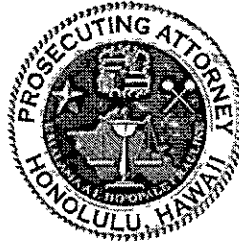


DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU HAWAII 96813
PHONE (808) 547-7400 • FAX (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



CHRISTOPHER D. W. YOUNG
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai'i

March 1, 2017

RE: H.B. 1172, H.D. 1; RELATING TO FIREWORKS.

Chair Nishimoto, Vice-Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to Section 3 of H.B. 1172, H.D. 1.

Section 3 of this bill specifies that probable cause in fireworks offenses may be established from statements of witnesses, and photographs, video or other recordings authenticated by witnesses. Although these proposed amendments appear well-intended, they are unnecessary, as the rules of evidence already address what is competent evidence for purposes of trial. Already, our laws pertaining to fireworks and aerial devices do not require that a police officer personally witness the fireworks or aerial devices being set off, and the forms of evidence enumerated in Section 3 are among those that are acceptable as a basis for arrest and/or conviction (subject to the rules of evidence, caselaw, etc). Thus, the Department is very concerned that the language proposed in Section 3 would only confuse existing standards and create negative unintended consequences in court.

As Section 2 of this bill acknowledges, a common issue that arises in criminal cases involving fireworks is proving that a defendant discharged an "aerial device," as defined in section 132D-2. For a number of reasons, the current definition of "aerial device" routinely creates roadblocks to effective prosecution. Once a device detonates, it is extremely difficult to recover evidence to prove the necessary elements of the charge/definition. Although it is impossible to predict exactly how courts will respond to the proposed amendments, we believe these changes will help to clarify the matter.

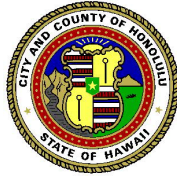
For the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes Section 3 of H.B. 1172, H.D. 1. Thank you for the opportunity to testify on this matter.

LATE

**HONOLULU CITY COUNCIL
CITY AND COUNTY OF HONOLULU**

530 SOUTH KING STREET, ROOM 202 • HONOLULU, HAWAII 96813
PHONE: (808) 768-5009 • FAX: (808) 768-5011 • INTERNET: www.honolulu.gov/council

Ron Menor
CHAIR & PRESIDING
OFFICER



IKAIKA ANDERSON
VICE CHAIR

Kymerly Marcos Pine
FLOOR LEADER

**CITY AND COUNTY OF HONOLULU
BEFORE THE HOUSE COMMITTEE ON JUDICIARY**

WEDNESDAY, MARCH 1 2017, 12:00 PM

**TO: THE HONORABLE SCOTT NISHIMOTO, CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY**

FROM: COUNCILMEMBER KYMBERLY MARCOS PINE

**SUBJECT: COMMENTS ON HB1172 CLARIFYING WHAT CONSTITUTES
PROBABLE CAUSE DURING THE ENFORCEMENT**

My name is Kymerly Marcos Pine and I am here to testify as the Councilmember representing District 1 at the Honolulu City Council. My district includes Waianae, Nanakuli, Honokai Hale, Kapolei, Makakilo, Kalaeloa and portions of Ewa Villages and Ewa Beach.

I support the INTENT of HB1172, which proposes to clarify the probable cause in the arrest of individuals violating the Fireworks Control Law. This proposed legislation would allow law enforcement officers to arrest individuals violating the law based on probable cause, eyewitness accounts, photographs, and or video recordings.

We need to ensure that law enforcement has every tool they need to stem the spread of illegal fireworks, especially aerals.

Honolulu Police issued 151 citations for violations of the Fireworks Control Law in 2016, a 56 percent increase from 2015. In total, police received more than 2,600 firework related complaints last year. Tragically, in my district, a woman was killed and her partner seriously injured while they played with illegal fireworks.

The vast majority of Oahu residents do not celebrate the New Year, or any other Holiday, by violating the law and detonating illegal fireworks.

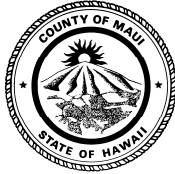
Constituents in my Council District deal with the noise and chaos created by those who choose to violate the Fireworks Control Act starting in late October. My office has heard from too many citizens who feel, at times, like they are living in a war zone between Halloween and the Super Bowl.

Loud explosions set off car alarms and send pets into a frenzy. The smoke and debris impacts air quality and harms those dealing with respiratory ailments.

