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

4                           "PART     .    NUISANCE ABATEMENT

5           §132D-     Definitions. For the purposes of this part:

6 "Place" as used in this part means any building, structure, or  
7 place, or any separate part or portion thereof, whether  
8 permanent or not, or the ground itself.

9           §132D-     Nuisance. Every building, premises, or place  
10 used for the purpose of violating this chapter and every  
11 building, premises, or place, in or upon which the violations  
12 are held or occurred, shall be enjoined, abated, and prevented,  
13 regardless of whether it is a public or private nuisance.

14           §132D-     Citizen's rights. Any citizen who brings a  
15 nuisance abatement suit against a place used for the purpose of  
16 violating this chapter or who files a complaint with the police  
17 of the applicable county or the department of the attorney  
18 general shall be entitled to the same rights and protections of



1 victims and witnesses in criminal proceedings in accordance with  
2 chapter 801D.

3 §132D- Injunctions against persons. Nothing in this  
4 chapter shall be construed to prohibit injunctions against  
5 persons causing, maintaining, aiding, abetting, or permitting a  
6 nuisance from entering or residing in any public or private  
7 building, premises, or place, in or upon which the nuisance  
8 exists.

9 §132D- Suit to abate. (a) Whenever there is reason to  
10 believe that a nuisance under this chapter is in existence,  
11 kept, or maintained in any county, the attorney general of the  
12 State or the prosecutor or prosecuting attorney of the  
13 respective counties shall, or any citizen of the State residing  
14 within such county may in the citizen's own name, or any  
15 organization, including but not limited to a tenant organization  
16 within such county may in the organization's own name, maintain  
17 a suit to abate and prevent the nuisance and to perpetually  
18 enjoin the person or persons causing, maintaining, aiding,  
19 abetting, or permitting the nuisance, or the owner, lessee, or  
20 agent of the building, premises, or place, in or upon which the  
21 nuisance exists from directly or indirectly causing,  
22 maintaining, aiding, abetting, or permitting the nuisance.



1 (b) No action authorized under this chapter which seeks to  
2 abate or prevent a nuisance shall be filed or maintained against  
3 the State or any political subdivision thereof.

4 §132D- Standard of proof. Except as may be otherwise  
5 expressly provided, the civil causes of action in this part  
6 shall be proved by a preponderance of the evidence.

7 §132D- Protective order. If proof of the existence of  
8 the nuisance depends, in whole or in part, upon the affidavits  
9 or testimony of witnesses who are not law enforcement officers,  
10 the court, upon a showing of prior threats of violence or acts  
11 of violence by any defendant, may issue orders to protect those  
12 witnesses, including the nondisclosure of the name, address, or  
13 any other information that may identify those witnesses.

14 §132D- Temporary writ. Whenever the existence of a  
15 nuisance is shown in a suit brought under this part to the  
16 satisfaction of the court or the judge thereof, either by  
17 verified petition or affidavit, or both, the court or judge  
18 thereof shall allow a temporary writ of injunction to abate and  
19 prevent the continuance or recurrence of such nuisance, which  
20 injunction may include a provision prohibiting the person or  
21 persons causing, maintaining, aiding, abetting, or permitting  
22 the nuisance from residing in or entering into the building,



1 premises, or place in or upon which the nuisance exists. The  
2 petition in such suit need not be verified, except in those  
3 suits brought by a citizen in the citizen's own name, or those  
4 suits brought by an organization in its own name, but shall be  
5 signed by the party bringing the same and shall include a  
6 certification that the complainant believes the allegations of  
7 the petition to be true.

8       §132D-     **Suit to have precedence.** The suit when brought  
9 shall have precedence over all cases, except criminal  
10 proceedings, election contests, and hearings on injunctions, and  
11 in the suit evidence of the general reputation of the building,  
12 premises, place, or persons, and of the use of threat of  
13 violence shall be admissible for the purpose of proving the  
14 existence of the nuisance.

15       §132D-     **Failure to prosecute.** If the petition is filed  
16 by a citizen or by an organization, it shall not be dismissed by  
17 the complainant or for want of prosecution, except upon a sworn  
18 statement by the complainant or the complainant's attorney,  
19 setting forth the reasons why the suit should be dismissed, and  
20 the dismissal ordered by the court. In case of failure to  
21 prosecute any such suit with reasonable diligence, or at the  
22 request of the complainant, the court, in its discretion, may



1 substitute any other citizen or organization, including the  
2 attorney general or the prosecutor or prosecuting attorney of  
3 the county consenting thereto for the complainant. If a suit is  
4 brought by a citizen or by an organization and the court finds  
5 that there was no reasonable ground or cause therefor, the costs  
6 shall be taxed against such citizen or organization, except that  
7 no costs shall be taxed against state or county organizations.

