hotel.~~

12           ~~(b) It shall be unlawful to purchase consumer fireworks~~  
13           ~~more than five calendar days before the time periods for~~  
14           ~~permissible use under section 132D-3.~~

15           ~~(c) It shall be unlawful to sell consumer fireworks after~~  
16           ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~  
17           ~~Day, and 8:00 p.m. on the Fourth of July.] or~~

18           (C) In any building; provided that firecrackers shall  
19           be permitted if used in accordance with sections  
20           132D-3 and 132D-10 and all other applicable state  
21           and county laws, ordinances, and rules.

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1        (b) Except as provided in subsections (c) and (d), the  
2 offense of general fireworks or pyrotechnic prohibitions in the  
3 first degree shall be a class C felony.

4        (c) If, in the commission of the offense of general  
5 fireworks or articles pyrotechnic prohibitions in the first  
6 degree, the person negligently causes substantial bodily injury  
7 to another person, the person shall be guilty of a class B  
8 felony.

9        (d) If, in the commission of the offense of general  
10 fireworks or articles pyrotechnic prohibitions in the first  
11 degree, the person negligently causes serious bodily injury or  
12 death to another person, the person shall be guilty of a class A  
13 felony."

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

16        "§132D-6 **Exceptions.** The prohibitions in [~~section~~]  
17 sections 132D-5, 132D-A, and 132D-D do not apply to:

18        (1) The use of flares, noisemakers, or signals for  
19            warning~~[7]~~ or pest control, or for illumination  
20            purposes by police and fire departments, utility  
21            companies, transportation agencies, and other  
22            governmental or private agencies or persons, including

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

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

1           "§132D-7 License or permit required. A person shall not:

2           (1) Import, store, [~~effer to sell, or sell,~~] or  
3           distribute, including at wholesale or retail, any  
4           aerial devices, display fireworks, articles  
5           pyrotechnic, or consumer fireworks unless the person  
6           has a valid license issued [~~by the county,~~] pursuant  
7           to this chapter; or

8           (2) Possess any aerial devices, display fireworks, or  
9           articles pyrotechnic without a valid license to  
10          import, store, or [~~sell~~] distribute aerial devices,  
11          display fireworks, or articles pyrotechnic, or a valid  
12          display permit [~~as provided for in~~] issued pursuant to  
13          this chapter."

14          SECTION 8. Section 132D-8.6, Hawaii Revised Statutes, is  
15          amended by amending subsection (a) to read as follows:

16          "(a) Any person who has obtained a license [~~under~~]  
17          required pursuant to section 132D-7 and ships fireworks or  
18          articles pyrotechnic into the State shall:

19          (1) Clearly designate the types of fireworks or articles  
20          pyrotechnic in each shipment on the bill of lading or  
21          shipping manifest with specificity;

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- 1           (2) Declare on the bill of lading or shipping manifest the  
2           gross weight of consumer fireworks, display fireworks,  
3           articles pyrotechnic, and aerial devices to be  
4           imported in each shipment and the location of the  
5           storage facility, if applicable, in which the  
6           fireworks or articles pyrotechnic are to be stored;
- 7           (3) [~~Prior to~~] Before shipment and when booking each  
8           shipment of fireworks, display fireworks, articles  
9           pyrotechnic, or aerial devices notify the [~~appropriate~~  
10           ~~county official as determined by the county~~] Hawaii  
11           state fire marshal regarding whether the shipment will  
12           be distributed from:
- 13           (A) Pier to pier;
- 14           (B) Pier to warehouse or storage facility; or
- 15           (C) Pier to redistribution;
- 16           (4) [~~Prior to~~] Before booking the shipment, provide to the  
17           [~~applicable county fire chief:~~] Hawaii state fire  
18           marshal:
- 19           (A) Written documentation regarding the proposed  
20           display event or events and related contact  
21           information to allow the fire chief to validate

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- 1 the importation of a three-month or six-month  
2 inventory under section 132D-8.5; and  
3 (B) An inventory breakdown for each proposed display;  
4 and  
5 (5) At the time shipping is booked, the importer or  
6 consignee shall notify the [~~appropriate county~~  
7 ~~official as determined by the county~~] Hawaii state  
8 fire marshal in writing of the expected shipment's  
9 landing date[-]; provided that:  
10 (A) Notifications shall be made through a system  
11 designated by the Hawaii state fire marshal; and  
12 (B) If a licensee fails to notify the Hawaii state  
13 fire marshal two or more times within one year of  
14 the issuance of a license, the license may be  
15 revoked."

