

ACT 136

H.B. NO. 1987

A Bill for an Act Relating to Fireworks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

“§712- Forfeiture. In addition to any other penalty that may be imposed for violation of section 132D-14(a)(1) or (3), any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit an offense under section 132D-14(a)(1) or (3), or that facilitated or assisted such activity, and any proceeds or other property acquired or maintained with the proceeds from violation of section 132D-14(a)(1) or (3) may be subject to forfeiture pursuant to chapter 712A.”

SECTION 2. Section 132D-2, Hawaii Revised Statutes, is amended by amending the definition of “import” to read as follows:

““Import” (and any nounal, verbal, adjectival, adverbial, and other equivalent form of the term used interchangeably in this chapter) means to bring or attempt to bring fireworks into the [State] state or to cause fireworks to be brought into the [State-] state, and includes fireworks labeled or designated as samples, even if not intended for retail sale.”

SECTION 3. Section 132D-14, Hawaii Revised Statutes, is amended to read as follows:

“§132D-14 Penalty. (a) Any person:

- (1) Importing aerial devices, display fireworks, or articles pyrotechnic without having a valid license under section 132D-7 shall be guilty of a class C felony;
 - (2) Purchasing, possessing, setting off, igniting, or discharging aerial devices, display fireworks, or articles pyrotechnic without a valid permit under sections 132D-10 and 132D-16, or storing, selling, or possessing aerial devices, display fireworks, or articles pyrotechnic without a valid license under section 132D-7:
 - (A) If the total weight of the aerial devices, display fireworks, or articles pyrotechnic is twenty-five pounds or more, shall be guilty of a class C felony; or
 - (B) If the total weight of the aerial devices, display fireworks, or articles pyrotechnic is less than twenty-five pounds, shall be guilty of a misdemeanor;
 - (3) Who transfers or sells aerial devices, display fireworks, or articles pyrotechnic to a person who does not have a valid permit under sections 132D-10 and 132D-16, shall be guilty of a class C felony; and
 - (4) Who removes or extracts the pyrotechnic contents from any fireworks or articles pyrotechnic and uses the contents to construct fireworks, articles pyrotechnic, or a fireworks or articles pyrotechnic related device shall be guilty of a misdemeanor.
- (b) Except as provided in subsection (a) or as otherwise specifically provided for in this chapter, any person violating any other provision of this chapter, shall be fined not more than \$2,000 for each violation.
- (c) The court shall collect the fines imposed in subsections (a) and (b) for violating this chapter and, of the fines collected, shall pay twenty per cent to the State and eighty per cent to the county in which the fine was imposed which shall be expended by the county for law enforcement purposes.
- (d) Notwithstanding any penalty set forth herein, violations of subsection (a)(1) or (3) may be subject to nuisance abatement proceedings provided in part V of chapter 712.

SECTION 4. Section 712-1270, Hawaii Revised Statutes, is amended to read as follows:

“§712-1270 Places used to commit offenses against public health and morals, a nuisance. Every building, premises, or place used for the purpose of violating [~~those~~]:

- (1) Those laws pertaining to offenses against public health and morals contained in parts I, II, and IV of this chapter, except offenses under part IV which do not involve the manufacture or distribution of drugs[;]; or
 - (2) Section 132D-14(a)(1) or (3),
- and every building, premises, or place in or upon which the violations are held or occur in parts I, II, and IV, or section 132D-14(a)(1) or (3), is a nuisance that shall be enjoined, abated, and prevented, regardless of whether it is a public or private nuisance.”

SECTION 5. Section 712-1270.3, Hawaii Revised Statutes, is amended to read as follows:

“[§712-1270.3] Citizen’s rights. Any citizen who brings a nuisance abatement suit against a place used for the purpose of committing [~~drug~~]:

- (1) Fireworks related offenses contained in section 132D-14(a)(1) or (3); or
- (2) Drug offenses under part IV of this chapter or who files a complaint with the local police or drug nuisance abatement unit of the department of the attorney general,

shall be entitled to the same rights and protections of victims and witnesses in criminal proceedings in accordance with chapter 801D.”

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved May 24, 2010.)

Note

- 1. Edited pursuant to HRS §23G-16.5.