

JAN 22 2010

S.B. NO. 2553

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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. The legislature finds that although the use of  
2 firecrackers has a long cultural history in Hawaii, novelty  
3 fireworks other than firecrackers have no cultural significance.  
4 Increasing numbers of residents have complained about the  
5 burgeoning illegal use of aerial fireworks and concussive  
6 explosions, the amount of smoke caused by the increasing use of  
7 fireworks, and the fire hazards posed by fireworks.

8           Many of the aerial fireworks being used illegally appear  
9 similar to display fireworks or articles pyrotechnic that are  
10 supposed to be used by professionals. Many of the concussive  
11 explosions may be caused by the unintended use of novelty  
12 fireworks, such as electric sparklers, and other materials in  
13 manufacturing illegal concussive bombs.

14           The loud booms of concussive bombs, as well as other  
15 fireworks, bother people, scare animals, and have been blamed  
16 for the deaths of dogs and seabirds. The smoke from fireworks  
17 cause breathing problems for people with asthma and other



1 respiratory problems. Fireworks smoke consists primarily of  
2 particulate matter that can aggravate respiratory problems.  
3 While air quality in Honolulu averages four to fifteen  
4 micrograms of particulate matter per cubic meter of air, the  
5 Honolulu air quality monitor recorded six hundred thirty-two  
6 micrograms per cubic meter of air at 2:00 a.m. on January 1,  
7 2010. That is forty-two to one hundred fifty-eight times the  
8 usual average.

9 Fireworks have also caused numerous wildfires and house  
10 fires throughout the years. There were thirty-seven fires,  
11 including one vehicle fire, on Oahu alone reported for  
12 January 1, 2010, and attributed to the misuse of fireworks.

13 People currently may pay \$25 for a permit to purchase a  
14 packet of five thousand firecrackers. In 2009, more than eight  
15 thousand permits were issued by the city and county of Honolulu.  
16 However, the sale of novelty fireworks, such as fountains and  
17 paperless firecrackers, are unregulated. Novelty fireworks emit  
18 enormous amounts of smoke and, in some cases, pose a greater  
19 fire hazard than firecrackers.

20 Given the increasing problems caused by novelty and illegal  
21 fireworks, the legislature finds it necessary to prohibit the  
22 importation, sale, use and possession of novelty fireworks and



1 to authorize the counties to require that permit applicants show  
2 proof of contracts for fireworks displays to the counties or  
3 their designees before being allowed to import aerial devices,  
4 display fireworks, or articles pyrotechnic.

5 The purpose of this Act is to regulate novelty fireworks.

6 SECTION 2. Section 132D, Hawaii Revised Statutes, is  
7 amended by adding two new definitions to be appropriately  
8 inserted and to read as follows:

9 "Firecrackers" means single paper cylinders not exceeding  
10 one and one-half inches in length excluding the fuse and one-  
11 quarter inch in diameter and that contain a charge of not more  
12 than fifty milligrams of pyrotechnic composition.

13 "Novelty fireworks" means any fireworks designed primarily  
14 for use by the public and that produce visible or audible  
15 effects by combustion and while stationary or spinning rapidly  
16 on or near the ground, emits smoke, a shower of colored sparks,  
17 whistling effects, flutter sparks, or balls of colored sparks,  
18 and includes combination items that contain one or more of these  
19 effects. Novelty fireworks include, but are not limited to,  
20 snakes, sparklers, fountains, cylindrical or cone fountains that  
21 emit effects up to a height not greater than twelve feet above  
22 the ground, illuminating torches, bamboo cannons, whistles, toy



1 smoke devices, wheels, and ground spinners that when ignited  
2 remain within a circle with a radius of twelve feet as measured  
3 from the point where the item was placed and ignited, novelty or  
4 trick items, combination items, and other fireworks of like  
5 construction that are designed to produce the same or similar  
6 effects."

7 SECTION 3. Chapter 132D, Hawaii Revised Statutes, is  
8 amended by adding two new sections to be appropriately  
9 designated and to read as follows:

10 **"§132D-A Restrictions on novelty fireworks. (a)**  
11 Importers of novelty fireworks shall provide to the county  
12 evidence of a valid contract for purchase by a retailer of the  
13 novelty fireworks prior to importing the novelty fireworks.