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

18 "§132D-10 Permits. (a) A permit shall be required for  
19 the purchase and use of:

- 20 (1) Any consumer fireworks commonly known as firecrackers  
21 upon payment of a fee of \$25;

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1 (2) Any aerial devices, display fireworks, or articles  
2 pyrotechnic for the purposes of section 132D-16 upon  
3 payment of a fee of \$110; and

4 (3) Any consumer fireworks [~~for the purposes of section~~  
5 ~~132D-5 or~~] for cultural uses that occur at any time  
6 other than during the periods prescribed in section  
7 132D-3(1) upon a payment of a fee of \$25.

8 (b) Each person may purchase a maximum of fifty permits  
9 per year."

10 SECTION 10. Section 132D-12, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§132D-12 [~~Sale~~] Distribution to minors; [~~sale by minors,~~]  
13 ~~prohibited.~~ (a) It shall be unlawful for any person to [~~offer~~  
14 ~~for sale, sell, or give~~] distribute any consumer fireworks,  
15 aerial devices, display fireworks, or articles pyrotechnic to  
16 minors, [~~and for any minor to possess, purchase, sell, or set~~  
17 ~~off, ignite, or otherwise cause to explode any fireworks or~~  
18 ~~articles pyrotechnic,~~] except as provided in section 132D-13.

19 (b) A person who violates this section shall be guilty of  
20 a class C felony."

21 SECTION 11. Section 132D-13, Hawaii Revised Statutes, is  
22 amended to read as follows:

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1           "§132D-13   Liability of parents or guardians.   [The  
2 ~~parents,~~] (a) Except as provided in subsection (b), it shall be  
3 unlawful for a parent, guardian, [and] or other [persons] person  
4 having the custody or control of any minor [~~who~~] to knowingly  
5 permit the minor to [possess,]:

6           (1) Possess or purchase [~~or set~~] any consumer fireworks,  
7           aerial devices, display fireworks, or articles  
8           pyrotechnic; or

9           (2) Set off, ignite, discharge, or otherwise cause to  
10           explode any [~~fireworks~~] consumer fireworks, aerial  
11           devices, display fireworks, or articles pyrotechnic [~~or~~  
12           shall be deemed to be in violation of this chapter and  
13           shall be subject to the penalties thereunder, except].

14           (b) [the parents] The parent or guardian may allow the  
15 minor to use consumer fireworks while under the immediate  
16 supervision and control of the parent or guardian, or under the  
17 immediate supervision and control of another adult.

18           (c) Separate and apart from any civil liability that may  
19 result from this or any related incident, and except as provided  
20 in subsections (d) and (e), the violation of subsection (a)  
21 shall be a misdemeanor.

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1        (d) If any of the consumer fireworks, aerial devices,  
2 display fireworks, or articles pyrotechnic set off, ignited,  
3 discharged, or otherwise caused to explode in violation of  
4 subsection (a)(2) cause substantial bodily injury to another  
5 person, the violation of subsection (a) shall be a class C  
6 felony.

7        (e) If any of the consumer fireworks, aerial devices,  
8 display fireworks, or articles pyrotechnic set off, ignited,  
9 discharged, or otherwise caused to explode in violation of  
10 subsection (a)(2) cause serious bodily injury or death to  
11 another person, the violation of subsection (a) shall be a class  
12 B felony.

13        (f) The state of mind requirement for subsection (d) and  
14 (e) shall not be applicable to whether the person was aware that  
15 the consumer fireworks, aerial devices, display fireworks, or  
16 articles pyrotechnic caused or would cause the injury or death.  
17 A person shall be strictly liable with respect to the result  
18 that the consumer fireworks, aerial devices, display fireworks,  
19 or articles pyrotechnic caused the injury or death."

