
A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The purpose of this Act is to update the
2 terminology used in referencing fireworks to increase the
3 State's efficiency in enforcement through a better alignment in
4 terms with the current federal agency charged with enforcement
5 of such items. To further improve efficiency in communication,
6 the repeal of obsolete references is included which will improve
7 regulation of the illegal fireworks being brought into our state
8 that are intended for unregulated black-market sales and
9 creating the potential of serious harm to our citizens and our
10 environment.

11 SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending section 132D-2 to read:

14 "**§132D-2 Definitions.** As used in this chapter, unless the
15 context requires otherwise:

16 ~~["Aerial common fireworks" means any firework, classified~~
17 ~~as common fireworks by the United States Bureau of Explosives or~~
18 ~~contained in the regulations of the United States Department of~~



1 ~~Transportation and designated as UN 0336 1.4G, which produces an~~
2 ~~audible or visible effect and which is designed to rise into the~~
3 ~~air and explode or detonate in the air or to fly about above the~~
4 ~~ground and which is prohibited for use by any person who does~~
5 ~~not have a permit for public display issued by a county under~~
6 ~~section 132D-16. "Aerial common fireworks" include firework~~
7 ~~items commonly known as bottle rockets, sky rockets, missile-~~
8 ~~type rockets, helicopters, torpedoes, daygo bombs, roman~~
9 ~~candles, flying pigs, and jumping jacks, which move about the~~
10 ~~ground farther than inside a circle with a radius of twelve feet~~
11 ~~as measured from the point where the item was placed and~~
12 ~~ignited, aerial shells, and mines.~~

13 ~~"Common fireworks" means any firework designed primarily~~
14 ~~for retail sale to the public during prescribed dates and which~~
15 ~~produces visible or audible effects through combustion and which~~
16 ~~is classified as common fireworks by the United States Bureau of~~
17 ~~Explosives or contained in the regulations of the United States~~
18 ~~Department of Transportation and designated as UN 0336 1.4G.~~

19 ~~"Cultural" means relating to the arts, customs, traditions,~~
20 ~~mores, and history of all of the various ethnic groups of~~
21 ~~Hawaii.~~



1 ~~"Fireworks" means any combustible or explosive composition,~~
2 ~~or any substance or combination of substances, or article~~
3 ~~prepared for the purpose of producing a visible or audible~~
4 ~~effect by combustion, explosion, deflagration or detonation and~~
5 ~~classified as common or special fireworks by the United States~~
6 ~~Bureau of Explosives or contained in the regulations of the~~
7 ~~United States Department of Transportation and designated as UN~~
8 ~~0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not~~
9 ~~include automotive safety flares, nor shall the term be~~
10 ~~construed to include toy pistols, toy cannons, toy guns, party~~
11 ~~poppers, pop-its or other devices which contain twenty-five~~
12 ~~hundredths of a grain or less of explosives substance. The term~~
13 ~~"fireworks" also shall not include any explosives and~~
14 ~~pyrotechnics regulated under chapter 396.~~

15 ~~"Import" (and any nounal, verbal, adjectival, adverbial,~~
16 ~~and other equivalent form of the term used interchangeably in~~
17 ~~this chapter) means to bring or attempt to bring fireworks into~~
18 ~~the State or to cause fireworks to be brought into the State.~~

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



1 ~~issue under this chapter, to engage in the act or acts~~
2 ~~specifically designated herein.~~

3 ~~"Non-aerial common fireworks" means any firework,~~
4 ~~classified as common fireworks by the United States Bureau of~~
5 ~~Explosives or contained in the regulations of the United States~~
6 ~~Department of Transportation and designated as UN 0336 1.4G,~~
7 ~~which produces an audible or visible effect and which is~~
8 ~~designed to remain on or near the ground and which, while~~
9 ~~stationary or spinning rapidly on or near the ground, emits~~
10 ~~smoke, a shower of colored sparks, whistling effects, flutter~~
11 ~~sparks or balls of colored sparks and combination items which~~
12 ~~contain one or more of these effects. "Non-aerial common~~
13 ~~fireworks" include firework items commonly known as firecrackers~~
14 ~~which 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 containing a charge of not more than fifty~~
17 ~~milligrams of pyrotechnic composition, snakes, sparklers,~~
18 ~~fountains, and cylindrical or cone fountains which emit effects~~
19 ~~up to a height not greater than twelve feet above the ground,~~
20 ~~illuminating torches, bamboo canons, whistles, toy smoke~~
21 ~~devices, wheels, and ground spinners which when ignited remain~~
22 ~~within a circle with a radius of twelve feet as measured from~~