14 (b) As a prerequisite to the purchase of novelty  
15 fireworks, a person shall obtain a novelty fireworks permit from  
16 the county in which the person resides. Application for a  
17 permit shall be made by mail or electronic means no later than  
18 twenty days prior to the date of the intended use. If  
19 application is made electronically, the applicant shall submit a  
20 clear electronic image or a scan of the applicant's government-  
21 issued photo identification. If the application is made by



1 mail, the applicant shall submit a photocopy of the applicant's  
2 government-issued photo identification.

3 (c) A county may assess a nonrefundable fee of \$20 for a  
4 novelty fireworks permit to allow the applicant to purchase up  
5 to \$100 of novelty fireworks. The applicant shall pay the  
6 permit fee and the amount to be used by the applicant up to the  
7 \$100 maximum for the purchase of novelty fireworks in the manner  
8 prescribed by the county. Upon payment of the foregoing, the  
9 county shall issue a purchase card with the individual's name  
10 emblazoned on the front and a magnetic strip on the back  
11 preloaded with the dollar amount that the individual paid to the  
12 county for the purchase of novelty fireworks. The purchase card  
13 shall be deemed to be the permit to purchase novelty fireworks.  
14 The purchase card shall be nontransferable.

15 (d) A county may deny issuance of a novelty fireworks  
16 permit to any applicant who has violated any provision of this  
17 chapter.

18 (e) There shall be issued only one novelty fireworks  
19 permit per household, without regard to the number of family  
20 members comprising the household. A household shall mean a  
21 single family residence, one unit of a duplex or multiplex, a  
22 townhouse unit, or an apartment unit.



1        (f) A county shall mail the purchase card to the home  
2 address of the applicant as indicated on the application;  
3 provided that no purchase card shall be mailed to a post office  
4 box or business address. Any unused moneys in a purchase card  
5 may be redeemed by mailing the purchase card to the county to  
6 receive a refund. A purchase card may be reloaded with an  
7 additional amount of \$100 if the person to whom the purchase  
8 card was issued pays an additional fee of \$20 and all other  
9 applicable provisions of this chapter remain satisfied or are  
10 satisfied.

11        (g) A county shall use novelty fireworks permit fees to:

12        (1) Defray expenses associated with the novelty fireworks  
13 provisions of this chapter as may be incurred by the  
14 county;

15        (2) Conduct activities to enforce the provisions of the  
16 novelty fireworks law, including:

17        (A) Inspecting incoming shipments or containers  
18 pursuant to section 132D-8.6;

19        (B) Monitoring retailers of novelty fireworks;

20        (C) Conducting unannounced and random inspections of  
21 retailers of novelty fireworks; and



1           (D) Conducting law enforcement activities designed to  
2           apprehend people who are in violation of the  
3           novelty fireworks law, including sting  
4           operations.

5           §132D-B Novelty fireworks; responsibility of retailers.

6           (a) A retailer may sell novelty fireworks only to persons  
7           presenting to the retailers a novelty fireworks purchase card  
8           issued under section 132D-A, if the purchaser also presents a  
9           government-issued photo identification that corresponds to the  
10           name on the purchase card.

11           (b) A retailer of novelty fireworks who sells novelty  
12           fireworks to anyone who has not been issued a novelty fireworks  
13           purchase card as required in section 132D-A shall be subject to  
14           a fine as follows:

15           (1) For the first violation occurring in each calendar  
16           year, a fine \$1,000; and

17           (2) For a second and subsequent violation occurring in  
18           each calendar year, a fine of \$2,000 for each  
19           violation; provided that in addition, the county may  
20           confiscate the retailer's novelty fireworks sales  
21           permit.



1        (c) A retailer of novelty fireworks shall pay to the  
2 county in which the retailer sells novelty fireworks a deposit  
3 of \$5,000 for each retail outlet from which novelty fireworks  
4 are sold. A retailer shall be entitled to a refund of the  
5 amount of deposit, less any fines assessed upon the retailer  
6 under this chapter, upon termination of the business.

7        (d) A retailer shall be required to provide any electronic  
8 equipment necessary to implement section 132D-A.

9        (e) Retailers shall accept payment for novelty fireworks,  
10 including excise taxes, solely by means of a purchase card."