The entertainment of a few should not negatively impact the quality of life for a majority of our citizens. I am in favor of any effort to help police arrest those who violate the Fireworks Control Act and am thankful that my colleagues at the State Legislature are focused on supporting the mission of law enforcement.

Thank you for the opportunity to offer testimony on this important matter.

ALAN M ARAKAWA
MAYOR



JEFFREY MURRAY
FIRE CHIEF

ROBERT SHIMADA
DEPUTY FIRE CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE & PUBLIC SAFETY

200 DAIRY ROAD
KAHULUI, HI 96732
(808) 270-7561
Fax (808) 270-7919

February 27, 2017

The Honorable Scott Nishimoto, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 421
Honolulu, Hawaii 96813

Dear Chair Nishimoto:

Subject: House Bill (HB) 1172, House Draft (HD) 1 Relating to Fireworks

I am Jeffrey A. Murray, Member of the Hawaii State Fire Council (SFC) and Fire Chief of the Maui Fire Department (MFD). The SFC and the MFD support HB 1172, HD 1, which proposes to clarify the probable cause in the arrest of individuals violating the Fireworks Control Law.

This bill enables law enforcement agencies the ability to arrest individuals violating the Fireworks Control Law based on probable cause, eyewitness accounts, photographs, and/or video recordings. Clarifying the enforcement of the Fireworks Control Law should promote public safety and property conservation.

The SFC and the MFD urge your committee's support on the passage of HB 1172, HD 1.

If you have any questions or concerns, please feel free to call my office at (808) 270-7561.

Sincerely,

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

JEFFREY A. MURRAY
Fire Chief

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 8:11 AM
To: JUDtestimony
Cc: ccarper@honolulu.gov
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carol-Louise Carper	State Fire Council	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



improving the quality of lives of pets and their people.

Testimony by Alicia Maluafiti, PDP Board President
In strong support of HB 1172 - Relating to Fireworks

House Committee on Judiciary
Wednesday, Mar. 1, 12 noon

Aloha Chair Nishimoto and Members of the Committee,

Poi Dogs & Popoki (PDP) is a nonprofit animal welfare organization with a mission to help people and their pets. We are in strong support of HB 1172.

Illegal fireworks – both aeriels and other legal fireworks used illegally (prior to New Year’s Eve) – started in Ewa Beach on Halloween. By Thanksgiving Day, it became a daily occurrence. It is difficult for people to grasp the fear and stress that some animals experience due to fireworks. Unless you are seeing it first hand, you will fail to understand the chaos it causes in our lives and the lives of our animals. For some people whose animals are not impacted by fireworks, they simply have no empathy. I used to be one of those people before I started doing animal rescue.

In 2015, I called HPD repeatedly to report my neighbors who set off illegal aeriels throughout the month of December. I even had video. And each time that they bothered to show up, I got a different response from the officer but most often it had to do with the fact that THEY – the HPD – had to see firsthand the violation before they could make an arrest or confiscate the fireworks. They did NOT always show up. But I continued to take the video.

2016 was the worst. Bombs every night for 2 months. Day and night. 5 am. 5 pm. Midnight. It was painful and sad to see the animals (all rescues) – with fear in their eyes, panting out of control, and able to climb 6 foot fences just to run, to get away, to hide. Even with medication similar to Xanax, they had no relief. For three weekends leading up to New Years, I resorted to full-on sedation of the largest dogs. All of these “solutions” come with risks. And all of them cost money. I spent over \$500 just to treat the animals. And it still didn’t help on most nights. On New Years Eve, I drove the circuit of Fort Weaver and Ewa Beach Roads (a loop) and saw at least 10 “parties” with people setting off illegal aeriels in the middle of the road. I had to literally stop my vehicle and wait for them to finish lighting the fireworks. Any officer could have made an arrest that night. But none did. The fireworks went on till 4:30 am. They started again at 5:30 am and went all day.

In Ewa Beach, I had to put up with fireworks through the second week of January. And then again on Chinese New Year. And again on Superbowl Sunday. The last bomb went off at 8:30 pm. I could hear it discharge from its container – it was that close. And then the bomb – so loud it rattled the windows. And then my 100 pound mastiff scaled the 6 foot fence of his dog run, panting like it was 120 degrees. When animals are scared, they are capable of anything. And sadly – this mastiff was so scared that 10 days before Christmas, after a series of bombs, he scaled the fence and killed one of my smaller dogs. Markie was in emergency care for 5 days before I had to euthanize him. It cost me \$12,000.

Today – we all have cell phones that take pictures and videos. In fact – you can find a video of Ewa Beach on New Year’s Eve. We need HB 1172 because it at least provides HPD with the tools to make the arrest and confiscate the fireworks and hopefully – make a conviction. We need relief.