20        SECTION 12. Section 132D-14, Hawaii Revised Statutes, is  
21 amended to read as follows:

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1           "§132D-14 Penalty. (a) [Any] Except as provided in  
2 subsections (b) and (c), any person:

3           (1) Importing, storing, or distributing consumer  
4 fireworks, aerial devices, display fireworks, or  
5 articles pyrotechnic without having a valid license  
6 [under] as required pursuant to section 132D-7 [shall  
7 be]:

8           (A) Shall be guilty of a class C felony; and

9           (B) Notwithstanding subparagraph (A), if the total  
10 weight of the consumer fireworks, aerial devices,  
11 display fireworks, and articles pyrotechnic is  
12 twenty-five pounds or more, shall be guilty of a  
13 class B felony;

14           (2) Purchasing, possessing, setting off, igniting, [or]  
15 discharging, or otherwise causing to explode aerial  
16 devices, display fireworks, or articles pyrotechnic  
17 without a valid permit [under] required pursuant to  
18 sections 132D-10 and 132D-16, [or storing, selling, or  
19 possessing aerial devices, display fireworks, or  
20 articles pyrotechnic without a valid license under  
21 section 132D-7, or allowing an individual to possess,  
22 set off, ignite, discharge, or otherwise cause to

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1 ~~explode any aerial device in violation of section~~  
2 ~~132D-14.5]:~~

3 (A) If the total weight of the aerial devices,  
4 display fireworks, and articles pyrotechnic is  
5 fifty pounds or more, shall be guilty of a class  
6 B felony;

7 ~~[-(A)]~~ (B) If the total weight of the aerial devices,  
8 display fireworks, [œ] and articles pyrotechnic  
9 is twenty-five pounds or more, shall be guilty of  
10 a class C felony; [œ]

11 ~~-(B)]~~ (C) If the total weight of the aerial devices,  
12 display fireworks, [œ] and articles pyrotechnic  
13 is [less than twenty five pounds,] five pounds or  
14 more, shall be guilty of a misdemeanor;

15 (D) If the total weight of the aerial devices,  
16 display fireworks, or articles pyrotechnic is  
17 less than five pounds, and if the total weight  
18 cannot be determined, shall be fined \$300 and  
19 subject to proceedings under chapter .

20 ~~[-(3) Who transfers or sells aerial devices, display~~  
21 ~~fireworks, or articles pyrotechnic to a person who~~

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1           ~~does not have a valid permit under sections 132D-10~~  
2           ~~and 132D-16, shall be guilty of a class C felony; and~~  
3           ~~(4) Who removes or extracts the pyrotechnic contents from~~  
4           ~~any fireworks or articles pyrotechnic and uses the~~  
5           ~~contents to construct fireworks, articles pyrotechnic,~~  
6           ~~or a fireworks or articles pyrotechnic related device~~  
7           ~~shall be guilty of a misdemeanor.]~~

8           (b) Any person who would otherwise be subject to  
9           sentencing for a criminal offense under subsection (a) shall be  
10           guilty of an offense one class or grade higher, as the case may  
11           be, than that provided in subsection (a) if:

12           (1) The person has been convicted one or more times for  
13           any offense under this chapter within ten years of the  
14           instant offense; or

15           (2) Any of the consumer fireworks, aerial devices, display  
16           fireworks, or articles pyrotechnic imported, stored,  
17           distributed, purchased, possessed, set off, ignited,  
18           discharged, or otherwise caused to explode in the  
19           commission of the offense under subsection (a) cause  
20           substantial bodily injury to another person.

21           (c) Any person who would otherwise be subject to  
22           sentencing for a criminal offense under subsection (a) shall be

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1 guilty of an offense two classes or grades higher, as the case  
2 may be, than that provided in subsection (a) if any of the  
3 consumer fireworks, aerial devices, display fireworks, or  
4 articles pyrotechnic imported, stored, distributed, purchased,  
5 possessed, set off, ignited, discharged, or otherwise caused to  
6 explode in the commission of the offense under subsection (a)  
7 cause serious bodily injury or death to another person. For an  
8 offense already classified as a class B felony, the person shall  
9 be guilty of a class A felony if any of the consumer fireworks,  
10 aerial devices, display fireworks, or articles pyrotechnic  
11 imported, stored, distributed, purchased, possessed, set off,  
12 ignited, discharged, or otherwise caused to explode in the  
13 commission of the offense under subsection (a) cause serious  
14 bodily injury or death to another person.

