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# A BILL FOR AN ACT

RELATING TO FIREWORKS INFRACTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the enforcement of  
2 the fireworks control law is wanting. The legislature further  
3 finds that enforcement is necessary to protect property from  
4 avoidable fire damage and to protect persons from fire- and  
5 explosion-related injuries, respiratory distress caused by the  
6 air pollution, and retraumatizing persons with the loud  
7 explosions.

8       The legislature further finds that alternative enforcement  
9 mechanisms should be considered to promote compliance with the  
10 fireworks control law. One alternative enforcement mechanism  
11 would be an expeditious adjudication system for fireworks  
12 infractions, similar to the system for processing traffic  
13 infractions. This system would allow the judiciary to  
14 expediently process violations of the fireworks control law,  
15 allowing the judiciary to reserve resources for the cases that  
16 require the resources.



1       The purpose of this Act is to establish an expeditious  
2 adjudication system for processing fireworks infractions,  
3 similar to the system for processing traffic infractions.

4       SECTION 2. Chapter 132D, Hawaii Revised Statutes, is  
5 amended by adding a new part to be appropriately designated and  
6 to read as follows:

7           **"PART       . ADJUDICATION OF FIREWORKS INFRACTIONS**

8           **§132D-A Definitions.** As used in this part:

9       "Concurrent trial" means a trial proceeding held in the  
10 district or family court in which the defendant is tried  
11 simultaneously in a civil case for any charged fireworks  
12 infraction and in a criminal case for any related criminal  
13 offense, with trials to be held in one court on the same date  
14 and at the same time.

15       "Fireworks infraction" means any violation of this chapter,  
16 any rule adopted pursuant to this chapter, or any county  
17 ordinance or rule enacted pursuant to this chapter.

18       "Hearing" means a proceeding conducted by the district  
19 court pursuant to section 132D-G at which the defendant to whom  
20 a notice of infraction was issued either admits to the fireworks  
21 infraction, contests the notice of infraction, or admits to the



1 fireworks infraction but offers an explanation to mitigate the  
2 monetary assessment imposed.

3 "Notice of infraction" means the citation form that is  
4 issued to the defendant at or after the time of the fireworks  
5 infraction and notifies the defendant of the civil infraction  
6 the defendant is charged with committing, whatever its title or  
7 denomination.

8 "Related criminal offense" means any criminal violation or  
9 crime, committed in the same course of conduct as a fireworks  
10 infraction, for which the defendant is arrested or charged.

11 "Trial" means a trial conducted by the district court  
12 pursuant to the rules of the district court and Hawaii rules of  
13 evidence.

14 **§132D-B Applicability.** (a) All fireworks infractions,  
15 including fireworks infractions committed by minors, shall be  
16 adjudicated pursuant to this chapter, except as provided in  
17 section 132D-14(a), subsection (b), or as otherwise specifically  
18 provided for in this part. This part shall be applied uniformly  
19 throughout the State and in all counties. Except as  
20 specifically provided otherwise in this part, no fireworks  
21 infraction shall be classified as a criminal offense.



1 (b) Where a defendant is charged with a fireworks  
2 infraction and the fireworks infraction is committed in the same  
3 course of conduct as a criminal offense for which the offender  
4 is arrested or charged, the fireworks infraction shall be  
5 adjudicated pursuant to this part; provided that the court may  
6 schedule any initial appearance, hearing, or trial on the  
7 fireworks infraction at the same date, time, and place as the  
8 arraignment, hearing, or trial on the related criminal offense.

9 Notwithstanding this subsection and subsection (c), the  
10 court shall not schedule any initial appearance, hearing, or  
11 trial on the fireworks infraction at the same date, time, and  
12 place as the arraignment, hearing, or trial on the related  
13 criminal offense where the related criminal offense is a felony  
14 or misdemeanor for which the defendant has demanded a jury  
15 trial.

