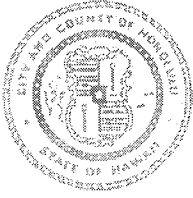


SB 2550

Measure Title:
RELATING TO FIREWORKS

Report Title:
Fireworks



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3066 / TELEPHONE 547-7000

February 4, 2010

Joint Committee on Public Safety & Military Affairs, and
Transportation & Intergovernmental Affairs
The Senate
State of Hawaii

Testimony of
Honolulu City Councilmember Nestor Garcia
Senate Bill 2550
Regular Session 2010

Chairs Espero and English, and members of the Joint Committee:

Thank for you this opportunity to offer testimony in general support of SB 2550. I am grateful to the introducers of this measure for attempting to address this serious matter head on.

According to Major Dave Kajihira of District 3, which covers the area from Foster Village to Village Park, since October 1st, the district's officers have responded to nearly 600 complaints through the New Year or approximately 6-7 calls per day.

Police officers I have spoken with expressed how very difficult it is to enforce the current State law on illegal fireworks because the court standard for arrest and conviction is that the offender must actually be caught lighting a fuse to an illegal explosive device. Police are quite aware of the public's continuing concerns, but when they do move in, there are no witnesses, and perpetrators have long fled the scene.

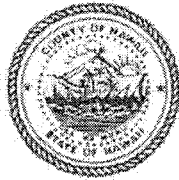
SB 2550 bans the importation, sale, use and possession of consumer novelty fireworks partly on the basis that unlike traditional firecrackers, these pyrotechnic devices have no cultural tradition in Hawaii.

This bill is a step in the right direction. But perhaps the better course of action is to allow each county the ability to enact ordinances that can be more restrictive than current State law. In this manner, each county will be able to take appropriate and effective actions for their residents. Those with less populace could choose to retain the current arrangements, while those counties with greater density could choose to ban it altogether.

Thank you for this opportunity to provide testimony.

Nestor R. Garcia
Councilmember
District 9 – Makakilo, Mililani, Waipahu

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 2, 2010

TO : SENATOR WILL ESPERO, CHAIR, COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS
SENATOR J. KALANI ENGLISH, CHAIR, COMMITTEE ON TRANSPORTATION,
INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

FROM : DARRYL OLIVEIRA, FIRE CHIEF, HAWAII FIRE DEPARTMENT

SUBJECT: SB 2550 RELATING TO FIREWORKS
DATE/TIME OF HEARING: THURSDAY, FEBRUARY 4, 2010, 1:30 P.M.

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,

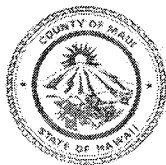

DARRYL OLIVEIRA
Fire Chief



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 2, 2010

The Honorable Will Espero, Chair
Committee on Public Safety and Military Affairs
The State Senate
State Capitol, Room 207
Honolulu, Hawaii 96813

The Honorable J. Kalani English, Chair
Committee on Transportation, International and
Intergovernmental Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chairs English and Espero:

Subject: S.B. 2550 Relating to Fireworks

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & 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".

JEFFREY A. MURRAY
Fire Chief

Bernard P. Carvalho, Jr.
Mayor

Robert F. Westerman
Fire Chief

John T. Blalock
Deputy Fire Chief



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

February 2, 2010

The Honorable Will Espero, Chair
Committee on Public Safety and Military Affairs
The State Senate
State Capitol, Room 207
Honolulu, Hawaii 96813

The Honorable J. Kalani English, Chair
Committee on Transportation, International and Intergovernmental Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chairs English and Espero:

Subject: S.B. 2550 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.

The SFC and the KFD request your committee's support on the passage of S.B.2550. 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".