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

5 ~~"Permit" means a nontransferable, formal authorization,~~
6 ~~valid for a period not to exceed one calendar year from the date~~
7 ~~of issuance and which a county is hereby authorized to issue~~
8 ~~under this chapter, to engage in the act or acts specifically~~
9 ~~designated herein.~~

10 ~~"Public display" means a public exhibition and the use of~~
11 ~~fireworks for commercial activities (including such activities~~
12 ~~as movie or television production).~~

13 ~~"Pyrotechnic composition" or "pyrotechnic contents" means~~
14 ~~the combustible or explosive component of fireworks.~~

15 ~~"Special fireworks" means any firework designed primarily~~
16 ~~for exhibition display by producing visible or audible effects~~
17 ~~and classified as special fireworks by the United States Bureau~~
18 ~~of Explosives or contained in the regulations of the United~~
19 ~~States Department of Transportation and designated as UN 0335~~
20 ~~1.3G and which are prohibited for use by any person who does not~~
21 ~~have a display permit issued by a county.]~~



1 "Aerial devices" means any fireworks containing one hundred
2 thirty milligrams or less of explosive materials, which produces
3 an audible or visible effect and which is designed to rise into
4 the air and explode or detonate in the air or to fly about above
5 the ground and which is prohibited for use by any person who
6 does not have a permit for display issued by a county under
7 section 132D-16. "Aerial devices" includes firework items
8 classified in UN 0336 and UN 0337 by the United States
9 Department of Transportation as set forth in Title 49 Code of
10 Federal Regulations that are commonly known as:

- 11 (1) Bottle rockets;
- 12 (2) Sky rockets;
- 13 (3) Missile-type rockets;
- 14 (4) Helicopters;
- 15 (5) Torpedoes;
- 16 (6) Daygo bombs;
- 17 (7) Roman candles;
- 18 (8) Flying pigs;
- 19 (9) Aerial shells;
- 20 (10) Aerial mines; and



1 (11) Jumping jacks, which move about the ground farther
2 than a circle with a radius of twelve feet as measured
3 from the point where the item was placed and ignited.

4 "Articles pyrotechnic" means pyrotechnic devices for
5 professional use similar to consumer fireworks in chemical
6 composition and construction but not intended for consumer use
7 which meet the weight limits for consumer fireworks but which
8 are not labeled as such and which are classified as UN 0431 or
9 UN 0432 by the United States Department of Transportation.

10 "Consumer fireworks" means any firework:

11 (1) Designed primarily for retail sale to the public
12 during authorized dates and times;

13 (2) That produces visible or audible effects by
14 combustion; and

15 (3) That is designed to remain on or near the ground and,
16 while stationary or spinning rapidly on or near the
17 ground, emits smoke, a shower of colored sparks,
18 whistling effects, flitter sparks, or balls of colored
19 sparks, and combination items that contains one or
20 more of these effects.

21 "Consumer fireworks" shall comply with construction, chemical
22 composition, and labeling regulations of the United States



1 Consumer Product Safety Commission as set forth in Title 16 Code
2 of Federal Regulations, and fireworks classified as UN 0336 and
3 UN 0337 by the United States Department of Transportation as set
4 forth in Title 49 Code of Federal Regulations. "Consumer
5 fireworks" includes firework items commonly known as:

6 (1) Firecrackers that are single paper cylinders not
7 exceeding one and one-half inches in length, excluding
8 the fuse, and one quarter of an inch in diameter and
9 contain a charge of not more than fifty milligrams of
10 pyrotechnic composition;

11 (2) Snakes;

12 (3) Sparklers;

13 (4) Fountains and cylindrical or cone fountains which emit
14 effects up to a height not greater than twelve feet
15 above the ground;

16 (5) Illuminating torches;

17 (6) Bamboo cannons;

18 (7) Whistles;

19 (8) Toy smoke devices;

20 (9) Wheels and ground spinners which when ignited remain
21 within a circle with radius of twelve feet as measured
22 from the point where the item was placed and ignited;



- 1 (10) Novelty or trick items;
- 2 (11) Combination items; and
- 3 (12) Other fireworks of like construction, which are
- 4 designed to produce the same or similar effects.