16 (c) If the defendant requests a trial pursuant to  
17 section 132D-K, the trial shall be held in the district court of  
18 the circuit in which the fireworks infraction was committed. If  
19 the court schedules a concurrent trial pursuant to  
20 paragraph (1), the concurrent trial shall be held in the  
21 appropriate district or family court of the circuit in which the



1 fireworks infraction was committed, whichever has jurisdiction  
2 over the related criminal offense charged pursuant to the  
3 applicable statute or rule of court; provided that:

4 (1) The district or family court, for the purpose of  
5 trial, may schedule a civil trial on the fireworks  
6 infraction on the same date and at the same time as a  
7 criminal trial on the related criminal offense  
8 charged. The court shall enter a civil judgment as to  
9 the fireworks infraction and a judgment of conviction  
10 or acquittal as to the related criminal offense  
11 following the concurrent trial; and

12 (2) If the trial on the fireworks infraction is held  
13 separately from and before trial on any related  
14 criminal offense, the following shall be inadmissible  
15 in the prosecution or trial of the related criminal  
16 offense, except as expressly provided by the Hawaii  
17 rules of evidence:

18 (A) Any written or oral statement made by the  
19 defendant in proceedings conducted pursuant to  
20 section 132D-F(b); and



1 (B) Any testimony given by the defendant in the trial  
2 on the fireworks infraction.

3 These statements or testimony shall not be deemed a  
4 waiver of the defendant's privilege against  
5 self-incrimination in connection with any related  
6 criminal offense.

7 (d) In no event shall section 701-109 preclude prosecution  
8 for a related criminal offense where a fireworks infraction  
9 committed in the same course of conduct has been adjudicated  
10 pursuant to this part.

11 (e) If the defendant fails to appear at any scheduled  
12 court date before the date of trial or concurrent trial and:

13 (1) The defendant's civil liability for the fireworks  
14 infraction has not yet been adjudicated pursuant to  
15 section 132D-G, the court shall enter a judgment by  
16 default in favor of the State for the fireworks  
17 infraction unless the court determines that good cause  
18 or excusable neglect exists for the defendant's  
19 failure to appear; or

20 (2) The defendant's civil liability for the fireworks  
21 infraction has been previously adjudicated pursuant to



1 section 132D-G, the judgment earlier entered in favor  
2 of the State shall stand unless the court determines  
3 that good cause or excusable neglect exists for the  
4 defendant's failure to appear.

5 (f) If the defendant fails to appear at any scheduled  
6 court date before concurrent trial or fails to appear for  
7 concurrent trial scheduled pursuant to subsection (c)(1), the  
8 court shall enter a disposition pursuant to the Hawaii rules of  
9 penal procedure for the criminal offense.

10 **§132D-C Venue and jurisdiction.** (a) All fireworks  
11 infractions shall be adjudicated in the district and circuit  
12 courts where the alleged infraction occurred, except as  
13 otherwise provided by law.

14 (b) Except as otherwise provided by law, jurisdiction is  
15 in the district court of the circuit where the alleged fireworks  
16 infraction occurred. Except as otherwise provided in this part,  
17 district court judges shall adjudicate fireworks infractions.

18 **§132D-D Notice of infraction; form; determination final**  
19 **unless contested.** (a) The notice of infraction shall include  
20 the summons for the purposes of this part. Whenever a notice of  
21 infraction is issued, the defendant's signature, driver's



1 license number or state identification number, current address,  
2 and electronic mail address shall be noted on the notice. If  
3 the defendant refuses to sign the notice of infraction, the law  
4 enforcement officer shall record this refusal on the notice and  
5 issue the notice to the defendant. Individuals to whom a notice  
6 of infraction is issued under this part need not be arraigned  
7 before the court, unless required by rule of the supreme court.

8 (b) The form for the notice of infraction shall be  
9 prescribed by rules of the district court, which shall be  
10 uniform throughout the State; provided that each judicial  
11 circuit may include differing statutory, rule, or ordinance  
12 provisions on its respective notice of infraction.

13 (c) A notice of infraction that is generated by the use of  
14 electronic equipment or that bears the electronically stored  
15 image of any person's signature, or both, shall be valid under  
16 this part.