And I please – I am tired of the “its da cultcha” argument. My family has homestead in Papakolea so I know all about popping fireworks on New Year’s Eve. But I am older. And smarter (I think). And a lot more compassionate about the people and animals around me. Fireworks are out of control. And while our legislative bodies lack the political will to ban all fireworks (both state and county), please at least give us (and HPD) the tools to fight fire with fire. And that is – if my neighbors decide to use illegal fireworks, then they need to pay the consequences. At this point in my life – I have nothing to loose. And nothing to fear. Except another horrible year of illegal fireworks.

Entertainment does NOT trump quality of life. Please pass HB 1172.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 1:58 PM
To: JUDtestimony
Cc: ms_tapiz@hotmail.com
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Frances	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 3:16 PM
To: JUDtestimony
Cc: kaleo0424@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Tai-Martin	Individual	Support	No

Comments: Please consider passing this bill. During the Holidays, right after Thanksgiving until well after the New Year, there are bombs that go off sporadically and they terrify my 12-year-old Rottie mix. She will literally shake and pee herself out of fear. I cannot give her medication every night in anticipation of a bomb going off, as medicating my dog for what ifs and worrying about the toll it takes on her kidneys and liver is not the answer. We also have become a safe haven of sorts for dogs that are so petrified, they somehow get out of their yards and become lost. We have reunited several with their families, but I have seen countless postings on social media of animals that have gotten loose due to fireworks going off or families frantically searching for their lost pets. I just ask that you consider passing this bill to put pet owner's minds at ease and help keep our pets safe.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 4:24 PM
To: JUDtestimony
Cc: allisonshadday@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Allison Shadday	Individual	Support	No

Comments: I support this bill. It is unhealthy, stressful for dogs and people to have fireworks so loud they rattle the windows in my house. It makes breathing for those of us with asthma a real problem and scares our dogs to death! Please stop these incredibly assaultive fireworks!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 10:23 PM
To: JUDtestimony
Cc: shilohtech@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shiloh Francis	Individual	Support	No

Comments: Illegal fireworks are a nuisance and it is only getting worse. Passing this bill will allow for the police to actually enforce the laws about fireworks and ultimately reduce their use.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 10:21 PM
To: JUDtestimony
Cc: jamisona@hawaii.edu
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alexis E. Jamison	Individual	Support	No

Comments: I strongly support this bill. For too long, we have had massive illegal fireworks problems that have been unresolved. When you call the police, they say they cannot do anything unless they catch them in the act. I believe this bill will strongly deter people from using illegal fireworks, as well as help with cracking down on their use on our islands. People and animals should not have to suffer through months of illegal fireworks at the end of the year because the current laws are not easily enforced. Please support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 8:52 PM
To: JUDtestimony
Cc: swainson@hawaii.rr.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cathy swainson	Individual	Support	No

Comments: There is a need to assist the Police in being able to arrest or cite individuals that are using illegal fireworks. At this time there is no reasonable method to find these persons. In our neighborhood there is the same family that have used large illegal fireworks for years and in every case and every time, the Police have been notified but are unable to do anything about it, due to the location of the home and the problem of observing the offense.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 8:15 PM
To: JUDtestimony
Cc: kstreadbeck@gmail.com
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kelley Streadbeck	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 7:18 PM
To: JUDtestimony
Cc: lkakatsu@hawaii.rr.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Murakami-Akatsuka	Individual	Support	No

Comments: I strongly support the passage of HB 1172, HD1. Thank you for the opportunity to testify.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 6:41 PM
To: JUDtestimony
Cc: debyspangler@gmail.com
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Spangler	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 6:15 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/27/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 9:25 AM
To: JUDtestimony
Cc: memmanuel.coats@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Ewalani Manuel-Coats	Individual	Support	No

Comments: All fireworks should be illegal regardless of cultural heritage or religious worship! It is a safety hazard and it promotes most dogs, like my own, to be fearful with anxiety and in many cases, dog owners lose their pets because of the explosions. Not only is it a safety hazard for both human and animal safety, it's an environmental issue. I support this bill to stop and ban all fireworks from being shipped to Hawaii. Make the port security accountable for imports and start fining these corrupted entities!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 12:07 PM
To: JUDtestimony
Cc: SarEHerrmann@Msn.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah E Herrmann	Individual	Support	No

