

**William P. Kenoi**  
Mayor



**Darryl J. Oliveira**  
Fire Chief

**Glen P. I. Honda**  
Deputy Fire Chief

## County of Hawai'i

### FIRE DEPARTMENT

25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720  
(808) 932-2900 • Fax (808) 932-2928

February 19, 2010

TO : REPRESENTATIVE JON RIKI KARAMATSU, CHAIR, COMMITTEE ON JUDICIARY  
FROM : DARRYL OLIVEIRA, FIRE CHIEF, HAWAII FIRE DEPARTMENT  
SUBJECT: HB 1987, HD 1 RELATING TO FIREWORKS  
DATE/TIME OF HEARING: THURSDAY, FEBRUARY 23, 2010, 2:00 P.M.  
COPIES REQUESTED: 1

I would like to thank you for taking up the issue of fireworks and the impact fireworks related activities have on our various island communities. Over the years, the Hawaii State Fire Council has strived to encourage and promote legislation that would support the effective enforcement, controls, and regulation of fireworks.

As one member of the State Fire Council and the Fire Chief for the County of Hawaii, I would like to ask for your support of legislation that may provide for any of the following:

1. Support the statewide ban of consumer fireworks, with the exception of special events and professional public fireworks displays.
2. Support a "home rule" concept that would allow each county to determine the potential hazards of fireworks and the benefit to their community and permit further restricting fireworks use based on each county's needs and resources. Chapter 132D-17, Hawaii Revised Statutes states that no county may enact stricter laws or rules relating to the present fireworks law.
3. Support measures that make the arrest and prosecution for the illegal purchase, possession, setting off, igniting, or discharging of fireworks easier and increase the penalties and consequences for convictions of fireworks violations.
4. Support gradually increasing random container inspections by the various federal, state and private agencies to help control the illegal importation of fireworks.

I realize and appreciate the cultural significance fireworks have and continue to play in our community; however, I feel it is imperative that we balance those values and beliefs with responsible and safe practices. The aforementioned measures would provide for the opportunity to better regulate and effectively control the use of fireworks and support the enforcement efforts of the fire departments and law enforcement agencies across our state.

Sincerely,

Handwritten signature of Darryl Oliveira in black ink.

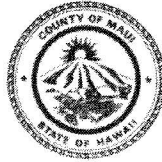
DARRYL OLIVEIRA  
Fire Chief

DO:lk

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CHARMAINE TAVARES  
MAYOR



JEFFREY A. MURRAY  
CHIEF

ROBERT M. SHIMADA  
DEPUTY CHIEF

**COUNTY OF MAUI**  
**DEPARTMENT OF FIRE AND PUBLIC SAFETY**

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919

February 22, 2010

The Honorable Jon Riki Karamatsu, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Karamatsu:

Subject: H.B. 1987, H.D. 1 Relating to Fireworks

I am Jeffrey A. Murray, Fire Chief of the County of Maui Department of Fire and Public Safety (MFD) and a Member of the State Fire Council (SFC). The MFD and the SFC offer the following comments:

1. We support the statewide ban of consumer fireworks, with the exception of special events and professional public fireworks displays.
2. We believe each county should determine the potential hazards of fireworks and the benefit to their community by further restricting fireworks use based on each county's needs and resources. Chapter 132D-17, Hawaii Revised Statutes states that no county may enact stricter laws or rules relating to the present fireworks law.
3. We support measures that make the arrest and prosecution for the illegal purchase, possession, setting off, igniting, or discharging of fireworks easier and increase the penalties and consequences for convictions of fireworks violations.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Murray".

FOR JEFFREY A. MURRAY  
Fire Chief



COUNTY OF KAUAI  
**Fire Department**  
Mo'ikeha Building  
4444 Rice Street, Suite 295  
Lihu'e, Kaua'i, Hawaii 96766

February 22, 2010

The Honorable Jon Riki Karamatsu, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Karamatsu:

**Subject: H.B. 1987, H.D. 1 Relating to Fireworks**

I am Robert F. Westerman, Fire Chief of the Kauai Fire Department (KFD) and a member of the State Fire Council (SFC). The SFC and the KFD offer the following comments:

1. We support the statewide ban of consumer fireworks, with the exception of special events and professional public fireworks displays.
2. We believe each county should determine the potential hazards of fireworks and the benefit to their community by further restricting fireworks use based on each county's needs and resources. Chapter 132D-17, Hawaii Revised Statutes states that no county may enact stricter laws or rules relating to the present fireworks law.
3. We support measures that make the arrest and prosecution for the illegal purchase, possession, setting off, igniting, or discharging of fireworks easier and increase the penalties and consequences for convictions of fireworks violations.