17 (d) The notice of infraction shall include the following:

18 (1) A statement of the specific fireworks infraction for  
19 which the notice was issued;

20 (2) A brief statement of the facts;





1 (3) A statement of the total amount to be paid for each  
2 fireworks infraction, which amount shall include any  
3 fee, surcharge, or cost required by statute,  
4 ordinance, or rule, and the monetary assessment  
5 established pursuant to section 132D-H, to be paid by  
6 the defendant;

7 (4) A statement of the options provided in  
8 section 132D-E(b) for answering the notice and the  
9 procedures necessary to exercise the options;

10 (5) A statement that the defendant to whom the notice is  
11 issued shall answer, choosing one of the options  
12 specified in section 132D-E(b), within twenty-one days  
13 of issuance of the notice;

14 (6) A statement that failure to answer the notice of  
15 infraction within twenty-one days of issuance shall  
16 result in the entry of judgment by default for the  
17 State and may result in the assessment of a late  
18 penalty;

19 (7) A statement that, at a hearing requested to contest  
20 the notice of infraction conducted pursuant to  
21 section 132D-G, no law enforcement officer shall be



1 present unless the defendant timely requests the court  
2 to have the law enforcement officer present, and that  
3 the standard of proof to be applied by the court is  
4 whether a preponderance of the evidence proves that  
5 the specified fireworks infraction was committed;

6 (8) A statement that, at a hearing requested for the  
7 purpose of explaining mitigating circumstances  
8 surrounding the commission of the fireworks infraction  
9 or in consideration of a written request for  
10 mitigation, the defendant shall be considered to have  
11 committed the fireworks infraction;

12 (9) A space in which the signature of the defendant to  
13 whom the notice of infraction was issued may be  
14 affixed; and

15 (10) The date, time, and place at which the defendant to  
16 whom the notice of infraction was issued shall appear  
17 in court, if the defendant is required by the notice  
18 to appear in person at the hearing.

19 **§132D-E Answer required.** (a) A defendant who receives a  
20 notice of infraction shall answer the notice within twenty-one  
21 days of the date of issuance of the notice. There shall be



1 included with the notice of infraction a preaddressed envelope  
2 directed to the designated district court.

3 (b) Provided that the notice of infraction does not  
4 require an appearance in person at a hearing as set forth in  
5 section 132D-D(d)(10), in answering a notice of infraction, a  
6 defendant shall have the following options:

7 (1) Admit the commission of the fireworks infraction in  
8 one of the following ways:

9 (A) By mail or in person, by completing the  
10 appropriate portion of the notice of infraction  
11 or preaddressed envelope and submitting it to the  
12 authority specified on the notice together with  
13 payment of the total amount stated on the notice  
14 of infraction. Payment by mail shall be in the  
15 form of a check, money order, or by an approved  
16 credit or debit card. Payment in person shall be  
17 in the form of United States currency, check,  
18 money order, or by an approved credit or debit  
19 card; or

20 (B) Via the Internet or by telephone, by submitting  
21 payment of the total amount stated on the notice



1 of infraction. Payment via the Internet or by  
2 telephone shall be by an approved credit or debit  
3 card;

4 (2) Deny the commission of the fireworks infraction and  
5 request a hearing to contest the fireworks infraction  
6 by completing the appropriate portion of the notice of  
7 infraction or preaddressed envelope and submitting it,  
8 either by mail or in person, to the authority  
9 specified on the notice. In lieu of appearing in  
10 person at a hearing, the defendant may submit a  
11 written statement of grounds on which the defendant  
12 contests the notice of infraction, which shall be  
13 considered by the court as a statement given in court  
14 pursuant to section 132D-G(a); or

15 (3) Admit the commission of the fireworks infraction and  
16 request a hearing to explain circumstances mitigating  
17 the fireworks infraction by completing the appropriate  
18 portion of the notice of infraction or preaddressed  
19 envelope and submitting it, either by mail or in  
20 person, to the authority specified on the notice. In  
21 lieu of appearing in person at a hearing, the



1 defendant may submit a written explanation of the  
2 mitigating circumstances, which shall be considered by  
3 the court as a statement given in court pursuant to  
4 section 132D-G(b).

5 (c) When answering the notice of infraction, the defendant  
6 shall affix the defendant's signature to the answer and shall  
7 state the address at which the defendant will accept future  
8 mailings from the court. No other response shall constitute an  
9 answer for purposes of this part.

10 **§132D-F Court action after answer or failure to answer.**

11 (a) When an admitting answer is received, the court shall enter  
12 judgment in favor of the State in the total amount specified in  
13 the notice of infraction.

