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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 by amending the definitions of "consumer fireworks" and  
3 "cultural" to read as follows:  
4           ""Consumer fireworks" means any fireworks designed  
5 primarily for retail sale to the public [~~during authorized dates~~  
6 ~~and times,~~] that produces visible or audible effects by  
7 combustion, and that is designed to remain on or near the ground  
8 and, while stationary or spinning rapidly on or near the ground,  
9 emits smoke, a shower of colored sparks, whistling effects,  
10 flutter sparks, or balls of colored sparks, and includes  
11 combination items that contain one or more of these effects.  
12 "Consumer fireworks" shall comply with the construction,  
13 chemical composition, and labeling regulations of the United  
14 States Consumer Product Safety Commission as set forth in Title  
15 16 Code of Federal Regulations and fireworks classified as  
16 UN0336 and UN0337 by the United States Department of  
17 Transportation as set forth in Title 49 Code of Federal  
18 Regulations. "Consumer fireworks" include firework items



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

14 "Cultural" means relating to the arts, customs, traditions,  
15 mores, and history of all of the various groups of Hawaii[-] and  
16 includes religious events."

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

19 "~~§132D-3 [Permissible uses]~~ Use of consumer fireworks[-];  
20 prohibition; exception. [~~Consumer fireworks may be]~~ It shall be  
21 unlawful for any person to set off, [ignited, discharged,]



1 ignite, discharge, or otherwise [eased] cause to explode any  
2 consumer fireworks within the State [~~only:~~

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

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

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

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

17 "**§132D-5 General prohibitions.** (a) [~~It~~] In addition to  
18 the prohibition under section 132D-3, it shall be unlawful for  
19 any person [without a permit issued under section 132D-10 by a  
20 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)]~~ (C) 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)]~~ (D) In any school building, or on any school
- 16               grounds and yards without first obtaining
- 17               authorization from appropriate school officials;
- 18           ~~[(F)]~~ (E) On any highway, alley, street, sidewalk, or
- 19               other public way; in any park; on any public
- 20               beach; in any officially designated forest or
- 21               wildlife preserve; within fifty feet of a
- 22               canefield; or within one thousand feet of any



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

3 ~~[(G)]~~ (F) Within five hundred feet of any hotel.

4 (b) ~~[(H)]~~ Except for use at cultural events by permit  
5 pursuant to section 132D-10, it shall be unlawful to purchase or  
6 possess consumer fireworks ~~[more than five calendar days before~~  
7 ~~the time periods for permissible use under section 132D-3.]~~  
8 within the State.

9 (c) ~~[(I)]~~ Except for use at cultural events by permit  
10 pursuant to section 132D-10, it shall be unlawful to offer,  
11 expose for sale, sell, or furnish consumer fireworks ~~[after~~  
12 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~  
13 ~~Day, and 8:00 p.m. on the Fourth of July.]~~ to any person within  
14 the State. Any person in possession of consumer fireworks  
15 valued at \$50 or more shall be presumed to have intended to  
16 offer or expose the fireworks for sale.

17 Any person violating this subsection shall be guilty of a  
18 misdemeanor."

19 SECTION 4. Section 132D-8, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:

21 "(c) It shall be unlawful for any licensee, other than a  
22 wholesaler who is selling or transferring fireworks or articles



1 pyrotechnic to a licensed retailer, to sell or offer to sell,  
2 exchange for consideration, give, transfer, or donate any  
3 fireworks or articles pyrotechnic at any time to any person who  
4 does not present a permit duly issued as required by section  
5 132D-10 or 132D-16. The permit shall be signed by the seller or  
6 transferor at the time of sale or transfer of the fireworks or  
7 articles pyrotechnic, and the seller or transferor shall  
8 indicate on the permit the amount and type of fireworks or  
9 articles pyrotechnic sold or transferred. No person shall sell  
10 or deliver fireworks to any permittee in any amount in excess of  
11 the amount specified in the permit, less the amount shown on the  
12 permit to have been previously purchased[; ~~provided that no~~  
13 ~~fireworks shall be sold to a permittee holding a permit issued~~  
14 ~~for purposes of section 132D-3, more than five calendar days~~  
15 ~~before the applicable time period under section 132D-3]."~~

