

JAN 27 2010

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 the effects of
2 fireworks have long been a problem in the State, especially for
3 the city and county of Honolulu. Every year on New Year's Eve,
4 a thick blanket of smoke from fireworks covers the island of
5 Oahu causing undue stress and discomfort to thousands of
6 residents that suffer from lung ailments and breathing
7 difficulties. The use of fireworks also causes numerous fires,
8 injuries, and a host of other problems.

9 The legislature also finds that these fireworks-related
10 problems are intensified in Honolulu because of the amalgamation
11 of residential and business buildings, many of which were built
12 with little or no property setback. The heavy concentration of
13 people and buildings necessarily results in the retention of
14 smoke, amplified noise, and a greater per capita use of
15 fireworks in a limited space.

16 The purpose of this Act is to address the problem of
17 fireworks use in confined spaces by banning the use of fireworks
18 in counties with a population of five hundred thousand persons



1 or more, except for professionally produced public fireworks
2 displays and to also increase penalties and enhance enforcement
3 of fireworks violations.

4 SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§132D- Private and public property; liability. (a)
8 Ownership of private property on which a violation requiring a
9 license or permit under this chapter occurs shall be prima facie
10 evidence that the owner is guilty of the violation.

11 (b) When a violation of this chapter occurs on public
12 property, it shall be prima facie evidence that any person who
13 is within ten feet of the violation during its commission is
14 guilty of the violation."

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

17 "§132D-5 [~~General prohibitions.~~] Prohibitions; generally,
18 in county of five hundred thousand or more. (a) It shall be
19 unlawful for any person [~~without a permit issued under section~~
20 132D-10 by a county fire department] to:

21 (1) Remove or extract the pyrotechnic contents from any
22 fireworks;



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



1 public worship during the periods when services
2 are held; and

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

4 (b) It shall be unlawful to purchase consumer fireworks
5 more than five calendar days before the time periods for
6 permissible use under section 132D-3.

7 (c) It shall be unlawful to sell consumer fireworks after
8 12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's
9 Day, and 8:00 p.m. on the Fourth of July.

10 (d) It shall be unlawful for any person to create, build,
11 construct, or otherwise use combustible or explosive materials
12 for the purpose of creating fireworks, aerial devices, or
13 consumer fireworks.

14 (e) Notwithstanding any other law or any provision of this
15 chapter to the contrary, and except for articles pyrotechnic
16 displays, it shall be unlawful for any person in a county with a
17 population of five hundred thousand persons or more to purchase,
18 possess, set-off, ignite, or discharge consumer fireworks,
19 aerial devices, or display fireworks at any time or any place in
20 that county."

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



1 "§132D-14 **Penalty.** (a) Any person:

2 (1) Importing aerial devices, display fireworks, or
3 articles pyrotechnic without having a valid license
4 under section 132D-7 shall be guilty of a class C
5 felony;

6 (2) Purchasing, possessing, setting off, igniting, or
7 discharging aerial devices, display fireworks, or
8 articles pyrotechnic without a valid permit under
9 sections 132D-10 and 132D-16, or storing, selling, or
10 possessing aerial devices, display fireworks, or
11 articles pyrotechnic without a valid license under
12 section 132D-7[+;

13 ~~(A) If the total weight of the aerial devices,~~
14 ~~display fireworks, or articles pyrotechnic is~~
15 ~~twenty-five pounds or more,]~~ shall be guilty of a
16 class C felony[+; ~~or~~

17 ~~(B) If the total weight of the aerial devices,~~
18 ~~display fireworks, or articles pyrotechnic is~~
19 ~~less than twenty-five pounds, shall be guilty of~~
20 ~~a misdemeanor];~~

21 (3) Who transfers or sells aerial devices, display
22 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; and
3 (4) Who removes or extracts the pyrotechnic contents from
4 any fireworks or articles pyrotechnic and uses the
5 contents to construct fireworks, articles pyrotechnic,
6 or a fireworks or articles pyrotechnic related device
7 shall be guilty of a [~~misdemeanor.~~] class C felony.

8 (b) [~~Except as provided in subsection (a) or as otherwise~~
9 ~~specifically provided for in this chapter, any~~] Any person
10 violating any [~~other~~] provision of this chapter, shall be
11 [~~fined~~]:

12 (1) Liablie for any bodily injury or property damage caused
13 by the violation; and

14 (2) Fined not [~~more~~] less than \$2,000 for each violation.

15 (c) The court shall collect the fines imposed in
16 subsections (a) and (b) for violating this chapter and of the
17 fines collected shall pay [~~twenty~~] _____ per cent to the
18 State and [~~eighty~~] _____ per cent to the county in which the
19 fine was imposed which shall be expended by the county for law
20 enforcement purposes."



S.B. NO. 2850

1 SECTION 5. 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 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7

INTRODUCED BY:

Will Egan
Michelle N. Kildani
Fred Humphrey
Robert B. ...



Report Title:

Fireworks; Ban; Counties

Description:

Imposes a consumer fireworks ban in counties with a population of 500,000 persons or more except for areas designated as controlled areas by the county fire chief. Increases penalties for fireworks violations. Establishes presumptions to determine liability for the misuse of fireworks.

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

