

JAN 23 2009

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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. Section 132D-2, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending the definition of "consumer fireworks" to  
4 read:

5           "Consumer fireworks" [~~means~~]:

6           (1) Means any fireworks designed primarily for retail sale  
7 to the public [~~during authorized dates and times,~~  
8 that produces visible or audible effects by  
9 combustion, and that is designed to remain on or near  
10 the ground and, while stationary or spinning rapidly  
11 on or near the ground, emits smoke, a shower of  
12 colored sparks, whistling effects, flutter sparks, or  
13 balls of colored sparks, and includes combination  
14 items that contain one or more of these effects.

15           ~~["Consumer fireworks" shall comply with the~~  
16 ~~construction, chemical composition, and labeling~~  
17 ~~regulations of the United States Consumer Product~~  
18 ~~Safety Commission as set forth in Title 16 Code of~~



1 ~~Federal Regulations and fireworks classified as UN0336~~  
2 ~~and UN0337 by the United States Department of~~  
3 ~~Transportation as set forth in Title 49 Code of~~  
4 ~~Federal Regulations. "Consumer fireworks" include]~~

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

21 2. By deleting the definition of "cultural".



1       ~~["Cultural" means relating to the arts, customs,~~  
2 ~~traditions, mores, and history of all of the various ethnic~~  
3 ~~groups of Hawaii."]~~

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

6       "~~§132D-3 [Permissible uses]~~ Use of consumer fireworks~~[-]~~,  
7 prohibited. ~~[Consumer fireworks may be]~~ It shall be unlawful  
8 for any person to set off, [ignited, discharged,] ignite,  
9 discharge, or otherwise [caused] cause to explode any consumer  
10 fireworks within the State [only:

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

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

19 ~~provided that the purchase of not more than five thousand~~  
20 ~~individual consumer fireworks commonly known as firecrackers~~  
21 ~~shall be allowed under each permit]."~~



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

3 "§132D-5 General prohibitions. (a) It shall be unlawful  
4 for any person without a permit issued under section 132D-10 by  
5 a county fire department to:

6 (1) Remove or extract the pyrotechnic contents from any  
7 fireworks;

8 (2) Throw any ignited fireworks:

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

10 (B) At a person or an animal; and

11 (C) From above the first floor of any building; or

12 (3) Set off, ignite, discharge, or otherwise cause to  
13 explode any fireworks:

14 (A) Above the first floor of any building;

15 (B) In any vehicle;

16 [~~C~~] ~~At any time not within the periods for use~~  
17 ~~prescribed in section 132D-3;~~

18 ~~(D)]~~ (C) Within one thousand feet of any operating  
19 hospital, licensed convalescent home, licensed  
20 home for the elderly, zoo, licensed animal  
21 shelter, or licensed animal hospital;





1 SECTION 4. Section 132D-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**\$132D-6**[~~f~~] **Exceptions.** The prohibitions in section  
4 132D-5 do not apply to:

5 (1) The use of flares, noisemakers, or signals for  
6 warning, pest control, or illumination purposes by  
7 police and fire departments, utility companies,  
8 transportation agencies, and other governmental or  
9 private agencies or persons, including agricultural  
10 operations, in connection with emergencies, their  
11 duties, or business; [~~and~~]

12 (2) The sale or use of blank cartridges for a show or  
13 theater, or for signal, commercial, or institutional  
14 purposes in athletics or sports[~~-~~]; and

15 (3) Toys or other devices in which paper caps containing  
16 twenty-five hundredths grains or less of explosive  
17 compound are used, provided that they are so  
18 constructed that the hand cannot come in contact with  
19 the cap when in place for use."

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

22 "**\$132D-7 License or permit required.** A person shall not:



- 1           (1) Import, store, offer to sell, or sell, at wholesale or  
2           retail, aerial devices, display fireworks, or articles  
3           pyrotechnic [~~, or consumer fireworks~~] unless the person  
4           has a valid license issued by the county; or
- 5           (2) Possess aerial devices, display fireworks, or articles  
6           pyrotechnic without a valid license to import, store,  
7           or sell aerial devices, display fireworks, or articles  
8           pyrotechnic, or a valid display permit as provided for  
9           in this chapter."