5 "Cultural" means relating to the arts, customs, traditions,
6 mores, and history of all of the various ethnic groups of
7 Hawaii.

8 "Display" means the use of aerial devices, display
9 fireworks, or articles pyrotechnic for any activity (including
10 such activities as movie or television production).

11 "Display fireworks" means any fireworks designed primarily
12 for exhibition display by producing visible or audible effects
13 and classified as display fireworks or contained in the
14 regulations of the United States Department of Transportation
15 and designated as UN 0333 or UN 0335, and includes but is not
16 limited to salutes containing more than one hundred thirty
17 milligrams of explosive materials, aerial shells containing more
18 than forty grams of pyrotechnic compositions, and other display
19 pieces which exceed the limits of explosive materials for
20 classification as "consumer fireworks." This term also includes
21 fused setpieces containing components, which together exceed
22 fifty milligrams of salute power. The use of display fireworks



1 is prohibited for use by any person who does not have a display
2 permit issued by a county.

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

17 "Import" (and any nounal, verbal, adjectival, adverbial,
18 and other equivalent form of the term used interchangeably in
19 this chapter) means to bring or attempt to bring fireworks into
20 the state or to cause fireworks to be brought into the state.

21 "License" means a nontransferable, formal authorization,
22 valid for a period not to exceed one calendar year from the date



1 of issuance and which the county fire department is hereby
2 authorized to issue under this chapter, to engage in the act or
3 acts specifically designated herein.

4 "Permit" means a nontransferable, formal authorization,
5 valid for a period not to exceed one calendar year from the date
6 of issuance and which a county is hereby authorized to issue
7 under this chapter, to engage in the act or acts specifically
8 designated herein.

9 "Pyrotechnic composition" or "pyrotechnic contents" means
10 the combustible or explosive component of fireworks."

11 2. By amending section 132D-3 to read:

12 **"§132D-3 Permissible uses of [~~non-aerial common~~] consumer**
13 **fireworks.** [~~Non-aerial common~~] Consumer fireworks may be set
14 off, ignited, discharged, or otherwise caused to explode within
15 the [~~State~~] state only:

16 (1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New
17 Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New
18 Year's Day; and from 1:00 p.m. to 9:00 p.m. on the
19 Fourth of July; or

20 (2) From 9:00 a.m. to 9:00 p.m. as allowed by permit
21 pursuant to section 132D-10 if the proposed cultural



1 use is to occur at any time other than during the
2 periods prescribed in paragraph (1);
3 provided that the purchase of not more than [5,000] five
4 thousand individual [~~non-aerial common~~] consumer fireworks
5 commonly known as firecrackers shall be allowed under each
6 permit."

7 3. By amending section 132D-4 to read:

8 "**§132D-4 Permissible uses of [special] display fireworks,**
9 **articles pyrotechnic, and aerial [~~common fireworks~~] devices.**
10 [~~Special~~] Display fireworks, articles pyrotechnic, and aerial
11 [~~common fireworks~~] devices may be purchased, set off, ignited,
12 or otherwise caused to explode in the [~~State~~] state only if for
13 [~~public~~] display and permitted in writing pursuant to sections
14 132D-10 and 132D-16."

15 4. By amending section 132D-5 to read:

16 "[+] **§132D-5** [~~+~~] **General prohibitions.** (a) It shall be
17 unlawful for any person without a permit to:

- 18 (1) Remove or extract the pyrotechnic contents from any
19 fireworks;
20 (2) Throw any ignited fireworks from a moving vehicle; or
21 (3) Set off, ignite, discharge, or otherwise cause to
22 explode any fireworks:



- 1 (A) At any time not within the periods for use
2 prescribed in section 132D-3, unless permitted
3 pursuant to section 132D-10;
- 4 (B) Within one thousand feet from any operating
5 hospital, convalescent home, home for the
6 elderly, or animal hospital;
- 7 (C) In any school building, or on any school grounds
8 and yards without first obtaining authorization
9 from appropriate school officials;
- 10 (D) On any highway, alley, street, sidewalk, or other
11 public way; in any park; within fifty feet from a
12 canefield; or within one thousand feet from any
13 building used for public worship during the
14 periods when services are held; except as may be
15 permitted pursuant to section 132D-10; and
- 16 (E) Within five hundred feet from any hotel.
- 17 (b) It shall be unlawful to purchase consumer fireworks
18 more than five calendar days before the applicable time period
19 for use prescribed in section 132D-3.
- 20 (c) It shall be unlawful to sell consumer fireworks after
21 12:00 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's
22 Day and 8:00 p.m. on the Fourth of July."



