



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 1810, RELATING TO FIREWORKS.

BEFORE THE:

HOUSE COMMITTEES ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS
AND ON TRANSPORTATION

DATE: Wednesday, February 5, 2020 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 430

TESTIFIER(S): Clare E. Connors, Attorney General, or
Laura Maeshiro, Deputy Attorney General

Chairs Takayama and Aquino and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

This bill addresses the problem of illegal fireworks by creating a shipping container inspection program to randomly inspect shipping containers arriving in the State. The bill authorizes the Sheriff Division of the Department of Public Safety to inspect shipping containers at commercial harbors in the State or work sites. The bill also creates the container inspection program special fund and appropriates funds for the program. Finally, the bill increases the maximum fine for certain fireworks violations.

The new section 266-A(a), Hawaii Revised Statutes, on page 3, line 14, to page 4, line 2, of the bill authorizes the Sheriff Division to search shipping containers to detect and confiscate “any material constituting a threat directly or indirectly to the security of life or property in the State,” and not just illegal fireworks. The contents of the bill therefore exceed the bill’s title, and could violate the subject-title requirement of article III, section 14 of the Hawai’i Constitution, which limits each bill to “but one subject, which shall be expressed in its title”.

Further, whether the Sheriff Division can confiscate materials found in shipping containers may be subject to constitutional and other requirements that depend on the circumstances of each inspection. The Sheriff Division would therefore need to conduct

further investigation to determine what requirements must be met before materials may be confiscated.

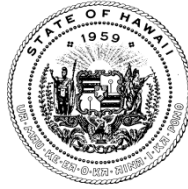
Moreover, the exception for “fireworks regulated under chapter 132D” on page 4, lines 1-2, of the bill is unclear, because aerial and other fireworks discussed in section 1 of the bill are regulated under chapter 132D.

To address the concerns discussed above, we suggest amending page 3, line 14, to page 4, line 2, of the bill to read as follows:

“§266-A Inspection of shipping containers; department of public safety. (a) In addition to any other powers provided by law, the department of public safety sheriff division may, in its discretion, inspect any shipping container situated anywhere at any commercial harbor as defined in section 266-1, or work site, to detect and [~~confiscate~~] investigate any material constituting [~~a threat directly or indirectly to the security of life or property in the State including explosives, but excluding fireworks regulated under chapter 132D.~~] fireworks that may be imported, possessed, sold, or used in violation of chapter 132D.”

Finally, the term “work site” on page 3, lines 18-19, of the bill is vague. We therefore suggest amending the bill to define the term.

Thank you for the opportunity to provide these comments.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 5, 2020
9:30 a.m.
State Capitol, Room 430

H.B. 1810
RELATING TO FIREWORKS

House Committees on Public Safety, Veterans, & Military Affairs and Transportation

House Bill (H.B.) 1810 proposes that the Department of Public Safety (PSD) have the authority to inspect shipping containers within the jurisdiction of the Department of Transportation (DOT). The DOT has jurisdictional authority over the lands within its jurisdiction. The DOT provides the following **comments** on H.B. 1810:

- Inspection of containers will impede the flow of cargo movement.
- Should the legislature enact legislation for the State to inspect containers on harbors lands, it should be the DOT Harbors Enforcement Officers, who have full law enforcement authorities, conducting the inspections. There would need to be an increase in the numbers of Harbors Enforcement Officers to provide this function as inspecting containers is not in the current scope of Harbors Enforcement Officers duties. The number of positions cannot be determined at this time without knowing the scope of the Harbors Enforcement Officers duties, inspection methods and objectives, however, funding should be from the general fund as the task of detecting illegal fireworks is not within the current scope of DOT Harbors Division.
- The DOT or PSD does not have access to ships' cargo manifests or existing expertise to identify and distinguish containers of concern from containers carrying legal fireworks.
- If PSD is designated as the law enforcement agency to implement the provisions of H.B. 1810, DOT requests that funding be from the general fund and not the Harbor Special Fund.

Thank you for the opportunity to provide testimony.

HB-1810

Submitted on: 1/31/2020 2:46:25 PM

Testimony for PVM on 2/5/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

very important. the illegal fireworks must be intercepted and those guilty must pay high fines.

