

JAN 22 2010

S.B. NO. 2425

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

PART I

SECTION 1. Chapter 132D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§132D- Fireworks surcharge. (a) There is levied and assessed a fireworks surcharge at the wholesale and retail levels on every sale of any aerial device, display fireworks, articles pyrotechnic, or consumer fireworks regulated under this chapter. The fireworks surcharge shall be equal to per cent of the amount collected from the sale. Payment of the surcharge to the State shall be the responsibility of persons licensed under section 132D-7.

(b) The department of taxation shall prescribe necessary forms and may adopt rules pursuant to chapter 91 to administer and effectuate this section.

(c) This section shall apply to all sales of aerial device, display fireworks, articles pyrotechnic, or consumer



1 fireworks regulated under this chapter made after June 30, 2010,
2 and before November 1, 2011."

3 PART II

4 SECTION 2. Section 132D-2, Hawaii Revised Statutes, is
5 amended by amending the definitions of "consumer fireworks" and
6 "cultural" to read as follows:

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



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

13 "Cultural" means relating to the arts, customs,
14 traditions, mores, and history of all of the various groups of
15 Hawaii[-] and includes religious events.

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

18 "§132D-3 [~~Permissible uses~~] Use of consumer fireworks[-];
19 prohibition; exception. [~~Consumer fireworks may be~~] It shall be
20 unlawful for any person to set off, [ignited, discharged,]
21 ignite, discharge, or otherwise [caused] cause to explode any
22 consumer fireworks within the State [~~only-~~]



1 ~~(1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New~~
2 ~~Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New~~
3 ~~Year's Day; and from 1:00 p.m. to 9:00 p.m. on the~~
4 ~~Fourth of July; or~~

5 (2) From] except for cultural use from 9:00 a.m. to 9:00
6 p.m. as allowed by permit pursuant to section 132D-10
7 [~~if the proposed cultural use is to occur at any time~~
8 ~~other than during the periods prescribed in paragraph~~
9 ~~(1)];~~

10 provided that the purchase of not more than five thousand
11 individual consumer fireworks commonly known as firecrackers
12 shall be allowed under each permit."

13 SECTION 4. Section 132D-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§132D-5 General prohibitions.** (a) [~~It~~] In addition to
16 the prohibition under section 132D-3, it shall be unlawful for
17 any person [without a permit issued under section 132D-10 by a
18 county fire department] to:

19 (1) Remove or extract the pyrotechnic contents from any
20 fireworks;

21 (2) Throw any ignited fireworks:

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



- 1 (B) At a person or an animal; and
- 2 (C) From above the first floor of any building; or
- 3 (3) Set off, ignite, discharge, or otherwise cause to
- 4 explode any fireworks:
- 5 (A) Above the first floor of any building;
- 6 (B) In any vehicle;
- 7 (C) At any time not within the periods for use
- 8 prescribed in section 132D-3;
- 9 (D) Within one thousand feet of any operating
- 10 hospital, licensed convalescent home, licensed
- 11 home for the elderly, zoo, licensed animal
- 12 shelter, or licensed animal hospital;
- 13 (E) In any school building, or on any school grounds
- 14 and yards without first obtaining authorization
- 15 from appropriate school officials;
- 16 (F) On any highway, alley, street, sidewalk, or other
- 17 public way; in any park; on any public beach; in
- 18 any officially designated forest or wildlife
- 19 preserve; within fifty feet of a canefield; or
- 20 within one thousand feet of any building used for
- 21 public worship during the periods when services
- 22 are held; and



1 (G) Within five hundred feet of any hotel.

2 (b) [~~It~~] Except as provided under section 132D-3, it shall
3 be unlawful to purchase or possess consumer fireworks [more than
4 five calendar days before the time periods for permissible use
5 under section 132D-3.] within the State.