14 (b) When a denying answer is received, the court shall  
15 proceed as follows:

16 (1) In the case of a fireworks infraction where the  
17 defendant requests a hearing at which the defendant  
18 will appear in person to contest the fireworks  
19 infraction, the court shall notify the defendant in  
20 writing of the date, time, and place of hearing to  
21 contest the notice of infraction. The notice of



1 hearing shall be mailed to the address provided by  
2 defendant in the denying answer, or if none was given,  
3 to the address provided by defendant when the notice  
4 of infraction was issued, or if none was provided, to  
5 the electronic mail address provided by the defendant  
6 when the notice of infraction was issued. The  
7 notification shall also advise the defendant that, if  
8 the defendant fails to appear at the hearing, the  
9 court shall enter judgment by default in favor of the  
10 State, as of the date of the scheduled hearing, and  
11 that the total amount specified in the default  
12 judgment shall be paid within thirty days of entry of  
13 default judgment; and

14 (2) When a denying answer is accompanied by a written  
15 statement of the grounds on which the defendant  
16 contests the notice of infraction, the court shall  
17 proceed as provided in section 132D-G(a) and shall  
18 notify the defendant of its decision, including the  
19 total amount assessed, if any, by mailing the notice  
20 of entry of judgment within forty-five days of the  
21 postmarked date of the answer to the address provided



1 by the defendant in the denying answer, or if none was  
2 given, to the address provided by defendant when the  
3 notice of infraction was issued, or if none was  
4 provided, to the electronic mail address provided by  
5 the defendant when the notice of infraction was  
6 issued. The notice of entry of judgment shall also  
7 advise the defendant, if it is determined that the  
8 fireworks infraction was committed and judgment is  
9 entered in favor of the State, that the defendant has  
10 the right, within thirty days of entry of judgment, to  
11 request a trial and shall specify the procedures for  
12 doing so. The notice of entry of judgment shall also  
13 notify the defendant, if an amount is assessed by the  
14 court for monetary assessments, fees, surcharges, or  
15 costs, that if the defendant does not request a trial  
16 within the time specified in this paragraph, the total  
17 amount assessed shall be paid within thirty days of  
18 entry of judgment.

19 (c) When an answer admitting commission of the firework  
20 infraction but seeking to explain mitigating circumstances is  
21 received, the court shall proceed as follows:



- 1           (1) In the case of a fireworks infraction where the  
2           defendant requests a hearing at which the defendant  
3           will appear in person to explain mitigating  
4           circumstances, the court shall notify the defendant in  
5           writing of the date, time, and place of the hearing to  
6           explain mitigating circumstances. The notice of  
7           hearing shall be mailed to the address provided by the  
8           defendant in the answer, or if none was given, to the  
9           address provided by the defendant when the notice of  
10          infraction was issued, or if none was provided, to the  
11          electronic mail address provided by the defendant when  
12          the notice of infraction was issued. The notification  
13          shall also advise the defendant that, if the defendant  
14          fails to appear at the hearing, the court shall enter  
15          judgment by default in favor of the State, as of the  
16          date of the scheduled hearing, and that the total  
17          amount stated in the default judgment must be paid  
18          within thirty days of entry of default judgment; and  
19          (2) If a written explanation is included with an answer  
20          admitting commission of the fireworks infraction, the  
21          court shall enter judgment for the State and, after





1 reviewing the explanation, determine the total amount  
2 of the monetary assessments, fees, surcharges, or  
3 costs to be assessed, if any. The court shall then  
4 notify the defendant of the total amount to be paid  
5 for the fireworks infraction, if any. There shall be  
6 no appeal from the judgment. If the court assesses an  
7 amount for monetary assessments, fees, surcharges, or  
8 costs, the court shall also notify the defendant that  
9 the total amount shall be paid within thirty days of  
10 entry of judgment.

11 (d) If the defendant fails to answer within twenty-one  
12 days of issuance of the notice of infraction, the court shall  
13 take action as provided in subsection (e).

