



The Judiciary, State of Hawai‘i

**Testimony to the
Senate Committee on Judiciary**
Senator, Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran

Wednesday, April 3, 2019 10:00 AM
State Capitol, Conference Room 211

WRITTEN TESTIMONY ONLY

by
Calvin C. Ching
Deputy Chief Court Administrator, First Circuit

Bill No. and Title: House Bill No. 89, HD2, SD1 Relating to Fireworks.

Purpose: Allows law enforcement agencies to safely dispose of confiscated fireworks except for a sample that is to be retained for evidentiary purposes. Authorizes the court to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the costs of safely disposing of confiscated fireworks. Establishes that each type of fireworks unlawfully imported, purchased, possessed, ignited, or discharged constitutes a separate offense. Appropriates funds as a grant to the Honolulu Police Department for a secure container in which to store confiscated fireworks.

Judiciary's Position:

The Judiciary takes no position, but submits the following comments:

The Judiciary believes that the provisions in subsection (b) of this bill that would authorize the courts to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the costs appears to be a policymaking determination as to particular sentences for unlawful conduct that would be inconsistent with the neutral adjudicative role of the courts to apply the law to the facts of individual cases.



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In addition, for the court to possibly impose a disposal fine to reimburse the counties may require the court to hold further hearings regarding the costs incurred by the counties. This may cause ambiguity in the process and may cause delays.

Finally, because subsection (b) authorizes the court to issue an order for payment of a fine and therefore collect the fine, subsection (c) may be simplified to read:

"Except for fines imposed pursuant to subsection (b)(2), twenty per cent of the fines collected under this section shall be paid to the State and eighty per cent of the fines collected under this section shall be paid to the county in which the fine was imposed. The county shall use the funds received under this subsection for law enforcement purposes."

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

STATE OF HAWAII
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LATE

April 2, 2019

The Honorable Donovan Dela Cruz, Chair
Committee on Ways and Means
The State Senate
State Capitol, Room 208
Honolulu, Hawaii 96813

The Honorable Karl Rhoads, Chair
Committee on Judiciary
The State Senate
State Capitol, Room 204
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Chair Rhoads:

Subject: House Bill (HB) 89, House Draft (HD) 2 Senate Draft (SD) 1 Relating to Fireworks

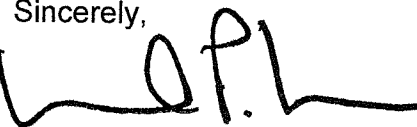
I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support HB 89, HD 2, SD 1, which allows law enforcement agencies that confiscate fireworks to safely destroy or dispose the fireworks; authorizes the court to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the cost of safely disposing said fireworks; establishes that each type of fireworks unlawfully imported, purchased, possessed, ignited, or discharged constitutes a separate offense; and appropriates funds as a grant to the Honolulu Police Department for a secure container in which to store confiscated fireworks

The SFC and the HFD support efforts to reduce illegal and potentially hazardous fireworks usage by the general public and believe measures such as those proposed by HB 89, HD 2, SD 1, will help discourage the public use of illegal fireworks.

Public safety and property protection are priorities for the SFC and the HFD, and we respectfully request your committees' passage of HB 89, HD 2, SD 1.

The Honorable Donovan Dela Cruz, Chair
The Honorable Karl Rhoads, Chair
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Should you have questions, please contact SFC Administrative Specialist Lloyd Rogers at 723-7176 or lrogers@honolulu.gov.

Sincerely,

MANUEL P. NEVES
Chair

MPN/LR:clc

MICHAEL P. VICTORINO
Mayor

DAVID C. THYNE
Fire Chief

BRADFORD K. VENTURA
Deputy Fire Chief



DEPARTMENT OF FIRE & PUBLIC SAFETY
COUNTY OF MAUI
200 DAIRY ROAD
KAHULUI, HI 96732

April 2, 2019

LATE

The Honorable Donovan Dela Cruz, Chair
Committee on Ways and Means
The State Senate
State Capitol, Room 208
Honolulu, Hawaii 96813

The Honorable Karl Rhoads, Chair
Committee on Judiciary
The State Senate
State Capitol, Room 204
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Chair Rhoads:

Subject: House Bill (HB) 89, House Draft (HD) 2 Senate Draft (SD) 1 Relating to Fireworks

I am David C. Thyne, member of the Hawaii State Fire Council (SFC) and Fire Chief of the Maui Fire Department (MFD). The SFC and the MFD support HB 89, HD 2, SD 1, which allows law enforcement agencies that confiscate fireworks to safely destroy or dispose the fireworks; authorizes the court to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the cost of safely disposing said fireworks; establishes that each type of fireworks unlawfully imported, purchased, possessed, ignited, or discharged constitutes a separate offense; and appropriates funds as a grant to the Honolulu Police Department for a secure container in which to store confiscated fireworks

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Should you have questions, please contact SFC Administrative Specialist Lloyd Rogers at (808) 723-7176 or lrogers@honolulu.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'DCT', with a long horizontal flourish extending to the right.

DAVID C. THYNE
Fire Chief

DCT/LR:clc