HB-1810

Submitted on: 2/1/2020 12:44:12 PM

Testimony for PVM on 2/5/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

I support this bill. As someone who has fireworks from October to March most years, with even fireworks going off last night in my neighborhood after 10 pm. feel that something has to be done. I love fireworks on the day of, but this abuse of fireworks going off all year round has got to stop. I feel that verifying the number of fireworks/type per shipment in, having explosive-sniffing dogs to inspect incoming shipments (excellent idea, as hopefully they'll find any other illegal gun powder/explosive toting shipments), and random inspections is needed to prevent smuggling. My only concern is that the "low risk containers" to other than state/military. Smuggling of goods is exactly that, they're not going to label the container as having fireworks if they're bringing in illegal works. Also, just because it's a well established business doesn't ensure that the items are what they're supposed to be. (Ie. Kilos of cocaine sent through the post office over years (2018 Milwaukee); \$4.5M of meth sent to Ford Dealership (2019. Canada); etc.) By tightening the loop, the smaller the chance of shipments with smuggled goods the better.

HB-1810

Submitted on: 2/1/2020 1:30:21 PM

Testimony for PVM on 2/5/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

HB-1810

Submitted on: 2/3/2020 12:25:14 PM

Testimony for PVM on 2/5/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

HB-1810

Submitted on: 2/3/2020 11:39:48 PM

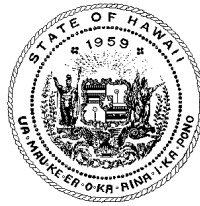
Testimony for PVM on 2/5/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Azuma Chrupalyk	Individual	Support	No

Comments:

Fireworks have proven in many environments to be extremely harmful and detrimental. Fireworks are really bad in coastal ecosystems, altogether. They should simply be banned, then replaced with a sponsored professional display.

DAVID Y. IGE
GOVERNOR



NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Shari L. Kimoto
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

No. _____

TESTIMONY ON HOUSE BILL 1810
RELATING TO PUBLIC SAFETY.

by

Nolan P. Espinda, Director

House Committee on Public Safety, Veterans, and Military Affairs
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gates, Vice Chair

House Committee on Transportation
Representative Henry J.C. Aquino, Chair
Representative Troy N. Hashimoto, Vice Chair

Wednesday, February 5, 2020; 9:30 a.m.
State Capitol, Conference Room 430

Chairs Takayama and Aquino, Vice Chairs Gates and Hashimoto, and
Members of the Committee:

The Department of Public Safety (PSD) appreciates the intent of House Bill (HB)1810, but opposes this measure which proposes to: 1) authorize the Sheriff Division of PSD to inspect shipping containers at commercial harbors and worksites in the State, 2) mandate that PSD, in collaboration with others, develop and implement a program no later than October 1, 2020 to randomly inspect shipping containers for illegal fireworks and explosives, and 3) create the shipping container inspection special fund. Although well-intended, there are several important issues that must be addressed before any program of this scope and complexity can be developed.

First, page 4, lines 11 – 19 mandates that the department of public safety develop and implement a shipping container inspection program no later than October 1, 2020. Page 7, lines 3 – 4 further proposes that PSD shall adopt rules in accordance with chapter 91 for purposes of this inspection program. Given the complex issues

involved, including search and seizure, criminal investigation, safe storage, forensic analysis, and future destruction of explosives, it would not be possible to meet such an aggressive deadline of October 1, 2020.

Second, page 3, Section 2, authorizes the Sheriff Division to search shipping containers to detect illegal fireworks and “any material constituting threat directly or indirectly to the security of life or property in the State including explosives, but excluding fireworks regulated under chapter 132D.” While it appears that the intent of this bill is to detect and investigate illegal fireworks, the proposed wording requires that the Sheriff Division be able to first determine what fireworks are regulated versus what is not regulated under chapter 132D. In addition, while it is appreciated that the Sheriff Division is given the authority to inspect shipping containers, it is inconsistent with the enforcement provision of chapter 132D-20, HRS, which states that the Fireworks “chapter is enforced by each county.”

Equally importantly, while this bill authorizes the search of shipping containers, search and seizure and warrant requirements would still apply to individual packages within the shipping container. Further, it would appear impossible for a canine to differentiate if illegal fireworks are in fact packed with legal fireworks. Additionally, even assuming that illegal fireworks are appropriately and legally seized, there remains issues of safe storage, forensic analysis, criminal investigation, possible prosecution, and safe destruction.