15 (d) The state of mind requirement for subsections (b) and  
16 (c) shall not be applicable to whether the person was aware that  
17 any of the consumer fireworks, aerial devices, display  
18 fireworks, or articles pyrotechnic caused or would cause the  
19 injury or death. A person shall be strictly liable with respect  
20 to the attendant circumstance that the consumer fireworks,  
21 aerial devices, display fireworks, or articles pyrotechnic  
22 caused the injury or death.

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1        [~~(b)~~] (e) Except as provided in subsection (a), (b), or  
2 (c), or as otherwise specifically provided for in this chapter,  
3 any person violating any other provision of this chapter, shall  
4 be guilty of a violation and fined no less than \$500 and no more  
5 than \$5,000 for each violation. [~~Notwithstanding any provision~~  
6 ~~to the contrary in this section, any person violating section~~  
7 ~~132D-14.5 shall be fined at least \$500 and no more than \$5,000.~~]

8        [~~(e)~~] (f) The court shall collect the fines imposed in  
9 subsections (a) [~~and~~], (b), (c), and (e) for violating this  
10 chapter and, of the fines collected, shall pay twenty per cent  
11 to the State and eighty per cent to the county in which the fine  
12 was imposed, which shall be expended by the county for law  
13 enforcement purposes.

14        [~~(d)~~] (g) Notwithstanding any penalty set forth herein,  
15 violations of subsection (a) (1) [~~or (3)~~] may be subject to  
16 nuisance abatement proceedings provided in part V of chapter  
17 712.

18        [~~(e)~~] ~~For the purposes of this section:~~

19        ~~(1) Each type of prohibited firework imported, purchased,~~  
20        ~~sold, possessed, set off, ignited, or discharged shall~~  
21        ~~constitute a separate violation for each unopened~~  
22        ~~package; and~~

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- 1       ~~(2) Each separate firework imported, purchased, sold,~~  
2           ~~possessed, set off, ignited, or discharged shall be a~~  
3           ~~separate violation if the package is opened or the~~  
4           ~~firework is not in a package.~~
- 5       ~~(f) For the purposes of this section, "package":~~
- 6       ~~(1) Means any aerial device, display firework, or article~~  
7           ~~pyrotechnic:~~
- 8           ~~(A) Enclosed in a container or wrapped in any manner~~  
9           ~~in advance of wholesale or retail sale; and~~
- 10       ~~(B) With a weight or measure determined in advance of~~  
11           ~~wholesale or retail sale; and~~
- 12       ~~(2) Does not mean:~~
- 13           ~~(A) Inner wrappings not intended to be individually~~  
14           ~~sold to the customer;~~
- 15           ~~(B) Shipping containers or wrapping used solely for~~  
16           ~~the transportation of any commodities in bulk or~~  
17           ~~in quantity;~~
- 18           ~~(C) Auxiliary containers or outer wrappings used to~~  
19           ~~deliver commodities if the containers or~~  
20           ~~wrappings bear no printed matter pertaining to~~  
21           ~~any particular aerial device, display firework,~~  
22           ~~or article pyrotechnic;~~

H.B. NO. 1025

- 1           ~~(D) Containers used for retail tray pack displays~~
- 2                   ~~when the container itself is not intended to be~~
- 3                   ~~sold; or~~
- 4           ~~(E) Open carriers and transparent wrappers or~~
- 5                   ~~carriers for containers when the wrappers or~~
- 6                   ~~carriers do not bear printed matter pertaining to~~
- 7                   ~~any particular aerial devices, display fireworks,~~
- 8                   ~~or articles pyrotechnic.] "~~

9           SECTION 13. Section 132D-14.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           " ~~[+] §132D-14.5 [+~~ Liability of homeowner, renter, or  
12 person otherwise responsible for real property. (a) A  
13 homeowner, renter, or person otherwise responsible for ~~[the]~~  
14 real property who intentionally, knowingly, ~~[or]~~ recklessly  
15 [allows], or negligently:

16           (1) Allows an individual, while on the real property, to  
17 possess, set off, ignite, discharge, or otherwise  
18 cause to explode any aerial ~~[devicee]~~ devices, display  
19 fireworks, or articles pyrotechnic without a permit  
20 issued pursuant to this chapter shall be ~~[deemed to be~~  
21 ~~in violation of this chapter and shall be subject to~~