16 SECTION 5. Section 132D-9, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§132D-9 Application for permit.** The permit required  
19 under section 132D-10 or 132D-16 shall be issued by the county  
20 or its authorized designees and be nontransferable. The county  
21 or its authorized designees shall issue all permits for which  
22 complete applications have been submitted and which contain only



1 correct information. The permit shall specify the date of  
2 issuance or effect and the date of expiration but in no case for  
3 a period to exceed one year. [~~The permit for the purchase of~~  
4 ~~consumer fireworks for the purposes of section 132D-3 shall not~~  
5 ~~allow purchase for more than one event as set forth in section~~  
6 ~~132D-3.] The application shall be made on a form setting forth  
7 the dates for which the permit shall be valid, the location  
8 where the permitted activity is to occur, and the name of the  
9 proprietor or, if a partnership, the name of the partnership and  
10 the names of all partners or, if a corporation, the name of the  
11 corporation and the names of its officers. The permit  
12 application may be denied if the proposed use of fireworks or  
13 articles pyrotechnic presents a substantial inconvenience to the  
14 public or presents an unreasonable fire or safety hazard. Any  
15 permit issued pursuant to this chapter shall be prominently  
16 displayed in public view at the site."~~

17 SECTION 6. Section 132D-10, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§132D-10 Permits[-] for purchase or use of fireworks;  
20 fees. A permit shall be required for the purchase and use of:



1 (1) Any consumer fireworks [~~commonly known as firecrackers~~  
2 ~~upon payment of a fee of~~] for cultural events, the fee  
3 for which shall be \$25[+] per permit; and

4 (2) Any aerial devices, display fireworks, or articles  
5 pyrotechnic for the purposes of section 132D-16 [~~upon~~  
6 ~~payment of a fee of~~], the fee for which shall be  
7 \$110[+; and] per permit.

8 [~~3) Any consumer fireworks for the purposes of section~~  
9 ~~132D-5 or for cultural uses that occur at any time~~  
10 ~~other than during the periods prescribed in section~~  
11 ~~132D-3(1) upon a payment of a fee of \$25.]"~~

12 SECTION 7. Section 132D-12, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§132D-12 Sale to minors; sale by minors; prohibited.** It  
15 shall be unlawful for any person to offer for sale, sell, or  
16 give any fireworks or articles pyrotechnic to minors, and for  
17 any minor to possess, purchase, sell, or set off, ignite, or  
18 otherwise cause to explode any fireworks or articles  
19 pyrotechnic[~~, except as provided in section 132D-13]."~~

20 SECTION 8. Section 132D-13, Hawaii Revised Statutes, is  
21 repealed.





# H.B. NO. 490

1           ~~["§132D-13 Liability of parents or guardians. The~~  
2 ~~parents, guardian, and other persons having the custody or~~  
3 ~~control of any minor, who knowingly permit the minor to possess,~~  
4 ~~purchase, or set off, ignite, or otherwise cause to explode any~~  
5 ~~fireworks or articles pyrotechnic, shall be deemed to be in~~  
6 ~~violation of this chapter and shall be subject to the penalties~~  
7 ~~thereunder, except that the parents or guardian may allow the~~  
8 ~~minor to use consumer fireworks while under the immediate~~  
9 ~~supervision and control of the parent or guardian, or under the~~  
10 ~~supervision and control of another adult."]~~

11           SECTION 9. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun, before its effective date.

14           SECTION 10. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16           SECTION 11. This Act shall take effect on July 1, 2011.

17

INTRODUCED BY: Marilyn B. Lee

JAN 21 2011



**Report Title:**

Consumer Fireworks; Ban

**Description:**

Imposes a statewide ban on consumer fireworks, except by permit for religious and cultural events. Prohibits the possession or use of fireworks by minors.

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