Comments: I am wholeheartedly in favor of allowing photos/videos to be submitted to the police department as probably cause for illegal fireworks being used. These have far exceeded being a nuisance and are truly a hazard not simply to those using them, but to neighbors, pedestrians, cyclists, motorists, . . . Many of these fireworks are thrown into the street, causing panic to others. Besides the risk posed to humans and property, there is also the traumatic impact on those who suffer from PTSD as well as pets who have a higher sensitivity to sound. We hope for the safety and wellbeing of citizens, citizens' property, and pets that the bill will pass and make it much easier to submit evidence to the police department and make it more realistic for them to enforce the law effectively. Mahalo for considering this testimony. Blessings and aloha, Sarah E. Herrmann

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 2:01 PM
To: JUDtestimony
Cc: cavalry50@aol.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Wilson	Individual	Support	No

Comments: My household can handle the legal fireworks and we understand it is a celebration or custom for many. The bombs and illegal fireworks are horrific and out of control. I don't understand. How in the world do these components or devices get here to Oahu? We are held hostage with our pets several weeks before New Years and the actual day is so outrageous. Out of control and any enforcement action is futile. Please do something to STOP THE BOMBS AND ILLEGAL FIREWORKS!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 2:27 PM
To: JUDtestimony
Cc: joyst1babe@msn.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Inada	Individual	Comments Only	No

Comments: Please consider passing this bill, I have also called 911 to report illegal fireworks in Nanakuli. Even walked my neighborhood trying to find those playing em to take a photo along with getting an address and wait for hpd if need be. But being 56 and with asthmatic issues, I can't stay out in the smoke very long. Too many pets and people suffer needlessly, because of these loud booms that begin from Thanksgiving till January 3rd! HPD needs community help in catching these perpetrators, and pics can be submitted as evidence of violation. Thank you for your time!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 9:59 PM
To: JUDtestimony
Cc: mindyolvera@gmail.com
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/28/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Melinda Buck	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

I am writing in support of HB 1172.

We all know that there will probably never be a complete ban of fireworks on Oahu. The current restrictions of needing a permit to purchase firecrackers and the date/time restrictions of firecracker usage was a compromise that people learned to live with and planned around.

Sadly, the use of illegal aerials and legal fireworks being used illegally (outside the legal time frame), in addition to the house-shaking "bombs", have increased year after year. And the police are simply unable to enforce the current law because they are not a first-hand witness.

There are not many laws that can only be enforced unless seen directly by the police. Speeding. Running red lights. Illegal fireworks. All can be equally deadly.

I have friends who are animal care-givers. They rescue, foster, adopt, and love cats and dogs that are abandoned at the beach, tied up to fence posts, thrown out of moving cars, left in dumpsters. These people give their time, money, energy and heart to the animals. No matter how many animals you have it still breaks your heart when one dies. Especially if it is because of a senseless, illegal act.

Markie was rescued along with his female companion and their puppies; they had all been dumped at a graveyard in Pearl City right before a major storm. Once old enough, the puppies were quickly adopted. Markie was shy, but adorable and plans were being made to find him a loving home. A few days before New Year's Eve, one too many firecracker bombs went off. Terrified, Markie got into a fight with another, equally terrified, dog. Markie did not survive. We cannot and do not blame the other dog, it wasn't his fault. The unpredictability of the firecrackers, especially the bombs, terrifies and traumatizes the innocent animals that have no place to hide.

Knowing that there will be firecrackers at a specific time on a specific night is something that can be planned for; the animals can be sedated if necessary, they can be kenneled and sheltered. It is not the ideal situation, but it is livable and workable.

If we cannot ban firecrackers totally, at least give the police the tools they need that will help them enforce the current law. How many more innocent lives do we need to lose?

My name is Celeste Kato and I can be contacted at ckato1@aol.com.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 8:48 PM
To: JUDtestimony
Cc: deborahdross@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 2/28/2017
Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah D Ross	Individual	Support	No

Comments: I have a number of reasons I support this bill. Number one is the health and safety of my pets and the pets of others. As a volunteer lost pet hunter through a FB group called Paw Posse Oahu, every time there is an occasion for fireworks on this island, literally hundreds of dogs and cats experience such fear and anxiety from the noise of these aerial bombs, they run away from home. Many never make it home again. There is intense worry and upset for people because pets are very much a part of their family. It is so sad that these fireworks are illegal yet they continue, not just on the holiday but for weeks before and after and in some places every time there is a boxing match on TV with next to zero enforcement. People who have breathing problems suffer, animals suffer including nesting birds flying out to sea and not making it back, the fireworks are physically dangerous to both the criminal who is firing them and to bystanders and nearby property. There is a good reason they're illegal. People need to go to the public firework displays and stop with these illegal fireworks. How many hands get blown off or houses catch fire before you find a way to enforce this public safety issue and laws. The measures of letting the police use citizen obtained evidence will solve the problem of the police being too shorthanded to even respond. And by the time they roll up on the offenders they've already been warned of your arrival and you don't catch them anyway even if the police do respond.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 1, 2017 7:03 AM
To: JUDtestimony
Cc: baileysncream6955@gmail.com
Subject: Submitted testimony for HB1172 on Mar 1, 2017 12:00PM