Please call me at (808) 241-4980 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Robert Westerman". The signature is written in a cursive style.

Robert Westerman  
Fire Chief, County of Kaua'i

RFW/eld

**Oahu**  
680 Iwilei Road, Suite 575  
Honolulu, HI 96817  
Tel: (808) 537-5966  
Fax: (808) 537-5971  
lung@ala-hawaii.org

**Maui**  
95 Mahalani Street,  
Suite # 28-1A  
Wailuku, HI 96793  
Tel: (808) 244-5110  
Fax: (808) 242-9041  
alahmaui@ala-hawaii.org

**Hawaii**  
39 Ululani Street  
Hilo, HI 96720  
Tel: (808) 935-1206  
Fax: (808) 935-7474  
alahbi@ala-hawaii.org

**Website:**  
[www.ala-hawaii.org](http://www.ala-hawaii.org)

**E-mail:**  
[lung@ala-hawaii.org](mailto:lung@ala-hawaii.org)

**Lung HelpLine**  
1-800- LUNG-USA  
(586-4872)

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**Improving Life**

**One Breath at a Time**

Founded in 1904, the  
American Lung Association  
includes affiliated associations  
throughout the U.S.



**TO: House Committee on Judiciary**

**FOR: Hearing Scheduled for 2:00 pm, Tuesday February 23, 2010**

**RE: TESTIMONY IN SUPPORT OF THE INTENT OF HB 1987, HD1  
RELATING TO FIREWORKS**

Chair Karamatsu, Vice Chair Ito, and Committee Members:

The American Lung Association in Hawaii supports any that measure seeks to reduce the impact of fireworks. However with over 175,000 people in Hawaii, or nearly 13 percent of our population, suffering from some type of lung disease that is made worse by exposure to the particulate smoke from fireworks, **we believe a ban on consumer fireworks would do far more to protect our collective health** than would this abatement measure aimed at curbing illegal use. Assuring the cleanest air for everyone in Hawaii is important, especially with the recent increase in volcanic activity that compounds the danger of fireworks.

Hawaii has the second highest rate in the nation for childhood asthma and many adults, especially the elderly, suffer from chronic lung disease including emphysema and COPD (Chronic Obstructive Pulmonary Disease). Even people who do not have lung problems often report eye, throat and lung irritation on New Year's Eve.

It is time to act responsibly and stop this willful disregard for the health of our fellow citizens, especially those who might be unable to speak for themselves – our children and the elderly. Specific action to ban fireworks is what is called for. **We support a statewide ban or legislation that allows counties to have the authority to regulate fireworks.**

Respectfully, submitted,

Jean Evans, MPH  
Executive Director  
American Lung Association in Hawaii



**LEGISLATIVE INFORMATION SERVICES OF HAWAII**

1188 Bishop St., Ste. 608  
Honolulu, HI 96813

PH: 533-6750 FAX: 599-2606  
www.lish.info Email: lishawaii@aol.com

Tuesday, February 23, 2010

Testimony to: House Committee Judiciary  
Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair

By: Richard C. Botti  
Lauren Zirbel  
LISH Represents both retailers and wholesalers of fireworks in Hawaii

Re: HB 1987, HD1 RELATING TO FIREWORKS

Chairs & Committee Members:

This bill addresses the current situation we have with the illegal importation, sale and use of aerial fireworks.

Fireworks are a part of Hawaii's rich, cultural heritage; a part of Hawaii's broad ethnicity and religion. We do not want this to be lost. Existing Hawaii fireworks law limits legal fireworks use to only a few hours on the Fourth of July, New Year's Eve and Chinese New Year's Day and, subject to a permit on other occasions.

Sadly, there are those that insist on going beyond the limits of the law. We all agree that they have gone too far. Furthermore, and unfortunately, the dark side of the issue is that there is a lucrative black market for illegal fireworks that must be very profitable based on the increasing activity that we have seen over the past several years.

While our police say they have a hard time enforcing some parts of the law because they don't see the violation, HB 1987 HD1 addresses enforcement directly at the importer of illegal fireworks.