11        SECTION 4. Section 132D-2, Hawaii Revised Statutes, is  
12 amended by amending the definition of "consumer fireworks" to  
13 read as follows:

14        "'Consumer fireworks" means any fireworks that is designed  
15 primarily for retail sale to the public during authorized dates  
16 and times [~~,that produces visible or audible effects by~~  
17 ~~combustion,~~] for use by the public, and that is designed to  
18 remain on or near the ground [~~and, while stationary or spinning~~  
19 ~~rapidly on or near the ground, emits smoke, a shower of colored~~  
20 ~~sparks, whistling effects, flutter sparks, or balls of colored~~  
21 ~~sparks, and includes combination items that contain one or more~~  
22 ~~of these effects.], including firecrackers and novelty~~





1 fireworks. "Consumer fireworks" shall comply with the  
2 construction, chemical composition, and labeling regulations of  
3 the United States Consumer Product Safety Commission as set  
4 forth in Title 16 Code of Federal Regulations and fireworks  
5 classified as UN0336 and UN0337 by the United States Department  
6 of Transportation as set forth in Title 49 Code of Federal  
7 Regulations. [~~"Consumer fireworks" include firework items  
8 commonly known as firecrackers that are single paper cylinders  
9 not exceeding one and one half inches in length excluding the  
10 fuse and one quarter of an inch in diameter and contain a charge  
11 of not more than fifty milligrams of pyrotechnic composition,  
12 snakes, sparklers, fountains, and cylindrical or cone fountains  
13 that emit effects up to a height not greater than twelve feet  
14 above the ground, illuminating torches, bamboo cannons,  
15 whistles, toy smoke devices, wheels, and ground spinners that  
16 when ignited remain within a circle with a radius of twelve feet  
17 as measured from the point where the item was placed and  
18 ignited, novelty or trick items, combination items, and other  
19 fireworks of like construction that are designed to produce the  
20 same or similar effects.] "~~

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



- 1           "§132D-7 License or permit required. A person shall not:
- 2           (1) Import, store, offer to sell, or sell, at wholesale or
- 3           retail, aerial devices, display fireworks, articles
- 4           pyrotechnic, or consumer fireworks unless the person
- 5           has a valid license issued by the county; [~~or~~]
- 6           (2) Possess aerial devices, display fireworks, or articles
- 7           pyrotechnic without a valid license to import, store,
- 8           or sell aerial devices, display fireworks, or articles
- 9           pyrotechnic, or a valid display permit as provided for
- 10          in this chapter[-]; or
- 11          (3) Purchase novelty fireworks for setting off, igniting,
- 12          discharging, or otherwise causing to explode without a
- 13          valid permit issued by the county."

14          SECTION 6. Section 132D-16, Hawaii Revised Statutes, is

15          amended as follows:

- 16          1. By amending subsection (b) to read:
- 17          "(b) The application shall state, among other things:
- 18          (1) The name, age, and address of the applicant;
- 19          (2) The name, age, and address of the person who will
- 20          operate the display, and verification that the person
- 21          is a licensed pyrotechnic operator;



1           (3) The time, date, and place of the display[+], including  
 2                   proof of a current contract between the applicant and  
 3                   a third party for a particular event connected with  
 4                   the display;

5           (4) The type and quantity of aerial devices, display  
 6                   fireworks, or articles pyrotechnic to be displayed;  
 7                   and

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

10           2. By amending subsection (d) to read:

11           "(d) The county, pursuant to duly adopted rules, shall  
 12           issue the permit after being satisfied that the requirements of  
 13           subsection (c) have been met, the display will be handled by a  
 14           pyrotechnic operator duly licensed by the State, the display  
 15           will not be hazardous to property, and the display will not  
 16           endanger human life. The permit shall authorize the holder to  
 17           display aerial devices, display fireworks, or articles  
 18           pyrotechnic only at the place and during the time set forth  
 19           therein, and to acquire and possess the specified aerial  
 20           devices, display fireworks, or articles pyrotechnic in  
 21           quantities sufficient for the display between the date of the  
 22           issuance of the permit and the time during which the display of



1 those aerial devices, display fireworks, or articles pyrotechnic  
2 is authorized.

3 For purposes of this section, the applicant for a permit  
4 shall be required to:

- 5 (1) Notify the county fire department immediately of a  
6 cancellation of the contract required under subsection  
7 (b) (3); and
- 8 (2) Cooperate with the county fire department in  
9 inspections of inventory prior to, during, and after  
10 fireworks displays."

11 SECTION 7. In codifying this section, the revisor shall  
12 substitute appropriate section numbers for the letter  
13 designations used in section 3 of this Act.

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

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

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INTRODUCED BY:

*Mike Hubbard*



**Report Title:**

Fireworks

**Description:**

Regulates novelty fireworks; defines novelty fireworks; clarifies regulation of display fireworks. Provides for issuance of purchase card to buy novelty fireworks.

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