HB1172

Submitted on: 3/1/2017

Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shawne Schmidt	Individual	Comments Only	No

Comments: Being a pet advocate & someone that suffers from respiratory illness, I support bill HB1172. We need to have better protection for the people & animals regarding fireworks in Hawaii. Mahalo Nui

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2017 7:10 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1172 on Mar 1, 2017 12:00PM*

HB1172

Submitted on: 2/28/2017
Testimony for JUD on Mar 1, 2017 12:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE

Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

Testimony of Jame K. Schaedel

Wednesday, March 1, 2017

Support for House Bill No. 1172, H.D. 1 – Relating to Fireworks

WRITTEN TESTIMONY ONLY

Thank you for the opportunity to offer testimony in **support** for House Bill No. 1172, H.D. 1. This draft of the bill will allow law enforcement officers to establish probable cause for fireworks offenses based on statements from witnesses, photographs, video, and other recordings authenticated by witnesses, and simplifies the current definition of ‘aerial device’. This bill also provides a new liability provision for property owners who knowingly allow other individuals to detonate fireworks on their property.

I offer this testimony as a private citizen.

There have been many amendments to the Fireworks Control Law, Chapter 132D, Hawai‘i Revised Statutes. However, individuals continue to irresponsibly detonate aerial devices and articles pyrotechnic in dense residential communities. The beginning of “fireworks season” fluctuates between Halloween and Thanksgiving Day, and continues for a week or two after New Year’s Day in my Kapolei neighborhood.

I served in our nation’s armed forces in the United States Army Reserve and the Hawai‘i Army National Guard for nearly a decade. I was deployed overseas and returned from Operation Iraqi Freedom 08-09 in September 2009, but I was not prepared for what awaited me later in the year. I write as a veteran, but not on behalf of other veterans because they have their own unique opinions and experiences.

In the beginning, the bright flashes of light and detonations were unexpected and I responded accordingly based on my training from the military. I distinctly remember leaving the Capitol late one evening because I was preparing for session. I was driving on the freeway near the Middle Street split when I observed a bright flash of light, heard a loud explosion, and thought it was an Improvised Explosive Device (IED). It took me nearly a minute to calm down and realize that I was at home in Hawai‘i and safe. Thankfully, I have been able to adapt to and anticipate fireworks detonations over the past couple of years.

Unfortunately, there are many veterans afflicted with Post Traumatic Stress Disorder (PTSD), and they are unable to adapt to and anticipate fireworks detonations. Each veteran reacts to these

detonations in their own way. Some veterans jump out of their living room chair, some say expletives, and others drop to the ground. An unexpected detonation startled me in December 2016 while I was watching television at home and made me jump out of my chair. However, it saddens me to observe this kind of reaction and more, tenfold, from my father nearly every single time an irresponsible individual detonates an aerial device in my Kapolei neighborhood.

Aerial devices have been getting louder and stronger over the past couple of years. I am able to anticipate most aerial devices because the initial shot sounds like it originated from a mortar tube and the detonation sounds like a mortar. The biggest difference is that aerial devices are louder and shake the house more often than not. Veterans, like my father, residing in dense residential communities should not have to cope with these traumatic experiences within the confines and safety of their own homes.

Firecrackers and fireworks are a distinct part of culture in Hawai'i. Every friend I know from Hawai'i grew up with firecrackers, bottle rockets, jumping jacks, and watching uncle light an aerial device into the night sky. Families join together at homes, parks, and other locations to celebrate the approaching New Year. I am not opposed to aerial devices and articles pyrotechnic during Independence Day, New Year's Day, and Chinese New Year. However, multiple detonations, every evening, over the course of 60 days can no longer be tolerated in dense residential communities.

I believe this draft of the bill will allow law enforcement officers to effectively enforce the Fireworks Control Law, and I implore you to pass this bill, un-amended, with a recommendation for passage on Third Reading.