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1           ~~the penalties specified in section 132D-14(a)(2) and~~  
2           ~~(b).~~] guilty of a petty misdemeanor;

3           (2) Allows any aerial devices, display fireworks, articles  
4           pyrotechnic, or pyrotechnic composition to be stored  
5           in the real property without a license issued pursuant  
6           to this chapter shall be guilty of a misdemeanor; and

7           (3) Notwithstanding paragraph (2), allows aerial devices,  
8           display fireworks, articles pyrotechnic, or  
9           pyrotechnic composition to be stored in the real  
10           property, if the total weight of the aerial devices,  
11           display fireworks, articles pyrotechnic, and  
12           pyrotechnic composition is twenty-five pounds or more  
13           without a license issued pursuant to this chapter,  
14           shall be guilty of a class C felony.

15           (b) Any person who would otherwise be subject to  
16           sentencing under subsection (a) shall be guilty of an offense  
17           one class or grade higher, as the case may be, than that  
18           provided in subsection (a) if:

19           (1) The person has been convicted one or more times for  
20           any offense under this chapter within ten years of the  
21           instant offense; or

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1        (2) Any of the aerial devices, display fireworks, articles  
2                    pyrotechnic or pyrotechnic composition possessed, set  
3                    off, ignited, discharged, otherwise caused to explode,  
4                    or stored in the violation of subsection (a) cause  
5                    substantial bodily injury to another person.

6        (c) Any person who would otherwise be subject to  
7                    sentencing under subsection (a) shall be guilty of an offense  
8                    two classes or grades higher, as the case may be, than that  
9                    provided in subsection (a) if any of the aerial devices, display  
10                   fireworks, articles pyrotechnic, or pyrotechnic composition  
11                   possessed, set off, ignited, discharged, otherwise caused to  
12                   explode, or stored in the violation of subsection (a) cause  
13                   serious bodily injury or death to another person.

14        (d) The state of mind requirement for subsections (b) and  
15                   (c) shall not be applicable to whether the person was aware  
16                   that any of the aerial devices, display fireworks, articles  
17                   pyrotechnic or pyrotechnic composition caused or would cause the  
18                   injury or death. A person shall be strictly liable with respect  
19                   to the attendant circumstance that the aerial devices, display  
20                   fireworks, or articles pyrotechnic caused the injury or death."

21        SECTION 14. Section 132D-15, Hawaii Revised Statutes, is  
22        amended to read as follows:

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1           " [†]§132D-15 [‡] **Notice requirements.** Each licensed retail  
2 outlet shall post adequate notice that clearly cautions each  
3 person purchasing consumer fireworks of the prohibitions,  
4 liabilities, and penalties incorporated in sections 132D-12,  
5 132D-13, [and] 132D-14 [·], and 132D-E."

6           SECTION 15. 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 shall be construed to supersede or in any manner affect  
10 a county fireworks ordinance; provided that the ordinance is at  
11 least as stringent in the control or prohibition of consumer  
12 fireworks, aerial devices, display fireworks, and articles  
13 pyrotechnic as the law under this chapter.

14           (b) Nothing in this chapter shall prohibit a county from  
15 enacting ordinances that are more stringent in the control or  
16 prohibition of consumer fireworks, aerial devices, display  
17 fireworks, and articles pyrotechnic than this chapter."

18           SECTION 16. Section 132D-21, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "§132D-21 **Health care facilities; report of fireworks and**  
21 **articles pyrotechnic incidents.** Health care facilities in this  
22 State shall report all incidents of serious injuries and

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1 fatalities caused by legal and illegal consumer fireworks,  
2 aerial devices, display fireworks, or articles pyrotechnic to  
3 the department of health and the police department of the county  
4 in which the person was attended or treated. All reports shall  
5 be in writing or in the manner specified by the department of  
6 health.