8       §132D-     Order of abatement. If the existence of a  
9 nuisance is established in a suit as provided herein, an order  
10 of abatement shall be entered as a part of the judgment in the  
11 case, which order shall include a provision permanently  
12 prohibiting the person or persons causing, maintaining, aiding,  
13 abetting, or permitting the nuisance, if said person or persons  
14 are a party to the proceeding, from residing in or entering into  
15 the building, premises, or place in or upon which the nuisance  
16 exists. In the event that the court determines that an  
17 injunction against the person or persons causing, maintaining,  
18 aiding, abetting, or permitting the nuisance will not completely  
19 abate the nuisance or that one or more of the persons causing,  
20 maintaining, aiding, abetting, or permitting the nuisance are  
21 not parties to the proceeding, the court shall also direct the  
22 effectual closing of the building, premises, or place, against



1 its use for any purpose, and that it be kept closed for a period  
2 not exceeding one year. While the order remains in effect as to  
3 closing, the building, premises, or place, shall remain in the  
4 custody of the court. The court's orders may also include an  
5 order suspending or revoking any business, professional,  
6 operational, or liquor license.

7       §132D-       Costs and expenses. For any attorney's fees,  
8 costs, or expenses incurred in the closing of the building,  
9 premises, or place and keeping it closed, or incurred in  
10 enforcing the injunction prohibiting the person or persons  
11 causing, maintaining, aiding, abetting, or permitting the  
12 nuisance from residing or entering into the building, premises,  
13 or place in or upon which the nuisance exists, as well as the  
14 attorney's fees, costs, and expenses incurred by the party  
15 bringing the action, a reasonable sum shall be allowed by the  
16 court.

17       §132D-       Owner not guilty of contempt; may pay costs. If  
18 the owner of the building, premises, or place has not been  
19 guilty of any criminal contempt of court in the proceedings, and  
20 appears and pays all costs, fees, and allowances which are a  
21 lien on the building, premises, or place, and files a bond in a  
22 reasonable amount to be fixed by the court, with sureties, to be



1 approved by the court or judge, conditioned that the owner will  
2 immediately abate any such nuisance that may exist at such  
3 building, premises, or place, and prevent the same from being  
4 established or kept there for a period of one year thereafter,  
5 the court or the judge thereof may, if satisfied of the owner's  
6 good faith, order the building, premises, or place, closed under  
7 the order of abatement cancelled so far as the same may relate  
8 to the closing of said building, premises, or place. The  
9 release of the building, premises, or place, under the provision  
10 of this section does not release it from any judgment, lien,  
11 penalty, or liability to which it may be subject by law.

12 §132D- Contempt. Any person who knowingly violates any  
13 order issued pursuant to this part shall be subject to civil  
14 contempt as well as punishment for criminal contempt of court.  
15 Nothing in this section shall be construed in any way to  
16 preclude or preempt a criminal prosecution for violation of this  
17 chapter.

18 §132D- Fine, costs, lien on place. Any attorney's fees,  
19 costs, expenses, and fines, imposed against any owner of a  
20 business, premises, or place in any proceedings under this part  
21 shall be a lien upon such business, premises, or place, to the



1 extent of the interest of such person therein, enforceable and  
2 collectible by execution issued by the order of the court.

3 §132D- Forfeiture. In addition, any penalties that may  
4 be imposed for violation of this chapter, instrumentalities of  
5 violations of this chapter, proceeds from violations of this  
6 chapter, or property obtained or maintained with such proceeds  
7 shall be subject to forfeiture pursuant to chapter 712A.

8 §132D- Termination of lease. The notice by the owner of  
9 any business, premises, or place to the lessee, that the lease  
10 will be revoked if the lessee continues the causing,  
11 maintaining, aiding, abetting, or permitting of the nuisance,  
12 and other action taken to revoke the lease or to obtain the  
13 termination of the nuisance, shall be given appropriate  
14 consideration by the court in the determination of a criminal  
15 contempt action brought against the owner in connection with  
16 abatement procedures under this part."

17 SECTION 2. If any provision of this Act, or the  
18 application thereof to any person or circumstance is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of the Act which can be given effect without the  
21 invalid provision or application, and to this end the provisions  
22 of this Act are severable.





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

4           SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Nuisance Abatement; Illegal Fireworks

**Description:**

Establishes a cause of action to abate the illegal purchasing, selling, possession, setting off, igniting or discharging of fireworks. Allows the court to order the closure of any place used in violation of the fireworks law. Allows for the forfeiture of property used in violation of the fireworks law.  
(HB1987 HD1)

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