14 (e) Whenever judgment by default in favor of the State is  
15 entered, the court shall mail a notice of entry of default  
16 judgment to the address provided by the defendant when the  
17 notice of infraction was issued, or if none was provided, to the  
18 electronic mail address provided by defendant when the notice of  
19 infraction was issued. The notice of entry of default judgment  
20 shall advise the defendant that the total amount specified in  
21 the default judgment shall be paid within thirty days of entry



1 of default judgment and shall explain the procedure for setting  
2 aside a default judgment. Judgment by default for the State  
3 entered pursuant to this part may be set aside pending final  
4 disposition of the fireworks infraction upon written application  
5 of the defendant and posting of an appearance bond equal to the  
6 amount of the total amount specified in the default judgment and  
7 any other assessment imposed pursuant to section 132D-H. The  
8 application shall show good cause or excusable neglect for the  
9 defendant's failure to take action necessary to prevent entry of  
10 judgment by default. Thereafter, the court shall determine  
11 whether good cause or excusable neglect exists for the  
12 defendant's failure to take action necessary to prevent entry of  
13 judgment by default. If so, the application to set aside  
14 default judgment shall be granted, the default judgment shall be  
15 set aside, and the notice of infraction shall be disposed of  
16 pursuant to this part. If not, the application to set aside  
17 default judgment shall be denied, the appearance bond shall be  
18 forfeited and applied to satisfy amounts due under the default  
19 judgment, and the notice of infraction shall be finally  
20 disposed. In either case, the court shall determine the



1 existence of good cause or excusable neglect and notify the  
2 defendant of its decision on the application in writing.

3 **§132D-G Hearings.** (a) In proceedings to contest a notice  
4 of infraction where the defendant to whom the notice was issued  
5 has timely requested a hearing and appears at the hearing:

6 (1) In lieu of the personal appearance by the law  
7 enforcement officer who issued the notice of  
8 infraction, the court shall consider the notice of  
9 infraction and any other written report made by the  
10 law enforcement officer, if provided to the court by  
11 the law enforcement officer, together with any oral or  
12 written statement by the defendant to whom the notice  
13 of infraction was issued;

14 (2) The standard of proof to be applied by the court shall  
15 be whether, by a preponderance of the evidence, the  
16 court finds that the fireworks infraction was  
17 committed; and

18 (3) After due consideration of the evidence and arguments,  
19 if any, the court shall determine whether commission  
20 of the fireworks infraction has been established.

21 Where the commission of the fireworks infraction has



1 not been established, judgment in favor of the  
2 defendant, dismissing the notice of infraction or any  
3 count therein with prejudice, shall be entered in the  
4 record. Where it has been established that the  
5 fireworks infraction was committed, the court shall  
6 enter judgment in favor of the State and shall assess  
7 a monetary assessment pursuant to section 132D-H,  
8 together with any fees, surcharges, or costs. The  
9 court also shall inform the defendant of the right to  
10 request a trial pursuant to section 132D-K. If the  
11 defendant requests a trial at the time of the hearing,  
12 the court shall provide the defendant with the trial  
13 date as soon as practicable.

14 (b) In proceedings to explain mitigating circumstances  
15 where the defendant to whom the notice of infraction was issued  
16 has timely requested a hearing and appears at the hearing:

17 (1) The procedure shall be limited to the issue of  
18 mitigating circumstances. A defendant who requests to  
19 explain the circumstances shall not be permitted to  
20 contest the notice of infraction;



1 (2) After the court has received the explanation, the  
2 court may enter judgment in favor of the State and may  
3 assess a monetary assessment pursuant to  
4 section 132D-H, together with any fees, surcharges, or  
5 costs;

6 (3) The court, after receiving the explanation, may vacate  
7 the admission and enter judgment in favor of the  
8 defendant, dismissing the notice of infraction or any  
9 count therein with prejudice, where the explanation  
10 establishes that the infraction was not committed; and

11 (4) There shall be no appeal from the judgment.

12 (c) If a defendant for whom a hearing has been scheduled  
13 to contest the notice of infraction or to explain mitigating  
14 circumstances fails to appear at the hearing, the court shall  
15 enter judgment by default for the State and take action as  
16 provided in section 132D-F(e).

17 **§132D-H Monetary assessments.** (a) A defendant found to  
18 have committed a fireworks infraction shall be assessed a  
19 monetary assessment pursuant to section 132D-14.



