
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.

H.B. NO. 1005

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

"CHAPTER

ADJUDICATION OF FIREWORKS INFRACTIONS

§ -1 Definitions. As used in this chapter:

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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;

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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

H.B. NO. 1005

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.

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1065

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

H.B. NO. 1005

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.

H.B. NO. 1005

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

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1065

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

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

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

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

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

H.B. NO. 1005

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

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

(1) Within one thousand feet of any operating hospital, licensed convalescent home, licensed home for the elderly, zoo, licensed animal shelter, or licensed animal hospital;

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

(3) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; in any officially designated forest or wildlife preserve; within fifty feet of a canefield; or within one

H.B. NO. 1005

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.

H.B. NO. 1005

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

H.B. NO. 1005

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,

H.B. NO. 1005

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

H.B. NO. 1065

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:

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1005

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

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

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

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

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

H.B. NO. 1005

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.

H.B. NO. 1005

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.

H.B. NO. 1005

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,

H.B. NO. 1005

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,

H.B. NO. 1005

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

H.B. NO. 1065

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:

H.B. NO. 1005

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]~~

H.B. NO. 1065

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

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

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

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

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

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

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

H.B. NO. 1065

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

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

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

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

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

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

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

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

(B) In any vehicle;

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

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

H.B. NO. 1005

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.

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1005

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:

H.B. NO. 1065

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

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

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

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

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

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

H.B. NO. 1055

(2) Declare on the bill of lading or shipping manifest the gross weight of consumer fireworks, display fireworks, articles pyrotechnic, and aerial devices to be imported in each shipment and the location of the storage facility, if applicable, in which the fireworks or articles pyrotechnic are to be stored;

(3) [~~Prior to~~] Before shipment and when booking each shipment of fireworks, display fireworks, articles pyrotechnic, or aerial devices notify the [~~appropriate county official as determined by the county~~] Hawaii state fire marshal regarding whether the shipment will be distributed from:

(A) Pier to pier;

(B) Pier to warehouse or storage facility; or

(C) Pier to redistribution;

(4) [~~Prior to~~] Before booking the shipment, provide to the [~~applicable county fire chief~~] Hawaii state fire marshal:

(A) Written documentation regarding the proposed display event or events and related contact information to allow the fire chief to validate

H.B. NO. 1005

the importation of a three-month or six-month
inventory under section 132D-8.5; and

(B) An inventory breakdown for each proposed display;
and

(5) At the time shipping is booked, the importer or
consignee shall notify the [~~appropriate county~~
~~official as determined by the county~~] Hawaii state
fire marshal in writing of the expected shipment's
landing date[-]; provided that:

(A) Notifications shall be made through a system
designated by the Hawaii state fire marshal; and

(B) If a licensee fails to notify the Hawaii state
fire marshal two or more times within one year of
the issuance of a license, the license may be
revoked."

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

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

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

H.B. NO. 1005

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

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

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

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

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

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

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

H.B. NO. 1005

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[~~,~~
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.

H.B. NO. 1005

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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

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

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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.

H.B. NO. 1005

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~~

H.B. NO. 1005

~~(2) Each separate firework imported, purchased, sold, possessed, set off, ignited, or discharged shall be a separate violation if the package is opened or the firework is not in a package.~~

~~(f) For the purposes of this section, "package":~~

~~(1) Means any aerial device, display firework, or article pyrotechnic:~~

~~(A) Enclosed in a container or wrapped in any manner in advance of wholesale or retail sale; and~~

~~(B) With a weight or measure determined in advance of wholesale or retail sale; and~~

~~(2) Does not mean:~~

~~(A) Inner wrappings not intended to be individually sold to the customer;~~

~~(B) Shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity;~~

~~(C) Auxiliary containers or outer wrappings used to deliver commodities if the containers or wrappings bear no printed matter pertaining to any particular aerial device, display firework, or article pyrotechnic;~~

H.B. NO. 1065

- 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~~

H.B. NO. 1005

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

H.B. NO. 1005

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1005

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."

H.B. NO. 1005

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

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

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

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

H.B. NO. 1005

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

H.B. NO. 1055

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

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

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

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

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

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

H.B. NO. 1065

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

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

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

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

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

H.B. NO. 1065

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.

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INTRODUCED BY: Mandi K. Palmer

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.