1 5. By amending section 132D-7 to read:

2 "**§132D-7 License or permit required.** A person shall not:

3 (1) Import, store, offer to sell, or sell, at wholesale or
4 retail[, ~~aerial common fireworks, special fireworks,~~
5 ~~or non-aerial common fireworks,~~]:

6 (A) Aerial devices;

7 (B) Consumer fireworks; or

8 (C) Articles pyrotechnic,

9 unless the person has a valid license issued by the
10 county;

11 (2) Possess aerial [~~common fireworks or special fireworks~~]

12 devices, display fireworks, or articles pyrotechnic

13 without a valid license to import, store, or sell

14 aerial [~~common fireworks or special fireworks,~~]

15 devices, display fireworks, or articles pyrotechnic,

16 or a valid permit as provided for in this chapter[~~;~~ ~~or~~

17 ~~(3) Purchase non-aerial common fireworks with a permit~~

18 ~~under section 132D-10 more than five calendar days~~

19 ~~before the applicable time period for use prescribed~~

20 ~~in section 132D-3 in the county that issued the~~

21 ~~permit]."~~



1 6. By amending subsections (c) and (d) of section 132D-8,
2 to read:

3 "(c) It shall be unlawful for any [~~person~~] licensee, other
4 than a wholesaler who is selling or transferring fireworks or
5 articles pyrotechnics to a licensed retailer, to sell [~~or~~],
6 offer to sell, exchange for consideration, give, transfer, or
7 donate any fireworks or articles pyrotechnic at any time to any
8 person who does not present a permit duly issued as required by
9 section 132D-10 or 132D-16. The permit shall be signed by the
10 seller or transferor at the time of sale or transfer of the
11 fireworks[~~7~~] or articles pyrotechnic, and the seller or
12 transferor shall indicate on the permit the amount and type of
13 fireworks or articles pyrotechnic sold or transferred. No
14 person shall sell or deliver fireworks to any permittee in any
15 amount in excess of the amount specified in the permit, less the
16 amount shown on the permit [~~previously to have been~~] that was
17 previously purchased; provided that no fireworks shall be sold
18 to a permittee holding a permit issued for purposes of section
19 132D-3, more than five calendar days before the applicable time
20 period under section 132D-3.

21 (d) Aerial [~~common fireworks, special fireworks,~~] devices,
22 display fireworks, or [~~both,~~] articles pyrotechnic shall only be



1 sold or transferred by a wholesaler to a person with a valid
2 permit under sections 132D-10 and 132D-16. No person with a
3 valid permit under sections 132D-10 and 132D-16 shall sell or
4 transfer aerial [~~common fireworks, or special fireworks,~~
5 devices, display fireworks, or [~~both,~~] articles pyrotechnic to
6 any other person."

7 7. By amending section 132D-8.5 to read:

8 "[+]§132D-8.5[+] **Importation of aerial [~~common fireworks,~~**
9 **special fireworks] devices, display fireworks, or [~~both,~~**
10 **articles pyrotechnic for [~~public~~] display. Aerial [~~common~~**
11 **fireworks, special fireworks] devices, display fireworks, or**
12 **[~~both,~~] articles pyrotechnic shall only be imported and stored,**
13 **if necessary, in an amount sufficient for an anticipated three-**
14 **month inventory; provided that if a licensee under section 132D-**
15 **7 provides aerial [~~common fireworks, special fireworks] devices,~~**
16 **display fireworks, or [~~both,~~] articles pyrotechnic for [~~public~~]**
17 **displays as allowed under section 132D-16 more than once a**
18 **month, the licensee may import or store, if necessary,**
19 **sufficient aerial [~~common fireworks, special~~] devices, display**
20 **fireworks, or [~~both,~~] articles pyrotechnic for a six-month**
21 **inventory."**

22 8. By amending section 132D-8.6 to read:



1 "[+]§132D-8.6 Requirements of licensee.[+]" (a) Any
2 person who has obtained a license under section 132D-7 and ships
3 fireworks or articles pyrotechnic into the [State] state shall:

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

7 (2) Declare on the bill of lading or shipping manifest the
8 gross weight of aerial [~~common fireworks, non-aerial~~
9 ~~common fireworks, and special fireworks~~] devices,
10 consumer fireworks, display fireworks, and articles
11 pyrotechnic to be imported in each shipment and the
12 location of the storage facility, if applicable, in
13 which the fireworks are to be stored;

14 (3) Prior to shipment and when booking each shipment of
15 fireworks[+] or articles pyrotechnic, notify the
16 appropriate county official as determined by the
17 county regarding whether the shipment will be
18 distributed from:

19 (A) Pier to pier;

20 (B) Pier to warehouse or storage facility; or

21 (C) Pier to redistribution; and



1 (4) At the time shipping is booked, the importer or
2 consignee shall notify the appropriate county official
3 as determined by the county in writing of the expected
4 shipment's landing date.