Respectfully,

Jame K. Schaedel

March 1, 2017

Dennis and Edith Tingey
Kapolei, HI 96707
Email testimony Pueonani@aol.com

LATE

State Legislature

Subj: Support HB 1172

Dear State Legislature:

We are writing to bring up our concerns that the current enforcement of illegal aerial fireworks laws by HPD is ineffective in providing a deterrent to curb illegal fireworks usage. Subsequently if you measure by results the enforcement efforts are unsatisfactory and in need of improvement.

Background:

As previous Neighborhood Watch area coordinators for upper Makakilo we sought to work directly with the Kapolei Police Department to curb illegal aerial fireworks in our particular area. We dialoged directly with a Sergeant and a Lieutenant of the Kapolei Police department. For the last two years we provided HPD several addresses that could be used as landmarks for enforcing the fireworks laws. We got these locations from observing illegal fireworks that started going off as early as Thanksgiving and progressively increasing to the big blow on New Year's Eve.

HPD reps said they would alert and patrol areas provided. On New Year's Eve we made numerous 911 calls reporting many of the pre-provided addresses. In checking with HPD reps after New Year's, both 2015 and this past year 2016 not one of our pre-reports were cited for illegal fireworks violations. Officers (SGT and LT) were polite and professional but it was apparent that they lacked any solutions to the illegal fireworks problem and in our opinion were even a little embarrassed by the low number of citations made to the number of call in complaints.

A call to HPD Patrol Assistant Chief was made to complain about the lack of effectiveness of fireworks enforcement. The assistant Chief was polite and listened to our suggestions such as:

1. HPD management needs to define what success in fireworks enforcement should be. In our opinion for enforcement to be a deterrent, about 50% or more of the calls ins should result in citations.
2. HPD take the lead and initiative to list what they would need to be more successful at enforcing fireworks laws (such as more staff and overtime during fireworks season and what specific changes to the current fireworks laws need to be made to make it realistic to cite). Once done to bring these needs and recommendations to the City Council and/or State Legislature.

Unfortunately the assistant chief appeared overwhelmed, gave what in our view was an excuse that they had other things to attend to and had almost a defeatist attitude to the problem. He over dramatized the problem by saying that if they had an officer on every corner during new year's eve they still could not curb the usage.

Discussion:

Anecdotally, it appears the use of illegal aeriels is on the increase. Such activities raise havoc and mayhem for peace seeking residents and their pets. They are deadly (as noted by the death at Campbell Park this past year), are extreme fire hazards, and most importantly always have been illegal. The wanton use by so many lawbreakers destroys the public confidence in HPD to uphold the rule of law. For some it creates perceptions that HPD is not serious, competent, or selective as to what laws they want to enforce.

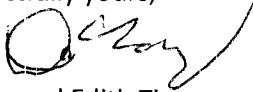
We realize that this is a complex problem. The entry of illegal fireworks shipments is a major cause and is not currently in HPD's area of responsibility. There are many (though in our opinion a minority) of residents that enjoy the use of illegal fireworks and though exaggerated, there are some levels of cultural influence.

The current laws essentially require that an HPD officer witness the person lighting the fuse before citing. We believe the laws have to be changed so that the officer only needs to see the fireworks going off in a household and that the homeowner(s) could be cited. Drone technology could be a viable option.

If HPD wants citizens to participate then they should also be able to cite based upon a written statements and/or video, pictures from complainants. The homeowners and/or tenants also should also be cited if they allow illegal fireworks on the property.

We understand there are competing needs for resources...for example on New Year's eve, breaking up fights, emergency calls, loud parties, and other crimes also happen. This however should not be an excuse for HPD to condone and subordinate enforcement efforts of illegal fireworks laws year after year.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Dennis and Edith Tingey". The signature is written in a cursive style with a large initial "D" and a long, sweeping flourish.

Dennis and Edith Tingey

LATE

Jerald E. Farley
16526 Shore Drive Northeast
Lake Forest Park, Washington 98155-5631
(206) 363-7573 (office)
(206) 713-3388 (cellular)
farley@uptime.org

February the 28th, 2017

LATE TESTIMONY

Mr. Chairman Nishimoto and Honorable members
House Judiciary Committee
State of Hawai'i Legislature

Subject: Opposition to House Bill 1172, Relating to Fireworks

I am Jerald Farley. For more than 30 years across the United States, I have represented American Promotional Events, Inc. (APE), a leading importer, wholesaler and retailer of consumer fireworks.

I am very familiar with federal laws and regulations, state laws in every of the forty-seven (47) states that allow the sale and use of consumer fireworks and the meaning of key words.