The current Hawaii fireworks law requires:

- An importer's license to bring any fireworks into Hawaii.
- A storage license to store any fireworks in a warehouse;
- That a warehouse meet all federal, state and local codes including zoning, building, fire and all other applicable codes;
- A wholesaler's license to sell any non-aerial, consumer fireworks to a retailer;
- That a retailer has to have a license to sell non-aerial consumer fireworks to Hawaii citizens;
- That sales may only occur on a very limited number of days each year and during a very limited number of hours on those limited number of days; and

- That a person or company putting on a public display using aerial fireworks or display fireworks must have a permit issued by the county in which that event is to occur.

So, the problems that we are addressing here is the importation and/or storage and/or sale and/or use of aerial fireworks and/or display fireworks and/or articles pyrotechnic without having obtained the required licenses or permits.

The current Hawaii fireworks law at 132D-8.6 specifies penalties ranging from a petty misdemeanor to a class B felony for violating this section. The severity of the penalty is related to the quantity of fireworks or articles pyrotechnic. 25 pounds or less is a petty misdemeanor. Between 25 pounds and 300 pounds is a misdemeanor. Between 300 pounds and 10,000 pounds is a class C felony. Over 10,000 pounds is a class B felony.

The current Hawaii fireworks law at 132D-14 specifies penalties for all other offenses.

**§132D-14 Penalty.** (a) Any person:

- (1) Importing aerial devices, display fireworks, or articles pyrotechnic without having a valid license under section 132D-7 shall be guilty of a class C felony;
- (2) Purchasing, possessing, 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 felony; 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;
- (3) Who transfers or sells aerial devices, display fireworks, or articles pyrotechnic to a person who does not have a valid permit under sections 132D-10 and 132D-16, shall be guilty of a class C felony; and
- (4) Who removes or extracts the pyrotechnic contents from any fireworks or articles pyrotechnic and uses the contents to construct fireworks, articles pyrotechnic, or a fireworks or articles pyrotechnic related device shall be guilty of a misdemeanor.

(b) Except as provided in subsection (a) or as otherwise specifically provided for in this chapter, any person violating any other provision of this chapter, shall be fined not more than \$2,000 for each violation.

(c) The court shall collect the fines imposed in subsections (a) and (b) for violating this chapter and of the fines collected shall pay twenty per cent to the State and eighty per cent to the county in which the fine was imposed which shall be expended by the county for law enforcement purposes. [L 1994, c 180, pt of §1; am L 2000, c 233, §12; am L 2006, c 183, §16]

So, we can see that the current Hawaii fireworks law has a very specific set of prohibitions.

H.B. 1987, HD1 can be an important part of a more effective set of enforcement tools that we all need and want to be able to address the current unacceptable situation. We however recommend that this bill be limited to §132D-14 only, where it will address the most serious violations that may warrant forfeiture.

Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair  
House Committee on Judiciary

Ann S. Freed  
95-227 Waikalani Dr. A403  
Mililani, HI 96789  
annfreed@hotmail.com  
808-623-5676

I am in **strong support** of HB 1987, HD1 RELATING TO FIREWORKS.

This bill adding the strict penalty of property forfeiture for violators of the law gives much-needed teeth to enforcement.

I am personally very sick, quite literally, of the noise and smoke that goes on for months at a time here on Oahu.

In the past five years this island has become a war zone for the months of December and January and to a certain extent July. Illegal fireworks are set off early in December and Continue past New Year's. In July the same thing happens.

Pyrotechnics are dangerous, produce horrendous noise and toxic smoke. They should be left to the experts and confined to public displays sanctioned by the counties.

The consequences of lax policies with respect to fireworks are grave. Those with allergies must stay indoors. Pets are terrified. Children are burned and/or killed. Houses burn down and property is damaged every year that this goes on. Not to mention the fact that most people can't even enjoy the peace of their own homes and are kept awake for many days before and after the holiday in question. The police can't seem to stop illegal displays that occur under the current law.

This past New Year's Eve I traveled to a party that was only a mile away and I couldn't read the street signs it was so smoky. There were numerous large types of fireworks in the middle of the road, all the more dangerous because I couldn't see them to avoid running over them.

I don't agree with those who believe that their "culture" demands a fireworks free-for-all at certain times of the year. Those who are proponents of this point of view should have compassion for the majority of the people who are tired of suffering from this selfish practice. The fire department is sick of having to deal with the consequences and we should help by putting a stop to it.

Please pass this bill out of committee.

Regards,

Ann S. Freed  
95-227 Waikalani Dr. A403  
Mililani, HI 96789