Robert Westerman
Fire Chief, County of Kaua'i

RFW/eld



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

February 4, 2010 @ 1:30 p.m. in CR 229

To: Senate Committee on Public Safety & Military Affairs
Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

Senate Committee on Transportation, International & Intergovernmental Affairs
Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

By: Richard C. Botti, President
Lauren Zirbel, Government Relations
(LISH represents fireworks retailers and a supplier)

Re: SB 2550 RELATING TO FIREWORKS

Chairs and Committee Members:

We are opposed to SB 2550 for the following reasons:

While the measure allows fireworks commonly known as firecrackers to be set off during the hours permitted in the current law, we have to go on the record here and tell you that this bill is an effective ban on all fireworks including the firecrackers that it intends to keep legal. The bill is a total ban bill. Why? In order to bring fireworks into the State of Hawaii, a person or company needs an import license, a storage license and a wholesaler license. Those licenses now cost a total of \$ 6,000. Then, in addition, to sell firecrackers to the public, a person or company needs a retail license. This license now costs \$ 500. Additionally, every person who wants to buy firecrackers has to purchase a permit. This permit costs \$ 25.00. The permit is about a 120% tax on those firecrackers. In other words, the permit cost—that \$ 25.00 fee or tax—is more than the cost of the firecrackers! That is why the number of permits that have been purchased each year has been steadily declining. So, if only one person or company decided to get the needed licenses—at that total cost of \$ 6,500—the total number of permits that might be sold statewide will be probably be 7,000 and maybe even fewer. Then, you should know this: essentially, firecrackers are even now not a profitable item to sell. Essentially, they are either a barely breakeven item or they are sold at a loss as what every retailer knows as a “loss leader”. Therefore, either no one or only one person will remain in the business of importing, storing, wholesaling and retailing firecrackers. So, what this means is that SB 2550 is nothing more than a total ban bill masquerading as something else.

SB 2550 will stimulate those who already import, store, wholesale and sell at retail illegal aerial fireworks, or—worse—more dangerous display fireworks, or—worse—IED's, illegal explosive devices to do more of the same. If enacted, SB 2550 will ensure that Hawaii will lose complete control of all fireworks and all illegal explosive devices.

Some may try to tell you otherwise. And, they may claim that they know what they are talking about. Let me assure you, they are wrong, dead wrong. Our client deals in every state in which consumer fireworks are sold—45 states, up from 35 states 20 years ago, the District of Columbia and Puerto Rico. The 5 states that still ban—Rhode Island, Massachusetts, New York, Delaware and New Jersey all have very serious problems with the sale and use of illegal explosive devices, the sale and use of display fireworks and the sale and use of articles pyrotechnic. In fact, an analysis of data over several years showed that

the states with most restrictive laws has the highest rates of injuries and fires and accounted for a substantially disproportionate percentage of serious injuries due to the sale and use of these much more powerful fireworks and explosive devices.

A ban ensures that Hawaii will lose control of fireworks and SB 2550 is effectively a ban.

Aerial fireworks are already illegal. Yet they manage to find their way into consumers' hands, even with the current stiff penalties in our law. Enacting SB 2550 will essentially create a total ban and this will create an even bigger opportunity for an already healthy and thriving black market for all fireworks. Enacting SB 2550 will essentially bring about a ban and take Hawaii backwards in our efforts to force moderation in the cultural and traditional use of fireworks by controlling what can be legally sold and by allowing for the legal and controlled use of fireworks by the vast majority of our citizens.

We have already seen new creative ideas by those that want more excitement than is allowed by law, such as with the introduction of IED's (improvised explosive devices). We need to focus all of our efforts on effective enforcement of the current provisions in the law that already exist and seriously attack the importation, sale, purchase and use of what is already illegal.

Fireworks in Hawaii have always been a strong tradition. The current law may need cleaning up, but to go the distance that this measure goes will be counter-productive. It will destroy the balance that is found in the current law.

Current law states that any person caught with between 300 pounds and 10,000 pounds of illegal fireworks commits 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. Prohibited acts include:

1. importing any aerial or display fireworks or articles pyrotechnic without a license--a class C felony;
2. purchasing, possessing, setting off, igniting, or discharging aerial or display fireworks or articles pyrotechnic without the required permit for the specific event--25 pounds or less is a misdemeanor; over 25 pounds is a class C felony;
3. transferring or selling aerial or display fireworks or articles pyrotechnic to a person who does not have the required permit--a class C felony;
4. removing or extracting the pyrotechnic content from any fireworks or articles pyrotechnic and using it to construct other fireworks, article pyrotechnic or similar device--a misdemeanor; and
5. any other violation of this chapter is a \$ 2,000 fine.