5 (b) The fire department of a county, in which a shipment
6 of fireworks or articles pyrotechnic has landed and becomes
7 subject to the jurisdiction of the fire department, shall be
8 allowed to inspect, if it chooses, any shipment declared on the
9 shipping manifest as fireworks or articles pyrotechnic.

10 (c) The facility in which fireworks or articles
11 pyrotechnic are to be stored [~~must~~] shall:

12 (1) Have received approval fifteen days prior to the
13 shipment's arrival from the appropriate county fire
14 department; and

15 (2) Meet all state and county fire and safety codes.

16 (d) Any fireworks or articles pyrotechnic landed in the
17 [~~State~~] state shall be subject to seizure and forfeiture if:

18 (1) The importer or consignee does not have in the
19 importer's or consignee's possession a valid license
20 to import fireworks or articles pyrotechnic under
21 section 132D-7;



1 (2) The consignee does not have a valid license to store
2 fireworks or articles pyrotechnic under section 132D-
3 7; or

4 (3) The fireworks or articles pyrotechnic have not been
5 declared or have been misdeclared in violation of
6 [†]subsection[†] (a).

7 (e) No person holding a retailer license to sell [~~non-~~
8 ~~aerial-common~~] consumer fireworks shall be allowed to sell [~~non-~~
9 ~~aerial-common~~] consumer fireworks commonly known as firecrackers
10 in a packet size larger than [~~5,000~~] five thousand individual
11 units. Any person violating this subsection shall be guilty of
12 a misdemeanor.

13 (f) Any person violating [~~subsections~~] subsection (a),
14 (c), or (d) shall be subject to the following for shipments of
15 fireworks or articles pyrotechnic of:

16 (1) Twenty-five pounds or less gross weight shall be a
17 petty misdemeanor;

18 (2) Over twenty-five pounds to three hundred pounds gross
19 weight shall be a misdemeanor;

20 (3) Over three hundred pounds to ten thousand pounds gross
21 weight shall be a class C felony; and



1 (4) More than ten thousand pounds gross weight shall be a
2 class B felony."

3 9. By amending section 132D-9 to read:

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



1 pursuant to this chapter shall be prominently displayed in
2 public view at the site."

3 10. By amending section 132D-10 to read:

4 "**§132D-10 Permits.** A permit shall be required for the
5 purchase and use of:

6 (1) Any [~~non-aerial common~~] consumer fireworks commonly
7 known as firecrackers upon payment of a fee of \$25;
8 and

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

13 11. By amending subsection (a) of section 132D-11 to read:

14 "(a) The fee for the license required under section 132D-7
15 shall be \$3,000 for importers, \$2,000 for each wholesaler's
16 site, \$1,000 for each storage site, and \$500 for each retailer's
17 site[~~, and \$110 for permits for public display under section~~
18 ~~132D-16~~] for each year or fraction of a year in which the
19 licensee plans to conduct business and shall be payable to the
20 county. The license fees shall be used exclusively by each
21 county fire department to [~~pay~~] fund the salary of an auditor of
22 fireworks and articles pyrotechnic records[~~-~~] and all expenses



1 incurred for the auditor to fulfill the duties required,
2 including the inspection of inventory and storage facilities,
3 maintenance of required records, and the training of the
4 auditor. The auditor shall monitor strict inventory and
5 recordkeeping requirements to ensure that sales of fireworks or
6 articles pyrotechnic are made only to license or permit holders
7 under this chapter. The county shall provide an exemption from
8 the fees under this section to nonprofit community groups for
9 importation and storage of fireworks or articles pyrotechnic for
10 displays once a year."