In 1994, working with Captain August Range of the Honolulu Fire Department, I wrote the language that the 1994 Legislature enacted into law as the state's first fireworks law.

Since that time, I have been active in many states including the great state of Hawai'i on behalf of my client, APE.

I am testifying today in opposition to HB 1172 as amended by HD1.

When the bill was originally heard in the previous committee, I did not testify for or against the bill. Why? Because the text of the original bill dealt only with "probable cause for arrest". Specifically, in its original form, the bill enhanced the enforcement tools that police departments needed to arrest and secure a conviction for the illegal use of aerial display fireworks and aerial consumer fireworks. Neither are legal for possession or use by members of the public. Strictly speaking, the original bill, HB 1172, did not affect my client. So, I believed that I did not have a legitimate right to testify on the bill.

My client strongly supports the strict enforcement of the ban on aerial fireworks. After all, I helped write that ban in the 1994 bill and worked to have it passed by the 1994 Legislature. The continued use of aerial fireworks, the diversion to and use by the public of aerial display fireworks—the death this last year is related to this kind of activity—and the construction and use of illegal, improvised explosive devices—such as aerial balloon bombs, etc.—endanger the safety of the public, have led to the ban on the legal use of safer, ground-based consumer fireworks on the Island of Oahu and has made the lives and property of every citizen of Hawai'i less safe.

But, House Bill 1172 is not the same bill as House Bill 172 HD1.

At the time of the executive action in the previous committee, the Chair announced changes to the bill. Included in these changes were the Chair's stated purpose to "expand the definition of aerial fireworks as much as possible".

When I obtained a copy of the HD1, I realized that the new added language found in Section 2 and that the State of Hawai'i would in fact be less safe if HB 1172 HD1 were enacted into law.

Consequently, APE opposes HB 1172 as long as Section 2 remains in the bill.

This one change—supposedly expanding the definition of "Aerial device" found in Section 2 is a game-changer.

Why are we opposed to Section 2? Because, simply put, the effect of this section, if enacted into law, is not what the State of Hawai'i wants.

The definition of "Aerial device" was carefully crafted to ensure that no aerial device as defined in federal regulations could be legally sold to the general public in the State of Hawai'i. The current definition in the law ensures that the ground-based consumer fireworks are the safest possible. This is why there is a 12-foot radius in the definition of consumer fireworks. Think of this 12-foot radius from the point at which the item is placed as a cone within which the effects of the device must be limited, on all sides and upward. Given the environment of this State, this 12-foot radius provides the greatest possible protection.

By eliminating the language in the current law, the current language in the definition of "Aerial device", as found in Section 2 of HD1, the clear distinction between what is legal and what is illegal is deleted, eliminated.

All of the terms found in the current definition, except that of "flying pigs" are terms of art in the industry and, most importantly, clearly and specifically defined on federal regulations (APA Standard 87-1, 49 CFR USDOT). (The term "flying pigs" was added to the statutory language by a former state senator largely as a joke. When I asked him why he was adding it, he stated that "Fireworks will be banned in Hawai'i when pigs fly.")

In addition, the current language of "Aerial device" includes jumping jacks that go outside the 12-foot radius.

By deleting the language from the current law as Section 2 of HD1 would do, the clear connection to federal laws, regulations and definitions is eliminated.

Instead of making the Hawai'i fireworks law more clear and, therefore, more enforceable, just the opposite will occur. There will no longer be a clear, bright-line definition, no clear, bright-line connection to federal standards.

The result will be that some items which are now specifically prohibited will no longer be prohibited. They will be available for importation and sale in Hawai'i.

This is not what my client, APE, wants. It is not what the Legislature wants. It is not what the public wants.

At the time of the executive action in the previous committee, the Chair announced changes to the bill. Included in these changes were the Chair's stated purpose to "expand the definition of aerial fireworks as much as possible".

When I obtained a copy of the HD1, I realized that the new added language found in Section 2 and that the State of Hawai'i would in fact be less safe if HB 1172 HD1 were enacted into law.

Consequently, APE opposes HB 1172 as long as Section 2 remains in the bill.

This one change—supposedly expanding the definition of "Aerial device" found in Section 2 is a game-changer.

Why are we opposed to Section 2? Because, simply put, the effect of this section, if enacted into law, is not what the State of Hawai'i wants.

