

JAN 25 2010

S.B. NO. 2804

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 section to be appropriately designated
3 and to read as follows:

4 "§132D- Selling to unlicensed or unpermitted persons.

5 (a) No person having a license or permit under section 132D-7
6 shall sell, give, or otherwise transfer any aerial devices,
7 display fireworks, articles pyrotechnic, consumer fireworks, or
8 fireworks to any person who does not have a permit under section
9 132D-10.

10 (b) Any person violating this section shall be subject to
11 a class B felony; provided that a mandatory fine of \$35,000
12 shall be imposed."

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

15 "§132D-3 Permissible [~~uses of consumer fireworks.~~] usage;
16 times. (a) Consumer fireworks may be set off, ignited,



1 discharged, or otherwise caused to explode within the State
2 only:

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

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

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

14 Violation of this subsection shall be subject to a penalty
15 as provided under section 132D-14 (b).

16 (b) A person, with or without an appropriate permit under
17 this chapter, who sets off, ignites, or discharges aerial
18 devices, display fireworks, articles pyrotechnic, or fireworks
19 at any time other than as permitted by law shall be guilty of a
20 class B felony; provided that the following mandatory fines
21 shall be imposed:



- 1 (1) If the offense is committed within twenty-four hours
2 before or after the permitted time, the fine shall be
3 \$25,000;
- 4 (2) If the offense is committed during a time period that
5 is greater than twenty-four hours before or after the
6 permitted time but less than forty-eight hours before
7 or after the permitted time, the fine shall be
8 \$30,000; and
- 9 (3) If the offense is committed more than forty-eight
10 hours before or after the permitted time, the fine
11 shall be \$35,000."

12 SECTION 3. Section 132D-8.6, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (b) to read:

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~~] every shipment
19 declared on the shipping manifest as fireworks or articles
20 pyrotechnic."

21 2. By amending subsection (f) to read:



1 "(f) 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 Any fine collected under this subsection shall be apportioned
13 between the State and the respective county as provided in
14 section 132D-14."

15 SECTION 4. Section 132D-14, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) Any person:

19 (1) Importing aerial devices, display fireworks, or
20 articles pyrotechnic without having a valid license

21 under section 132D-7 shall be guilty of a class [E] B



felony; provided that the \$25,000 fine for a class B felony shall be mandatory;

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

(A) If the total weight of the aerial devices, display fireworks, or articles pyrotechnic is twenty-five pounds or more, shall be guilty of a class [C] B felony; provided that the \$25,000 fine for a class B felony shall be mandatory; or

(B) If the total weight of the aerial devices, display fireworks, or articles pyrotechnic is less than twenty-five pounds, shall be guilty of a [~~misdemeanor,~~] class C felony; provided that the \$10,000 fine for a class C felony shall be mandatory;

(3) Who transfers or sells aerial devices, display fireworks, or articles pyrotechnic to a person who



1 does not have a valid permit under sections 132D-10
 2 and 132D-16, shall be guilty of a class C felony;
 3 [and] provided that the \$10,000 fine for a class C
 4 felony shall be mandatory; and

5 (4) Who removes or extracts the pyrotechnic contents from
 6 any fireworks or articles pyrotechnic and uses the
 7 contents to construct fireworks, articles pyrotechnic,
 8 or a fireworks or articles pyrotechnic related device
 9 shall be guilty of a misdemeanor."

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

11 "(c) The court shall collect the fines imposed in section
 12 132D-8.6(f) and in subsections (a) and (b) [for violating this
 13 chapter] of this section, and of the fines collected shall pay
 14 twenty per cent to the State and eighty per cent to the county
 15 in which the fine was imposed which shall be expended by the
 16 county for law enforcement purposes."

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

19 "\$132D-17 [Inconsistent county] County ordinances, rules.
 20 Notwithstanding any other law to the contrary, [ne] a county
 21 [shall] may enact ordinances or adopt any rules regulating
 22 fireworks or articles pyrotechnic [~~except as required in this~~]



1 ~~chapter,~~] that [~~is inconsistent with or~~] are more restrictive
2 than[~~7~~] the provisions of this chapter. [~~Any ordinances and~~
3 ~~rules regulating fireworks or articles pyrotechnic that were~~
4 ~~enacted or adopted by a county before March 31, 1995, except~~
5 ~~those provisions which are not inconsistent with, or more~~
6 ~~restrictive than those of this chapter, are declared void.] "~~

7 SECTION 6. The mandatory fines imposed under this Act
8 shall be deemed to supersede the authorized fines under section
9 706-640, Hawaii Revised Statutes.

10 SECTION 7. For purposes of section 1 of this Act, article
11 VIII, section 5 of the Constitution of the State of Hawaii,
12 requiring the State to share in the costs of an increase in the
13 level of service of mandated programs to the counties, shall be
14 deemed satisfied under section 132D-14(c), Hawaii Revised
15 Statutes, which provides for the counties to be paid eighty per
16 cent of the fines collected as penalties.

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 9. This Act shall take effect on July 1, 2010.

2

INTRODUCED BY:

JM
Russell. Kohl
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Report Title:

Fireworks

Description:

Increases penalties for fireworks law violations. Requires counties to inspect every shipment of fireworks. Allows counties to enact more restrictive ordinances on fireworks. Prohibits and establishes penalty for the sale or transfer of fireworks to unlicensed or unpermitted persons.

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

