

JAN 16 2008

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# A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1           SECTION 1. Section 132D-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "consumer fireworks" to  
3 read as follows:

4           "Consumer fireworks" means any fireworks designed  
5 primarily for retail sale to the public [~~during authorized dates~~  
6 ~~and times,~~] that produces visible or audible effects by  
7 combustion, and that is designed to remain on or near the ground  
8 and, while stationary or spinning rapidly on or near the ground,  
9 emits smoke, a shower of colored sparks, whistling effects,  
10 flutter sparks, or balls of colored sparks, and includes  
11 combination items that contain one or more of these effects.  
12 [~~"Consumer fireworks" shall comply with the construction,~~  
13 ~~chemical composition, and labeling regulations of the United~~  
14 ~~States Consumer Product Safety Commission as set forth in Title~~  
15 ~~16 Code of Federal Regulations and fireworks classified as~~  
16 ~~UN0336 and UN0337 by the United States Department of~~  
17 ~~Transportation as set forth in Title 49 Code of Federal~~  
18 ~~Regulations.] "Consumer fireworks" include firework items~~



1 commonly known as firecrackers that are single paper cylinders  
2 not exceeding one and one-half inches in length excluding the  
3 fuse and one-quarter of an inch in diameter and contain a charge  
4 of not more than fifty milligrams of pyrotechnic composition,  
5 snakes, sparklers, fountains, and cylindrical or cone fountains  
6 that emit effects up to a height not greater than twelve feet  
7 above the ground, illuminating torches, bamboo cannons,  
8 whistles, toy smoke devices, wheels, and ground spinners that  
9 when ignited remain within a circle with a radius of twelve feet  
10 as measured from the point where the item was placed and  
11 ignited, novelty or trick items, combination items, and other  
12 fireworks of like construction that are designed to produce the  
13 same or similar effects."

14 SECTION 2. Section 132D-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~§132D-3 [Permissible uses of consumer]~~ Consumer  
17 fireworks[-]; prohibition. [~~Consumer fireworks may be set off,~~  
18 ~~ignited, discharged, or otherwise caused to explode]~~ It shall be  
19 unlawful for any person to possess or use consumer fireworks  
20 within the State [~~only:~~

21 ~~(1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New~~  
22 ~~Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New~~



1           ~~Year's Day; and from 1:00 p.m. to 9:00 p.m. on the~~  
2           ~~Fourth of July; or~~  
3           ~~(2) From 9:00 a.m. to 9:00 p.m. as allowed by permit~~  
4           ~~pursuant to section 132D-10 if the proposed cultural~~  
5           ~~use is to occur at any time other than during the~~  
6           ~~periods prescribed in paragraph (1);~~  
7           ~~provided that the purchase of not more than five thousand~~  
8           ~~individual consumer fireworks commonly known as firecrackers~~  
9           ~~shall be allowed under each permit]."~~

10           SECTION 3. Section 132D-5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§132D-5 General prohibitions.** (a) It shall be unlawful  
13 for any person without a permit to:

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

19           (A) [~~At any time not within the periods for use~~  
20           ~~prescribed in section 132D-3, unless] Unless  
21           permitted pursuant to section 132D-10;~~



- 1 (B) Within one thousand feet from any operating
- 2 hospital, convalescent home, home for the
- 3 elderly, or animal hospital;
- 4 (C) In any school building, or on any school grounds
- 5 and yards without first obtaining authorization
- 6 from appropriate school officials;
- 7 (D) On any highway, alley, street, sidewalk, or other
- 8 public way; in any park; within fifty feet from a
- 9 canefield; or within one thousand feet from any
- 10 building used for public worship during the
- 11 periods when services are held; except as may be
- 12 permitted pursuant to section 132D-10; and
- 13 (E) Within five hundred feet from any hotel.