The definition of "Aerial device" was carefully crafted to ensure that no aerial device as defined in federal regulations could be legally sold to the general public in the State of Hawai'i. The current definition in the law ensures that the ground-based consumer fireworks are the safest possible. This is why there is a 12-foot radius in the definition of consumer fireworks. Think of this 12-foot radius from the point at which the item is placed as a cone within which the effects of the device must be limited, on all sides and upward. Given the environment of this State, this 12-foot radius provides the greatest possible protection.

By eliminating the language in the current law, the current language in the definition of "Aerial device", as found in Section 2 of HD1, the clear distinction between what is legal and what is illegal is deleted, eliminated.

All of the terms found in the current definition, except that of "flying pigs" are terms of art in the industry and, most importantly, clearly and specifically defined on federal regulations (APA Standard 87-1, 49 CFR USDOT). (The term "flying pigs" was added to the statutory language by a former state senator largely as a joke. When I asked him why he was adding it, he stated that "Fireworks will be banned in Hawai'i when pigs fly.")

In addition, the current language of "Aerial device" includes jumping jacks that go outside the 12-foot radius.

By deleting the language from the current law as Section 2 of HD1 would do, the clear connection to federal laws, regulations and definitions is eliminated.

Instead of making the Hawai'i fireworks law more clear and, therefore, more enforceable, just the opposite will occur. There will no longer be a clear, bright-line definition, no clear, bright-line connection to federal standards.

The result will be that some items which are now specifically prohibited will no longer be prohibited. They will be available for importation and sale in Hawai'i.

This is not what my client, APE, wants. It is not what the Legislature wants. It is not what the public wants.

Jerald E. Farley
16526 Shore Drive Northeast
Lake Forest Park, Washington 98155-5631
(206) 363-7573 (office)
(206) 713-3388 (cellular)
farley@uptime.org

LATE TESTIMONY?

February the 28th, 2017

Mr. Chairman Nishimoto and Honorable members
House Judiciary Committee
State of Hawai'i Legislature

Subject: Opposition to House Bill 1172, Relating to Fireworks

I am Jerald Farley. For more than 30 years across the United States, I have represented American Promotional Events, Inc. (APE), a leading importer, wholesaler and retailer of consumer fireworks.

I am very familiar with federal laws and regulations, state laws in every of the forty-seven (47) states that allow the sale and use of consumer fireworks and the meaning of key words.

In 1994, working with Captain August Range of the Honolulu Fire Department, I wrote the language that the 1994 Legislature enacted into law as the state's first fireworks law.

Since that time, I have been active in many states including the great state of Hawai'i on behalf of my client, APE.

I am testifying today in opposition to HB 1172 as amended by HD1.

When the bill was originally heard in the previous committee, I did not testify for or against the bill. Why? Because the text of the original bill dealt only with "probable cause for arrest". Specifically, in its original form, the bill enhanced the enforcement tools that police departments needed to arrest and secure a conviction for the illegal use of aerial display fireworks and aerial consumer fireworks. Neither are legal for possession or use by members of the public. Strictly speaking, the original bill, HB 1172, did not affect my client. So, I believed that I did not have a legitimate right to testify on the bill.

My client strongly supports the strict enforcement of the ban on aerial fireworks. After all, I helped write that ban in the 1994 bill and worked to have it passed by the 1994 Legislature. The continued use of aerial fireworks, the diversion to and use by the public of aerial display fireworks—the death this last year is related to this kind of activity—and the construction and use of illegal, improvised explosive devices—such as aerial balloon bombs, etc.—endanger the safety of the public, have led to the ban on the legal use of safer, ground-based consumer fireworks on the Island of Oahu and has made the lives and property of every citizen of Hawai'i less safe.

But, House Bill 1172 is not the same bill as House Bill 172 HD1.

My client wants every citizen of Hawai'i to celebrate holidays and cultural events safely and responsibly. My client has worked in and with the State of Hawai'i since 1992 precisely to achieve this goal.

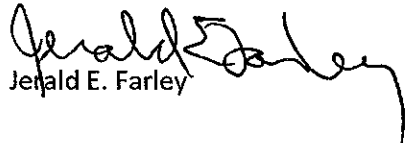
HB 1172 HD1 and specifically Section 2 is going in the wrong direction. It is moving toward a less-safe situation. It will provide more—not less—incentive for the unscrupulous to profit while endangering the citizens and the beauty of Hawai'i.

On behalf of APE, I urge the House Judiciary Committee to delete Section 2 from HB 1172 HD1 and allow the remainder of the bill to move forward.

As long as Section 2 or language similar to it remains in the bill, APE will oppose this legislation.

Please: either remove Section 2 or defer the bill.

Respectfully and with Aloha and Mahalo,


Gerald E. Farley