1 (b) In addition to any monetary assessment imposed for a  
2 fireworks infraction, the court may impose additional  
3 assessments for:

4 (1) Failure to pay a monetary assessment by the scheduled  
5 date of payment;

6 (2) The cost of service of a penal summons issued pursuant  
7 to this part; or

8 (3) The administrative costs of \$20 for each noncompliance  
9 with a rule associated with the processing of  
10 fireworks infractions, in addition to any monetary  
11 assessment imposed by the court, regardless of whether  
12 the monetary assessment is suspended.

13 (c) The clerk of the district court shall deposit the  
14 administrative costs collected into the judiciary computer  
15 system special fund pursuant to section 601-3.7.

16 (d) The court may grant to a defendant claiming inability  
17 to pay an extension of the period in which the monetary  
18 assessment shall be paid or may impose community service in lieu  
19 of the monetary assessment.

20 **§132D-I Time computation.** In computing any period of time  
21 prescribed or allowed by this part, the day of the act, event,



1 or default from which the period of time begins to run shall not  
2 be included. The last day of the period so computed shall be  
3 included, unless it is a Saturday, Sunday, or legal holiday, in  
4 which event the period runs until the end of the next day that  
5 is not a Saturday, Sunday, or legal holiday. Intermediate  
6 Saturdays, Sundays, and legal holidays shall be included.  
7 Whenever an act required to be performed under this part may be  
8 accomplished by mail, the act shall be deemed to have been  
9 performed on the date of the postmark on the mailed article.

10 **§132D-J Powers of the district court judge hearing cases**  
11 **pursuant to this part.** (a) A district court judge hearing  
12 cases pursuant to this part shall have all the powers of a  
13 district court judge under chapter 604, including the following  
14 powers:

- 15 (1) To conduct fireworks infraction hearings and impose  
16 monetary assessments;  
17 (2) To permit deferral of monetary assessments or impose  
18 community service in lieu of monetary assessments;  
19 (3) To dismiss a notice of infraction, with or without  
20 prejudice, or set aside a judgment for the State;



1 (4) To issue penal summonses and bench warrants and  
2 initiate contempt of court proceedings in proceedings  
3 conducted pursuant to section 132D-K;

4 (5) To issue penal summonses and bench warrants and  
5 initiate failure to appear proceedings in proceedings  
6 conducted pursuant to section 132D-D(d)(10); and

7 (6) To exercise other powers the court finds necessary and  
8 appropriate to carry out the purposes of this part.

9 **§132D-K Trial and concurrent trial.** (a) There shall be

10 no right to trial unless the defendant contests the notice of  
11 infraction pursuant to section 132D-G. If, after proceedings to  
12 contest the notice of infraction, a determination is made that  
13 the defendant committed the fireworks infraction, judgment shall  
14 enter in favor of the State. The defendant may request a trial  
15 pursuant to the Hawaii rules of evidence and the rules of the  
16 district court; provided that any request for trial shall be  
17 made within thirty days of entry of judgment. If, after  
18 appearing in person at a hearing to contest the notice of  
19 infraction, the defendant requests a trial at the conclusion of  
20 the hearing, the court shall provide the defendant with the  
21 trial date as soon as practicable.





1 (b) At the time of trial, the State shall be represented  
2 by a prosecuting attorney of the county in which the fireworks  
3 infraction occurred. The prosecuting attorney shall orally  
4 recite the charged fireworks infraction in court before  
5 commencement of the trial. Proof of the defendant's commission  
6 of the fireworks infraction shall be by a preponderance of the  
7 evidence.

8 (c) Appeals from judgments entered after a trial on the  
9 notice of infraction may be taken in the manner provided for  
10 appeals from district court civil judgments.

11 (d) If trial on the fireworks infraction is held before  
12 trial on any related criminal offense, the following shall be  
13 inadmissible in the subsequent prosecution or trial of the  
14 related criminal offense:

15 (1) Any written or oral statement made by the defendant in  
16 proceedings conducted pursuant to section 132D-F(b);  
17 and

18 (2) Any testimony given by the defendant in the trial on  
19 the fireworks infraction.