7 As used in this section, "health care facilities" includes  
8 any outpatient clinic, emergency room, or physician's office,  
9 private or public, whether organized for profit or not, used,  
10 operated, or designed to provide medical diagnosis, treatment,  
11 nursing, rehabilitative, or preventive care to any person or  
12 persons. The term includes but is not limited to health care  
13 facilities that are commonly referred to as hospitals, extended  
14 care and rehabilitation centers, nursing homes, skilled nursing  
15 facilities, intermediate care facilities, hospices for the  
16 terminally ill that require licensure or certification by the  
17 department of health, kidney disease treatment centers,  
18 including freestanding hemodialysis units, outpatient clinics,  
19 organized ambulatory health care facilities, emergency care  
20 facilities and centers, home health agencies, health maintenance  
21 organizations, and others providing similarly organized services  
22 regardless of nomenclature."

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1 SECTION 17. Section 132D-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+] §132D-22 [+] Entry onto premises; inspection of~~  
4 ~~premises, books, and records; obstructing [law enforcement or~~  
5 ~~fire department] inspector operations; penalty. (a) Any [law~~  
6 ~~enforcement or fire officer] inspector may, at reasonable hours,~~  
7 enter and inspect the premises of a licensee or permittee and  
8 any relevant books or records therein to verify compliance with  
9 this chapter and the conditions of the license or permit.

10 (b) Upon a request by any ~~[law enforcement or fire~~  
11 ~~officer] inspector to enter and inspect the premises of a~~  
12 licensee or permittee at reasonable hours, the licensee, the  
13 permittee, or an employee of the licensee or permittee shall  
14 make available for immediate inspection and examination the  
15 premises and all relevant books and records therein.

16 (c) Any licensee or permittee who refuses the ~~[law~~  
17 ~~enforcement or fire officer] inspector entry or access to the~~  
18 premises, books, or records shall be in violation of the  
19 conditions of the license or permit. After a hearing, the  
20 issuing department shall suspend or revoke the license or permit  
21 for refusing entry or access or for violations of any other  
22 requirement or condition of the license or permit or any

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1 provision of this chapter or rule adopted pursuant to this  
2 chapter. The issuing department shall provide the licensee or  
3 permittee with a written notice and order describing the basis  
4 for the suspension or revocation. Any person aggrieved by the  
5 suspension or revocation determination may request a contested  
6 case hearing pursuant to chapter 91. To request a contested  
7 case hearing, the person shall submit a written request to the  
8 issuing department within thirty calendar days of the date of  
9 the notice and order of the suspension or revocation. Appeal to  
10 the circuit court under section 91-14, or any other applicable  
11 statute, shall only be taken from the issuing department's final  
12 order pursuant to a contested case.

13 (d) Any licensee, permittee, employee of a licensee or  
14 permittee, or other person who:

15 (1) Threatens with the use of violence, force, or physical  
16 interference or obstacle, or hinders, obstructs, or  
17 prevents any [~~law enforcement or fire officer,~~  
18 inspector, or any person assisting [~~a law enforcement~~  
19 ~~or fire officer,~~ an inspector, from entering into the  
20 premises of the licensee or permittee; or

1           (2) Opposes, obstructs, or molests [~~a law enforcement or~~  
2           ~~fire officer~~] an inspector in the officer's  
3           enforcement of this chapter,  
4 shall be guilty of a misdemeanor, punishable by a fine of no  
5 more than \$2,000 or imprisonment for no more than one year, or  
6 both.

7           (e) If any [~~law enforcement or fire officer~~] inspector,  
8 having demanded admittance onto the premises of a licensee or  
9 permittee and declared the [~~officer's~~] inspector's name and  
10 office, is not admitted by the licensee, permittee, or person in  
11 charge of the premises, the [~~officer~~] inspector may use force to  
12 enter the premises.

13           (f) For purposes of this section[7]:

14           "Inspector" means any county fire department officer,  
15 including firefighters.

16           [~~"premises"~~] "Premises of a licensee or permittee" does not  
17 include the licensee's or permittee's private residence or a  
18 dwelling that is considered to be the person's [~~home~~] dwelling,  
19 including a [~~single-family~~] single-family house, apartment unit,  
20 condominium, townhouse, or cooperative unit."

21           SECTION 18. Section 571-41, Hawaii Revised Statutes, is  
22 amended by amending subsection (f) to read as follows:

H.B. NO. 1065

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

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

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

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

19           (2) Fees prescribed by the supreme court by rule of court  
20 for electronic document certification, electronic  
21 copies of documents, and for providing bulk access to  
22 electronic court records and compilations of data; and

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1 (3) Fees pursuant to sections       -8(c), 607-4(b)(10), and  
2 607-5(c)(32)."