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

17 (c) It shall be unlawful to sell consumer fireworks ~~[after~~  
18 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~  
19 ~~Day, and 8:00 p.m. on the Fourth of July]."~~

20 SECTION 4. Section 132D-7, Hawaii Revised Statutes, is  
21 amended to read as follows:

22 "**§132D-7 License or permit required.** A person shall not:



- 1           (1) Import, store, offer to sell, or sell, at wholesale or  
2           retail, aerial devices, display fireworks, or articles  
3           pyrotechnic[~~, or consumer fireworks~~] unless the person  
4           has a valid license issued by the county; or
- 5           (2) Possess aerial devices, display fireworks, or articles  
6           pyrotechnic without a valid license to import, store,  
7           or sell aerial devices, display fireworks, or articles  
8           pyrotechnic, or a valid display permit as provided for  
9           in this chapter."

10           SECTION 5. Section 132D-8.6, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§132D-8.6 Requirements of licensee.** (a) Any person who  
13 has obtained a license under section 132D-7 and ships fireworks  
14 or articles pyrotechnic into the State shall:

- 15           (1) Clearly designate the types of fireworks or articles  
16           pyrotechnic in each shipment on the bill of lading or  
17           shipping manifest with specificity;
- 18           (2) Declare on the bill of lading or shipping manifest the  
19           gross weight of aerial devices, [~~consumer fireworks,~~]  
20           display fireworks, and articles pyrotechnic to be  
21           imported in each shipment and the location of the



1 storage facility, if applicable, in which the  
2 fireworks or articles pyrotechnic are to be stored;  
3 (3) Prior to shipment and when booking each shipment of  
4 fireworks or articles pyrotechnic notify the  
5 appropriate county official as determined by the  
6 county regarding whether the shipment will be  
7 distributed from:

- 8 (A) Pier to pier;
- 9 (B) Pier to warehouse or storage facility; or
- 10 (C) Pier to redistribution; and

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

15 (b) The fire department of a county, in which a shipment  
16 of fireworks or articles pyrotechnic has landed and becomes  
17 subject to the jurisdiction of the fire department, shall be  
18 allowed to inspect, if it chooses, any shipment declared on the  
19 shipping manifest as fireworks or articles pyrotechnic.

20 (c) The facility in which fireworks or articles  
21 pyrotechnic are to be stored shall:

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

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

5 (d) Any fireworks or articles pyrotechnic landed in the  
6 State shall be subject to seizure and forfeiture if:

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

11 (2) The consignee does not have a valid license to store  
12 fireworks or articles pyrotechnic under section  
13 132D-7; or

14 (3) The fireworks or articles pyrotechnic have not been  
15 declared or have been misdeclared in violation of  
16 subsection (a).

17 ~~[(c) No person holding a retailer license to sell consumer~~  
18 ~~fireworks shall be allowed to sell consumer fireworks commonly~~  
19 ~~known as firecrackers in a packet size larger than five thousand~~  
20 ~~individual units. Any person violating this subsection shall be~~  
21 ~~guilty of a misdemeanor.~~



1       ~~(f)~~] (e) Any person violating subsection (a), (c), or (d)  
2 shall be subject to the following for shipments of fireworks or  
3 articles pyrotechnic of:

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

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

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

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

12       SECTION 6. Section 132D-9, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       "**§132D-9 Application for permit.** The permit required  
15 under section 132D-10 or 132D-16 shall be issued by the county  
16 or its authorized designees and be nontransferable. The county  
17 or its authorized designees shall issue all permits for which  
18 complete applications have been submitted and which contain only  
19 correct information. The permit shall specify the date of  
20 issuance or effect and the date of expiration but in no case for  
21 a period to exceed one year. ~~[The permit for the purchase of~~  
22 ~~consumer fireworks for the purposes of section 132D-3 shall not~~



1 ~~allow purchase for more than one event as set forth in section~~  
2 ~~132D-3.]~~ The application shall be made on a form setting forth  
3 the dates for which the permit shall be valid, the location  
4 where the permitted activity is to occur, and the name of the  
5 proprietor or, if a partnership, the name of the partnership and  
6 the names of all partners or, if a corporation, the name of the  
7 corporation and the names of its officers. The permit  
8 application may be denied if the proposed use of fireworks or  
9 articles pyrotechnic presents a substantial inconvenience to the  
10 public or presents an unreasonable fire or safety hazard. Any  
11 permit issued pursuant to this chapter shall be prominently  
12 displayed in public view at the site."