11 12. By amending section 132D-12 to read:

12 "[+]§132D-12[+] **Sale to minors.** It shall be unlawful for
13 any person to offer for sale, sell, or give any fireworks or
14 articles pyrotechnic to minors, and for any minor to possess,
15 purchase, [~~or~~] set off, ignite, or otherwise cause to explode
16 any fireworks[~~r~~] or articles pyrotechnic, except as provided in
17 section 132D-13."

18 13. By amending section 132D-13 to read:

19 "[+]§132D-13[+] **Liability of parents or guardians.** The
20 parents, guardian, and other persons having the custody or
21 control of any minor, who knowingly permit the minor to possess,
22 purchase, [~~or~~] set off, ignite, or otherwise cause to explode



1 any fireworks[~~7~~] or articles pyrotechnic, shall be deemed to be
2 in violation of this chapter and shall be subject to the
3 penalties thereunder, except that the parents or guardian may
4 allow the minor to use consumer fireworks while under the
5 immediate supervision and control of the parent or guardian, or
6 under the supervision and control of another adult."

7 14. By amending subsection (a) of section 132D-14 to read:

8 "(a) Any person:

- 9 (1) Importing aerial [~~common fireworks or special~~
10 ~~fireworks~~] devices, display fireworks, or articles
11 pyrotechnic without having a valid license under
12 section 132D-7 shall be guilty of a class C felony;
- 13 (2) Purchasing, possessing, setting off, igniting, or
14 discharging aerial [~~common fireworks or special~~
15 ~~fireworks~~] devices, display fireworks, or articles
16 pyrotechnic without a valid permit under sections
17 132D-10 and 132D-16, or storing, selling, or
18 possessing aerial [~~common fireworks or special~~
19 ~~fireworks~~] devices, display fireworks, or articles
20 pyrotechnic without a valid license under section
21 132D-7:



1 (A) If the total weight of the aerial [~~common~~
2 ~~fireworks or special fireworks~~] devices, display
3 fireworks, or articles pyrotechnic is twenty-five
4 pounds or more, shall be guilty of a class C
5 felony; or

6 (B) If the total weight of the aerial [~~common~~
7 ~~fireworks or special fireworks~~] devices, display
8 fireworks, or articles pyrotechnic is less than
9 twenty-five pounds, shall be guilty of a
10 misdemeanor[~~-~~];

11 (3) Who transfers or sells aerial [~~common fireworks or~~
12 ~~special fireworks~~] devices, display fireworks, or
13 articles pyrotechnic to a person who does not have a
14 valid permit under sections 132D-10 and 132D-16, shall
15 be guilty of a class C felony; and

16 (4) Who removes or extracts the pyrotechnic contents from
17 any fireworks or articles pyrotechnic and uses the
18 contents to construct fireworks, articles pyrotechnic,
19 or a [~~fireworks~~] related device shall be guilty of a
20 misdemeanor."

21 15. By amending section 132D-15 to read:



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

6 16. By amending section 132D-16 to read:

7 "§132D-16 **Permit for [public] display.** (a) Any person
8 desiring to set off, ignite, or discharge aerial [~~common~~
9 ~~fireworks, special fireworks, or both,~~] devices, display
10 fireworks, or articles pyrotechnic for a [public] display shall
11 apply to, and obtain a permit as required by section 132D-10,
12 from the county not less than twenty days before the date of the
13 display.

14 (b) The application shall state, among other things:

15 (1) The name, age, and address of the applicant;

16 (2) The name, age, and address of the person who will
17 operate the display, and verification that the person
18 is a licensed pyrotechnic operator;

19 (3) The time, date, and place of the display;

20 (4) The type and quantity of aerial [~~common fireworks,~~
21 ~~special fireworks, or both,~~] devices, display

22 fireworks or articles pyrotechnic to be displayed; and



1 (5) The purpose or occasion for which the display is to be
2 presented.

3 (c) No permit shall be issued under this section unless
4 the applicant presents, at the applicant's option, either:

5 (1) A written certificate of an insurance carrier, which
6 has been issued to or for the benefit of the
7 applicant, or a policy providing for the payment of
8 damages in the amount of not less than \$5,000 for
9 injury to, or death of, any one person, and subject to
10 the foregoing limitation for one person; in the amount
11 of not less than \$10,000 for injury to, or death of,
12 two or more persons; and in the amount of not less
13 than \$5,000 for damage to property, caused by reason
14 of the authorized display and arising from any
15 tortious acts or negligence of the permittee, the
16 permittee's agents, employees, or subcontractors. The
17 certificate shall state that the policy is in full
18 force and effect and will continue to be in full force
19 and effect for not less than ten days after the date
20 of the [public] display; or