Third, the Sheriff Division currently only has two (2) explosive canine teams. This consists of two dogs, each with a deputy sheriff handler. Two canine teams are woefully insufficient. To create such an inspection program, personnel must be recruited and trained, and canines purchased and trained, including: 1) canine candidate selection, 2) handler/deputy selection, 3) salary and differential pay, 4) canine training and certification, 5) canine equipment, training, training aids, and transportation. The recruitment, selection, and six-month academy training of deputy

Testimony on HB 1810
House Committee on Public Safety,
Veterans, and Military Affairs
House Committee on Transportation
February 5, 2020
Page 3

sheriffs will take at least one year, not to mention the purchase, training, and certification of the canines. Further, investigations of these matters should also be conducted by trained investigators.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR
ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEES ON PUBLIC SAFETY, VETERANS, & MILITARY
AFFAIRS AND TRANSPORTATION
ON
HOUSE BILL NO. 1810

February 5, 2020
9:30 a.m.
Room 430

RELATING TO FIREWORKS

The Department of Budget and Finance (B&F) offers comments on creation of the Shipping Container Inspection Program Special Fund (SCIPSF).

House Bill (H.B.) No. 1810 establishes the Shipping Container Inspection Program and the SCIPSF within the Department of Public Safety's (PSD) Sheriff Division to inspect shipping containers at commercial harbors and work sites aimed to reduce the proliferation and importation of explosive contrabands. The bill authorizes to increase the maximum fine for each violation of the Fireworks Law and requires PSD to submit reports to the Legislature on the implementation of the program. Other sources of revenues for the SCIPSF would include: legislative appropriations; grants and gifts; any income and interest earnings; and all proceeds collected by the Department of Transportation from shipping container import fees. H.B. No. 1810 also appropriates an unspecified amount of general funds for FY 21 to be deposited into the SCIPSF.

As a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS.

Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining.

Regarding H.B. No. 1810, it is not clear why this program cannot be implemented through the general fund appropriation process, and it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.



LATE

February 5, 2020

**TESTIMONY BEFORE THE HOUSE COMMITTEES ON
PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS
AND ON TRANSPORTATION
ON HB 1810 RELATING TO FIREWORKS**

Aloha Chair Takayama, Chair Aquino, and committee members. I am Gareth Sakakida Managing Director of the Hawaii Transportation Association (HTA) with over 400 members involved with the commercial ground transportation industry.

HTA opposes the inspection of shipping containers at a motor carrier's facility due to the frenetic nature of operations. All respondents actually support container inspection and scanning on cargo pier facilities where the targeted assets are concentrated, and there is a lot more space to work.

Or take advantage of the DOT inspection station outside of the pier area where tractor trailers have to line up for inspections anyway.

Motor carrier facilities are scattered anywhere and everywhere. These small businesses have zero space to spare so working conditions are cramped and under time constraints creating that frenetic nature of operations. Safety of personnel and canines who are not familiar with break bulk operations are of great concern.

And no one is imagining halting work while inspections are conducted. Operational delays are most critical for these operations because they are the face of the shipping chain and are the ones in direct contact with the consignees.

Heeding warrants are not a problem, at least they indicate a reasonable suspicion, rather than hampering operations for random checks.

Mahalo.

The Thirtieth Legislature
Regular Session of 2020



THE HOUSE

Committee on Public Safety, Veterans, & Military Affairs

Representative Gregg Takayama, Chair

Representative Troy N. Hashimoto, Vice-Chair

Committee on Transportation

Representative Henry J.C. Aquino, Chair

Representative Troy N. Hashimoto, Vice Chair

State Capitol, Conference Room 430

Wednesday, February 5, 2020; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1810
RELATING TO FIREWORKS**

The ILWU Local 142 **offers comments** on H.B. 1810, which authorizes the PSD sheriff division to inspect shipping containers at commercial harbors or work sites. establishes the shipping container inspection program and shipping container inspection program special fund, increases the maximum fine for each violation of the fireworks law and requires PSD to submit reports to the legislature on implementation of the shipping container inspection program.