1 The statement or testimony, or both, shall not be deemed a  
2 waiver of the defendant's privilege against self-incrimination  
3 in connection with any related criminal offense.

4 (e) In any concurrent trial, the State shall be  
5 represented by a prosecuting attorney of the county in which the  
6 fireworks infraction and related crime occurred. Proof of the  
7 defendant's commission of the fireworks infraction shall be by a  
8 preponderance of the evidence, and proof of the related criminal  
9 offense shall be by proof beyond a reasonable doubt. The  
10 concurrent trial shall be conducted pursuant to the rules of the  
11 appropriate court, Hawaii rules of evidence, and Hawaii rules of  
12 penal procedure.

13 **§132D-L Rules.** (a) The supreme court may adopt rules of  
14 procedure for the conduct of all proceedings pursuant to this  
15 part.

16 (b) Chapter 626 shall not apply in proceedings conducted  
17 pursuant to this part, except for the rules governing privileged  
18 communications, and proceedings conducted under section 132D-K.

19 (c) Notwithstanding section 604-17, while the court is  
20 sitting in any matter pursuant to this part, the court shall not  
21 be required to preserve the testimony or proceedings, except



1 proceedings conducted pursuant to section 132D-K and proceedings  
2 in which the fireworks infraction is heard on the same date and  
3 time as any related criminal offense.

4 (d) The prosecuting attorney shall not participate in  
5 fireworks infraction proceedings conducted pursuant to this  
6 part, except proceedings pursuant to section 132D-K and  
7 proceedings in which a related criminal offense is scheduled for  
8 arraignment, hearing, or concurrent trial.

9 (e) Chapter 91 shall not apply in proceedings before the  
10 court.

11 (f) Except as otherwise provided in section 132D-B,  
12 chapter 571 and the Hawaii family court rules shall not apply in  
13 any proceedings conducted pursuant to this part."

14 SECTION 3. Chapter 132D, Hawaii Revised Statutes, is  
15 amended by designating sections 132D-1 to 132D-21 as part I and  
16 inserting a title before section 132D-1 to read as follows:

17 **"PART I. GENERAL PROVISIONS"**

18 SECTION 4. Section 132D-2, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By amending the definition of "license" to read:



1        ""License" means a nontransferable, formal authorization,  
2        valid for a period not to exceed one calendar year from the date  
3        of issuance and which the department is hereby authorized to  
4        issue under this [~~chapter,~~] this part, to engage in the act or  
5        acts specifically designated herein."

6        2. By amending the definition of "permit" to read:

7        ""Permit" means a nontransferable, formal authorization,  
8        valid for a period not to exceed one calendar year from the date  
9        of issuance and which a county is hereby authorized to issue  
10       under this [~~chapter,~~] part, to engage in the act or acts  
11       specifically designated herein."

12       SECTION 5. Section 132D-6, Hawaii Revised Statutes, is  
13       amended to read as follows:

14       "**§132D-6 Exceptions.** The prohibitions in section 132D-5  
15       do not apply to:

- 16       (1) The use of flares, noisemakers, or signals for  
17       warning, pest control, or illumination purposes by  
18       police and fire departments, utility companies,  
19       transportation agencies, and other governmental or  
20       private agencies or persons, including agricultural



1 operations, in connection with emergencies, their  
2 duties, or business;

3 (2) The sale or use of blank cartridges for a show or  
4 theater, or for signal, commercial, or institutional  
5 purposes in athletics or sports;

6 (3) The purchase and use of consumer fireworks, aerial  
7 devices, display fireworks, or articles pyrotechnic:

8 (A) In a movie, television production, or theatrical  
9 production for which valid permits have been issued  
10 by a county pursuant to section 132D-10; and

11 (B) In a movie or television production for which  
12 valid permits have been issued by the department  
13 of business, economic development, and tourism  
14 pursuant to section 201-14, or for which permits  
15 have been approved by the authority having  
16 jurisdiction; and

17 (4) The testing, disposal, or destruction of illegal  
18 fireworks by an agency with authority to enforce this  
19 ~~[chapter.]~~ part."