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

Nevertheless, we believe that with some careful refinements and more focused penalties, we can create an important part of a more effective set of enforcement tools that we all need and that all of us want to be able to address the current unacceptable situation. In short, we are saying that the current law needs some improvements such as to narrow the range of circumstances in which seizures may occur; to re-balance other enforcement provisions; and to create a more streamlined process for police officers to issue citations to any individual that uses legal or illegal fireworks when not allowed by law.

In 1994, we helped write the current fireworks law that banned use of aerial fireworks except when a permit had been issued by the county. Each year since, we have been a part of efforts to address this continuing problem. We worked continuously and carefully in 2000 to further improve the enforcement tools. We do not import, store, sell or use aerial fireworks. We do not condone their illegal use. In 2010 as in years past, we want to be part of the solution, which is to allow a reasonably short period of time for our citizens to meet their cultural and religious beliefs, while providing our police with proper enforcement tools so they can't say that they can't enforce the law because they didn't see the crime being committed.

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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.



REVISED

**TO: Senate Committee on Public Safety and Military Affairs
Senate Committee on Transportation, International and
Intergovernmental Affairs**

FOR: Hearing S cheduled for 1:30 pm, Thursday February 4, 2010

**RE: TESTIMONY IN SUPPORT OF THE INTENT OF SB 2550
RELATING TO FIREWORKS**

Chairs Espero and English, Vice Chairs Bunda and Gabbard, 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 all consumer fireworks would do far more to protect our collective health** than would just banning the newly defined consumer novelty fireworks. We believe that firecrackers continue to be the major source of smoke and particulate matter on New Years Eve. 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.

With so many people experiencing breathing problems directly related to fireworks, the American Lung Association in Hawaii strongly supports any measure that will help clear the air.

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 all consumer fireworks is what is called for.

Respectfully, submitted,

Jean Evans, MPH
Executive Director
American Lung Association in Hawaii

FROM: MAILINGLIST@CAPITOL.HAWAII.GOV
[MAILTO:MAILINGLIST@CAPITOL.HAWAII.GOV]
SENT: MONDAY, FEBRUARY 01, 2010 7:46 PM
TO: PSM TESTIMONY
CC: JEANNINE@HAWAII.RR.COM
SUBJECT: TESTIMONY FOR SB2550 ON 2/4/2010 1:30:00 PM

TESTIMONY FOR PSM/TIA 2/4/2010 1:30:00 PM SB2550

CONFERENCE ROOM: 229
TESTIFIER POSITION: SUPPORT
TESTIFIER WILL BE PRESENT: NO
SUBMITTED BY: JEANNINE JOHNSON
ORGANIZATION: INDIVIDUAL
ADDRESS: 5648 PIA STREET HONOLULU, HI
PHONE: 373-2874
E-MAIL: JEANNINE@HAWAII.RR.COM
SUBMITTED ON: 2/1/2010

COMMENTS:

THIS IS BRILLIANT. YOU HAVE MY STRONG SUPPORT TO BAN NOVELTY FIREWORKS.

TO: Committee on Public Safety and Military Affairs and
Committee on Transportation, International and Intergovernmental Affairs

DATE: Wednesday, February 03, 2010

FROM: Asa and Orion Iwasa, ages 7 and 11
1331 Lunalilo Home Road
Honolulu, HI 96825
808-396-7721

HEARING: Thursday, February 4, 2010, 1:30 p.m.

SUBJECT: SB2550 Relating to Fireworks - Oppose

Aloha Chairs Espero and English and Committee Members,

Asa was born on January 1, and we think using fireworks is a good way to celebrate his birthday, New Year's and the fourth of July. We know some fireworks are illegal and can cause fires and other problems when used improperly. Rather than banning fireworks, we would like to see more enforcement of the illegal ones.

Please do not ban novelty fireworks. Thank you for this opportunity to testify.