21 (2) The bond of a surety company duly authorized to
22 transact business within the [~~State,~~] state, or a bond



1 with not less than two individual sureties who
2 together have assets in the [~~State~~] state equal in
3 value to not less than twice the amount of the bond,
4 or a deposit of cash, in the amount of not less than
5 \$10,000 conditioned upon the payment of all damages
6 that may be caused to any person or property by reason
7 of the authorized display and arising from any
8 tortious acts or negligence of the permittee, the
9 permittee's agents, employees, or subcontractors. The
10 security shall continue to be in full force and effect
11 for not less than ten days after the date of the
12 [~~public~~] display.

13 The county may require coverage in amounts greater than the
14 minimum amounts set forth in paragraph (1) or (2) if deemed
15 necessary or desirable in consideration of such factors as the
16 location and scale of the display, the type of aerial [~~common~~
17 ~~fireworks, special fireworks, or both,~~] devices, special
18 fireworks, or articles pyrotechnic to be used, and the number of
19 spectators expected.

20 (d) The county, pursuant to duly adopted rules, shall
21 issue the permit after being satisfied that the requirements of
22 subsection (c) have been met, the display will be handled by a



1 pyrotechnic operator duly licensed by the State, the display
2 will not be hazardous to property, and the display will not
3 endanger human life. The permit shall authorize the holder to
4 display aerial [~~common fireworks, special fireworks, or both,~~]
5 devices, display fireworks, or articles pyrotechnic only at the
6 place and during the time set forth therein, and to acquire and
7 possess the specified aerial [~~common fireworks, special~~
8 ~~fireworks, or both,~~] devices, display fireworks, or articles
9 pyrotechnic between the date of the issuance of the permit and
10 the time during which the display of those aerial [~~common~~
11 ~~fireworks, special fireworks, or both,~~] devices, display
12 fireworks, or articles pyrotechnic is authorized."

13 17. By amending section 132D-17 to read:

14 **"§132D-17 Inconsistent county ordinances, rules.**

15 Notwithstanding any other law to the contrary, no county shall
16 enact ordinances or adopt any rules regulating fireworks[~~7~~] or
17 articles pyrotechnic, except as required in this chapter, that
18 is inconsistent with or more restrictive than, the provisions of
19 this chapter. Any ordinances and rules regulating fireworks or
20 articles pyrotechnic that were enacted or adopted by a county
21 before March 31, 1995, except those provisions which are not



1 inconsistent with, or more restrictive than those of this
2 chapter, are declared void."

3 18. By amending section 132D-21 to read:

4 "[+]§132D-21[+] **Health care facilities; report of**
5 **fireworks and articles pyrotechnic incidents.** Health care
6 facilities in this [~~State~~] state shall report all incidents of
7 serious injuries and fatalities caused by legal and illegal
8 fireworks or articles pyrotechnic to the department of health
9 and the police department of the county in which the person was
10 attended or treated. All reports shall be in writing or in the
11 manner specified by the department of health.

12 As used in this section, "health care facilities" includes
13 any outpatient clinic, emergency room, or doctor's office,
14 private or public, whether organized for profit or not, used,
15 operated, or designed to provide medical diagnosis, treatment,
16 nursing, rehabilitative, or preventive care to any person or
17 persons. The term includes but is not limited to health care
18 facilities that are commonly referred to as hospitals, extended
19 care and rehabilitation centers, nursing homes, skilled nursing
20 facilities, intermediate care facilities, hospices for the
21 terminally ill that require licensure or certification by the
22 department of health, kidney disease treatment centers including



1 freestanding hemodialysis units, outpatient clinics, organized
 2 ambulatory health care facilities, emergency care facilities and
 3 centers, home health agencies, health maintenance organizations,
 4 and others providing similarly organized services regardless of
 5 nomenclature."

6 SECTION 3. This Act does not affect rights and duties that
 7 matured, penalties that were incurred, and proceedings that were
 8 begun, before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2006.

12

INTRODUCED BY:

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Report Title:

Fireworks; Definitions

Description:

Provides greater efficiency in enforcement and regulation of fireworks and articles pyrotechnic in the areas of use, sales, importation, and storage by redefining the terminology used in referring to fireworks and articles pyrotechnic to be more in line with that of the federal agencies that regulate such explosives.