6 (c) [~~It~~] Except for use at cultural events, it shall be
7 unlawful to offer, expose for sale, sell, or furnish consumer
8 fireworks [after 12:01 a.m. on New Year's Day, 6:00 p.m. on
9 Chinese New Year's Day, and 8:00 p.m. on the Fourth of July.] to
10 any person within the State. Any person violating this
11 subsection shall be guilty of a misdemeanor.

12 (d) Except for use at cultural events, possession of
13 consumer fireworks valued at \$50 or more shall be prima facie
14 evidence that the fireworks were to be offered or exposed for
15 sale."

16 SECTION 5. Section 132D-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§132D-7 License or permit required. A person shall not:

- 19 (1) Import, store, offer to sell, or sell, at wholesale or
20 retail, aerial devices, display fireworks, or articles
21 pyrotechnic, or consumer fireworks at cultural events



1 unless the person has a valid license issued by the
2 county; or

3 (2) Possess aerial devices, display fireworks, or articles
4 pyrotechnic without a valid license to import, store,
5 or sell aerial devices, display fireworks, or articles
6 pyrotechnic, or a valid display permit as provided for
7 in this chapter."

8 SECTION 6. Section 132D-8, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) It shall be unlawful for any licensee, other than a
11 wholesaler who is selling or transferring fireworks or articles
12 pyrotechnic to a licensed retailer, to sell or offer to sell,
13 exchange for consideration, give, transfer, or donate any
14 fireworks or articles pyrotechnic at any time to any person who
15 does not present a permit duly issued as required by section
16 132D-10 or 132D-16. The permit shall be signed by the seller or
17 transferor at the time of sale or transfer of the fireworks or
18 articles pyrotechnic, and the seller or transferor shall
19 indicate on the permit the amount and type of fireworks or
20 articles pyrotechnic sold or transferred. No person shall sell
21 or deliver fireworks to any permittee in any amount in excess of
22 the amount specified in the permit, less the amount shown on the



1 permit to have been previously purchased[, ~~provided that no~~
2 ~~fireworks shall be sold to a permittee holding a permit issued~~
3 ~~for purposes of section 132D-3, more than five calendar days~~
4 ~~before the applicable time period under section 132D-3]."~~

5 SECTION 7. Section 132D-9, Hawaii Revised Statutes, is
6 amended to read as follows:

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



1 application may be denied if the proposed use of fireworks or
2 articles pyrotechnic presents a substantial inconvenience to the
3 public or presents an unreasonable fire or safety hazard. Any
4 permit issued pursuant to this chapter shall be prominently
5 displayed in public view at the site."

6 SECTION 8. Section 132D-10, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§132D-10 Permits. A permit shall be required for the
9 purchase and use of:

10 (1) Any consumer fireworks [~~commonly known as~~
11 ~~firecrackers~~] for cultural events pursuant to section
12 132D-3, upon payment of a fee of \$25; and

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

16 ~~(3) Any consumer fireworks for the purposes of section~~
17 ~~132D-5 or for cultural uses that occur at any time~~
18 ~~other than during the periods prescribed in section~~
19 ~~132D-3(1) upon a payment of a fee of \$25]."~~

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



1 "§132D-12 Sale to minors; sale by minors; prohibited. It
2 shall be unlawful for any person to offer for sale, sell, or
3 give any fireworks or articles pyrotechnic to minors, and for
4 any minor to possess, purchase, sell, or set off, ignite, or
5 otherwise cause to explode any fireworks or articles
6 pyrotechnic [~~except as provided in section 132D-13~~]."

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

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

18 SECTION 11. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun, before its effective date.
21



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1 SECTION 12. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect on July 1, 2010;
4 provided that:

5 (1) Part I of this Act shall be repealed on October 31,
6 2011; and

7 (2) Part II of this Act shall take effect on November 1,
8 2011.

9

INTRODUCED BY: Clarence K. Mishioka

Will Egan



Report Title:

Fireworks; Surcharge; Ban; Consumer Fireworks

Description:

Temporarily imposes a surcharge on all regulated fireworks for one year, then imposes a permanent ban on consumer fireworks, except for cultural events.

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