3 SECTION 20. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$                    or so  
5 much thereof as may be necessary for fiscal year 2025-2026 to  
6 carry out the purposes of this Act, including to update the  
7 judiciary information management system to implement the  
8 adjudications process established by section 2 of this Act.

9 The sum appropriated shall be expended by the judiciary for  
10 the purposes of this Act.

11 SECTION 21. This Act does not affect rights and duties  
12 that matured, penalties that were incurred, and proceedings that  
13 were begun before its effective date.

14 SECTION 22. In codifying the new sections added by section  
15 3 and referenced in sections 6 and 14 of this Act, the revisor  
16 of statutes shall substitute appropriate section numbers for the  
17 letters used in designating the new sections in this Act.

18 SECTION 23. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

H.B. NO. 105

1 SECTION 24. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: *Neelam K. Mishra*

4

BY REQUEST

JAN 21 2025

# H.B. NO. 1005

**Report Title:**

Fireworks; Criminal Offenses; Penalties; Infractions

**Description:**

Amends multiple definitions and penalties for fireworks offenses, including heightened penalties if another person suffers substantial bodily injury, serious bodily injury, or death as a result of the fireworks offenses. Establishes criminal offenses of general fireworks or articles pyrotechnic prohibitions in the first and second degree; sending or receiving fireworks or articles pyrotechnic by air delivery; distributing fireworks or articles pyrotechnic to non-permit holder; removal or extraction of pyrotechnic contents; consumer fireworks prohibitions; refusal to provide identification; and violating requirements of carrier. Establishes an adjudication system and procedures to process fireworks infractions; makes an appropriation.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO FIREWORKS.

PURPOSE: To more effectively deter the importation, sale and use of illicit fireworks in Hawaii, by: (1) increasing penalties for and clarifying existing fireworks-related offenses; (2) creating additional fireworks-related offenses; (3) amending certain fireworks-related definitions; and (4) creating a more robust continuum of fireworks enforcement mechanisms, including heightened penalties when illicit fireworks cause serious or substantial bodily injury or death, as well as fireworks infractions for low-level offenses.

MEANS: Adding a new chapter to the Hawaii Revised Statutes (HRS), for the adjudication of fireworks infractions; adding seven sections to chapter 132D, HRS; and amending sections 132D-2, 132D-5, 132D-6, 132D-7, 132D-8.6, 132D-10, 132D-12, 132D-13, 132D-14, 132D-14.5, 132D-15, 132D-17.5, 132D-21, 132D-22, 571-41, and 601-3.7, HRS.

JUSTIFICATION: This comprehensive bill is needed because much too often, illicit fireworks have caused and continue to cause some members of our community to suffer from severe respiratory issues, property damage, physical injuries, permanent disfigurement, and occasionally death; illicit fireworks can also be traumatic for pets and re-traumatize some community members who suffer from post-traumatic stress disorder.

While law enforcement has made concerted efforts to enforce the existing fireworks control laws, substantial statutory changes are needed to make the existing laws more effective for purposes of enforcement and prosecution. A more comprehensive continuum of penalties for fireworks-related offenses,

as provided in this bill, ranging from infractions to class A felonies, would allow law enforcement agencies and the courts to prioritize limited resources on higher-level offenses, particularly those that are likely to have the most widespread or dangerous effects, and those that cause serious or substantial bodily injury or death. Higher penalties, and mandatory enhanced sentencing for repeat offenders, as well as the importation, storage, distribution, or use of illicit fireworks that cause injury or death, would also serve as a stronger deterrent to would-be offenders.

Impact on the public: It is hoped this bill will help to improve public health and safety by decreasing the amount of illicit fireworks brought into the state or set off within our communities.

Impact on the department and other agencies: This bill will provide law enforcement with additional tools to enforce fireworks prohibitions, not only by creating new fireworks-related offenses and raising penalties for existing offenses, but also by establishing fireworks infractions as an expedient means of enforcing against illegal fireworks purchases and/or usage involving small amounts of fireworks.

GENERAL FUND: - None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: County police departments, prosecutors, fire departments, and the Judiciary

EFFECTIVE DATE: Upon approval.