The ILWU Local 142 understands the issue H.B. 1810 is trying to address but we also want to ensure that goods shipped to Hawaii are delivered in a timely and efficient manner that does not disrupt businesses and/or consumers. In addition, we have strong concerns with language that could interfere with collective bargaining agreements.

We are suggesting that section 2 (c) which states “this section shall supersede any labor work rules or contracts that are contrary to the intent of this section.” **be deleted.**

Thank you for the opportunity to offer testimony on this measure.

Testimony of Ku'uhaku Park
On Behalf of Matson
Testimony on HB1810
Before the Committees on Public Safety, Veterans, & Military Affairs and Transportation
February 5, 2020

Dear Chair Takayama, Chair Aquino, Vice Chair Gates, Vice Chair Hashimoto, and Members of the Committees,

Matson supports the intent of HB1810, Relating to Fireworks, and respectfully offers amendments. This measure, among other things, authorizes the Department of Public Safety to inspect shipping containers at commercial harbors.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

Matson appreciates that the measure encourages that the majority of inspections occur away from the ports to allow timely removal of shipping containers and avoid off-loading delays. Matson's operations run twenty-four hours a day, seven days a week and our terminal is at full capacity. Any additional inspection that takes place at our terminal could cause significant delays in offloading and out-gating our cargo. Additional screening must take place outside of our terminals to avoid interference with operations.

This measure does not address the labor issues that arise from conducting cargo inspections occur on our terminals or in the commercial ports. We urge your Committees to ensure it has carefully considered the jurisdictional issues that may arise with private-sector organized labor.

This measure fails to address fireworks that enter the State through other methods beyond commercial shipping containers. All entities involved in moving cargo should be included in the inspection mandate. This could include the United States Postal Service, other mail carriers, airlines, air cargo carriers, recreational boat owners, and the related industry groups.

If your Committee intends to pass this measure, we request the following amendments:

- (1) Page 3, lines 15 to 19 to read: "(a) In addition to any other powers provided by law, the department of public safety sheriff division may, in its discretion, inspect any shipping container situated anywhere **other than** at any commercial harbor as defined in section 266-1, or worksite..."
- (2) Page 5, lines 10-12 to read: "(3) Conduct **all** inspections away from ports to allow timely removal of shipping containers and avoid off-loading delays."
- (3) Page 6, line 5 to read: "(8) Include inspections of all vessels, including recreational vessels, with any kind of cargo hold; aircraft; and all items arriving through a mail carrier, including government entities."

- (4) Page 6, lines 6 to 13 to read: “(c) Beginning July 1, 2020, the department of transportation shall **receive from the general funds of the State** \$1 per shipping container arriving in the State. Beginning July 1, 2021, the department of transportation **shall receive from the general funds of the State** \$2 per shipping container arriving in the State. All amounts received by the department of transportation pursuant to this subsection shall be deposited into the shipping container inspection program special fund established under section 266-C.”

Thank you for considering these suggested amendments.



Chamber of Commerce HAWAII

The Voice of Business

Testimony to the House Committees on Public Safety, Veterans and Military Affairs, and Transportation
Wednesday, February 5, 2020 at 9:30 A.M.
Conference Room 430, State Capitol

RE: HB 1810, RELATING TO FIREWORKS

Chairs Takayama and Aquino, Vice Chairs Gates and Hashimoto, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **provides the following comments** to HB 1810, which would authorize the PSD sheriff division to inspect shipping containers at commercial harbors or work sites. It would also establish the shipping container inspection program and shipping container inspection program special fund and increases the maximum fine for each violation of the fireworks law. Finally, this bill would also require PSD to submit reports to the legislature on implementation of the shipping container inspection program.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber understands the intent of the bill but does have some concerns on the impact this could have on local businesses. Our members depend on reliable and timely receipt of goods and transportation of their own materials and products across the state. Additional screenings could result in delays of these products to their final destinations from the port, and potential loss of perishable shipments. We need to ensure that any additional inspections are properly implemented to avoid these types of delays.

While the bill does encourage inspections to occur away from the ports to allow for timely removal of shipments and avoid off-loading delays, it does not require it. Having additional screenings away from the port would help to avoid any interference with the companies that utilize the ports for their operations.

Thank you for the opportunity to provide comments.