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

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



1 or deliver fireworks to any permittee in any amount in excess of  
2 the amount specified in the permit, less the amount shown on the  
3 permit to have been previously purchased~~}; provided that no~~  
4 ~~fireworks shall be sold to a permittee holding a permit issued~~  
5 ~~for purposes of section 132D-3, more than five calendar days~~  
6 ~~before the applicable time period under section 132D-3]."~~

7 SECTION 7. Section 132D-8.6, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§132D-8.6 Requirements of licensee. (a) Any person who  
10 has obtained a license under section 132D-7 and ships fireworks  
11 or articles pyrotechnic into the State shall:

12 (1) Clearly designate the types of fireworks or articles  
13 pyrotechnic in each shipment on the bill of lading or  
14 shipping manifest with specificity;

15 (2) Declare on the bill of lading or shipping manifest the  
16 gross weight of aerial devices, [~~consumer fireworks,~~]  
17 display fireworks, and articles pyrotechnic to be  
18 imported in each shipment and the location of the  
19 storage facility, if applicable, in which the  
20 fireworks or articles pyrotechnic are to be stored;

21 (3) Prior to shipment and when booking each shipment of  
22 fireworks or articles pyrotechnic notify the





1 appropriate county official as determined by the  
2 county regarding whether the shipment will be  
3 distributed from:

4 (A) Pier to pier;

5 (B) Pier to warehouse or storage facility; or

6 (C) Pier to redistribution; and

7 (4) At the time shipping is booked, the importer or  
8 consignee shall notify the appropriate county official  
9 as determined by the county in writing of the expected  
10 shipment's landing date.

11 (b) The fire department of a county, in which a shipment  
12 of fireworks or articles pyrotechnic has landed and becomes  
13 subject to the jurisdiction of the fire department, shall be  
14 allowed to inspect, if it chooses, any shipment declared on the  
15 shipping manifest as fireworks or articles pyrotechnic.

16 (c) The facility in which fireworks or articles  
17 pyrotechnic are to be stored shall:

18 (1) Have received approval fifteen days prior to the  
19 shipment's arrival from the appropriate county fire  
20 department; and

21 (2) Meet all state and county fire and safety codes.



1 (d) Any fireworks or articles pyrotechnic landed in the  
2 State shall be subject to seizure and forfeiture if:

3 (1) The importer or consignee does not have in the  
4 importer's or consignee's possession a valid license  
5 to import fireworks or articles pyrotechnic under  
6 section 132D-7;

7 (2) The consignee does not have a valid license to store  
8 fireworks or articles pyrotechnic under section 132D-  
9 7; or

10 (3) The fireworks or articles pyrotechnic have not been  
11 declared or have been misdeclared in violation of  
12 subsection (a).

13 ~~[(e) No person holding a retailer license to sell consumer  
14 fireworks shall be allowed to sell consumer fireworks commonly  
15 known as firecrackers in a packet size larger than five thousand  
16 individual units. Any person violating this subsection shall be  
17 guilty of a misdemeanor.]~~

18 ~~(f)]~~ (e) Any person violating subsection (a), (c), or (d)  
19 shall be subject to the following for shipments of fireworks or  
20 articles pyrotechnic of:

21 (1) Twenty-five pounds or less gross weight shall be a  
22 petty misdemeanor;



- 1 (2) Over twenty-five pounds to three hundred pounds gross
- 2 weight shall be a misdemeanor;
- 3 (3) Over three hundred pounds to ten thousand pounds gross
- 4 weight shall be a class C felony; and
- 5 (4) More than ten thousand pounds gross weight shall be a
- 6 class B felony."

7 SECTION 8. Section 132D-9, Hawaii Revised Statutes, is  
8 amended to read as follows:

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



1 the names of all partners or, if a corporation, the name of the  
 2 corporation and the names of its officers. The permit  
 3 application may be denied if the proposed use of fireworks or  
 4 articles pyrotechnic presents a substantial inconvenience to the  
 5 public or presents an unreasonable fire or safety hazard. Any  
 6 permit issued pursuant to this chapter shall be prominently  
 7 displayed in public view at the site."

8 SECTION 9. Section 132D-10, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 "**§132D-10 Permits.** A permit shall be required for the  
 11 purchase and use of[+]

12 ~~(1) Any consumer fireworks commonly known as firecrackers~~  
 13 ~~upon payment of a fee of \$25;~~

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

17 ~~(3) Any consumer fireworks for the purposes of section~~  
 18 ~~132D-5 or for cultural uses that occur at any time~~  
 19 ~~other than during the periods prescribed in section~~  
 20 ~~132D-3(1) upon a payment of a fee of \$25]."~~

21 SECTION 10. Section 132D-12, Hawaii Revised Statutes, is  
 22 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 11. 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[~~,  
15 except that the parents or guardian may allow the minor to use  
16 consumer fireworks while under the immediate supervision and  
17 control of the parent or guardian, or under the supervision and  
18 control of another adult~~]."

19           SECTION 12. This Act does not affect rights and duties  
20 that matured, penalties that were incurred, and proceedings that  
21 were begun, before its effective date.



1 SECTION 13. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect on July 1, 2009.

4

INTRODUCED BY: Michelle N. Kadani  
*Robert B. ...*



**Report Title:**

Fireworks; Prohibition

**Description:**

Provides for a statewide ban of consumer fireworks (firecrackers).