13 SECTION 7. Section 132D-10, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§132D-10 Permits.** A permit shall be required for the  
16 purchase and use of[+

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

19 ~~(2) Any] any~~ any aerial devices, display fireworks, or  
20 articles pyrotechnic for the purposes of section 132D-  
21 16 upon payment of a fee of \$110."



1 SECTION 8. Section 132D-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§132D-13 Liability of parents or guardians. The parents,  
4 guardian, and other persons having the custody or control of any  
5 minor, who knowingly permit the minor to possess, purchase, or  
6 set off, ignite, or otherwise cause to explode any fireworks or  
7 articles pyrotechnic, shall be deemed to be in violation of this  
8 chapter and shall be subject to the penalties [~~thereunder,~~  
9 ~~except that the parents or guardian may allow the minor to use~~  
10 ~~consumer fireworks while under the immediate supervision and~~  
11 ~~control of the parent or guardian, or under the supervision and~~  
12 ~~control of another adult.] hereunder."~~

13 SECTION 9. Section 132D-14, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) Any person:

16 (1) Importing aerial devices, display fireworks, or  
17 articles pyrotechnic without having a valid license  
18 under section 132D-7 shall be guilty of a class C  
19 felony;

20 (2) Importing consumer fireworks shall be guilty of a  
21 class C felony;



1       ~~[(2)]~~ (3) Purchasing, possessing, setting off, igniting, or  
2            discharging aerial devices, display fireworks, or  
3            articles pyrotechnic without a valid permit under  
4            sections 132D-10 and 132D-16, or storing, selling, or  
5            possessing aerial devices, display fireworks, or  
6            articles pyrotechnic without a valid license under  
7            section 132D-7:

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

12           (B) If the total weight of the aerial devices,  
13           display fireworks, or articles pyrotechnic is  
14           less than twenty-five pounds, shall be guilty of  
15           a misdemeanor;

16       ~~[(3)]~~ (4) Who transfers or sells aerial devices, display  
17            fireworks, or articles pyrotechnic to a person who  
18            does not have a valid permit under sections 132D-10  
19            and 132D-16, shall be guilty of a class C felony;  
20            ~~[and]~~;

21       (5) Who transfers or sells consumer fireworks shall be  
22       guilty of a class C felony; and



1        [~~4~~] (6) Who removes or extracts the pyrotechnic contents  
2                from any fireworks or articles pyrotechnic and uses  
3                the contents to construct fireworks, articles  
4                pyrotechnic, or a fireworks or articles pyrotechnic  
5                related device shall be guilty of a misdemeanor."

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

8                "**§132D-17 Inconsistent county ordinances, rules.**

9 Notwithstanding any other law to the contrary, no county shall  
10 enact ordinances or adopt any rules regulating fireworks or  
11 articles pyrotechnic, except as required in this chapter, that  
12 is inconsistent with or more restrictive than, the provisions of  
13 this chapter. Any ordinances and rules regulating fireworks or  
14 articles pyrotechnic that were enacted or adopted by a county  
15 before [~~March 31, 1995,~~] the effective date of this Act except  
16 those provisions which are not inconsistent with, or more  
17 restrictive than those of this chapter, are declared void."

18                SECTION 11. Each county shall develop and implement a plan  
19 for the public to safely dispose of consumer fireworks prior to  
20 the effective date of section 1 through section 10 of this Act.



1 SECTION 12. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun, before its effective date.

4 SECTION 13. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect on July 1, 2008;  
7 provided that section 11 shall take effect upon approval.

8

INTRODUCED BY: *Clarence E. Dickhoff*  
*BR*



**Report Title:**

Fireworks; Prohibition

**Description:**

Prohibits the use of consumer fireworks. Effective 7/1/08.