20 SECTION 6. Section 132D-7, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "**§132D-7 License or permit required.** A person shall not:

2       (1) Import, store, offer to sell, or sell, at wholesale or  
3       retail, aerial devices, display fireworks, articles  
4       pyrotechnic, or consumer fireworks unless the person  
5       has a valid license issued by the county; or

6       (2) Possess aerial devices, display fireworks, or articles  
7       pyrotechnic without a valid license to import, store,  
8       or sell aerial devices, display fireworks, or articles  
9       pyrotechnic, or a valid display permit as provided for  
10      in this [~~chapter.~~] part."

11      SECTION 7. Section 132D-8, Hawaii Revised Statutes, is  
12      amended as follows:

13      1. By amending subsection (b) to read:

14      "(b) Each storage, wholesaling, and retailing site shall  
15      be required to obtain a separate license. The license shall  
16      specify the date of issuance or effect and the date of  
17      expiration, which shall be March 31 of each year. The  
18      application shall be made on a form setting forth the date upon  
19      which the storage, sale, or offers for sale are to begin, the  
20      address of the location of the licensee, and the name of the  
21      proprietor, or, if a partnership, the name of the partnership



1 and the names of all partners or, if a corporation, the name of  
2 the corporation and the name of its officers. Any license  
3 issued pursuant to this [~~chapter~~] part may be revoked by the  
4 county if the licensee violates any provision of this chapter or  
5 if the licensee stores or handles the fireworks in [~~such~~] a  
6 manner as to present an unreasonable safety hazard."

7 2. By amending subsection (f) to read:

8 "(f) Any license issued pursuant to this [~~chapter~~] part  
9 shall be prominently displayed in public view at each licensed  
10 location."

11 SECTION 8. Section 132D-9, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§132D-9 Application for permit.** The permit required  
14 under section 132D-10 or 132D-16 shall be issued by the county  
15 or its authorized designees and be nontransferable. The county  
16 or its authorized designees shall issue all permits for which  
17 complete applications have been submitted and [~~which~~] that  
18 contain only correct information. The permit shall specify the  
19 date of issuance or effect and the date of expiration but in no  
20 case for a period to exceed one year. The permit for the  
21 purchase of consumer fireworks for the purposes of section 132D-



1 3 shall not allow purchase for more than one event as set forth  
2 in section 132D-3. The application shall be made on a form  
3 setting forth the dates for which the permit shall be valid, the  
4 location where the permitted activity is to occur, and the name  
5 of the proprietor or, if a partnership, the name of the  
6 partnership and the names of all partners or, if a corporation,  
7 the name of the corporation and the names of its officers. The  
8 permit application may be denied if the proposed use of  
9 fireworks or articles pyrotechnic presents a substantial  
10 inconvenience to the public or presents an unreasonable fire or  
11 safety hazard. Any permit issued pursuant to this [~~chapter~~]  
12 part shall be prominently displayed in public view at the site."

13 SECTION 9. Section 132D-11, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) The fee for the license required under section 132D-7  
16 shall be \$3,000 for importers, \$2,000 for each wholesaler's  
17 site, \$1,000 for each storage site, and \$500 for each retailer's  
18 site for each year or fraction of a year in which the licensee  
19 plans to conduct business and shall be payable to the county.  
20 The license fees shall be used solely by each county fire  
21 department to pay for the salary of an auditor of fireworks and





1 articles pyrotechnic records and all expenses incurred to  
2 fulfill the duties required, including the inspection of  
3 inventory and storage facilities, maintenance of required  
4 records, and the training of the auditor. The auditor shall  
5 monitor strict inventory and recordkeeping requirements to  
6 ensure that sales of fireworks or articles pyrotechnic are made  
7 only to license or permit holders under this ~~[chapter.]~~ part.  
8 The county shall provide an exemption from the fees under this  
9 section to nonprofit community groups for importation and  
10 storage of fireworks or articles pyrotechnic for displays once a  
11 year."

12 SECTION 10. Section 132D-14, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By amending its title to read:

15 "**§132D-14 Penalty[-]; fireworks infractions.**"

16 2. By amending subsection (b) to read:

17 "(b) Except as provided in subsection (a) or as otherwise  
18 specifically provided for in this chapter, any person violating  
19 any other provision of this chapter, shall be fined ~~[not]~~ no  
20 more than \$2,000 for each violation~~[-]~~, subject to the  
21 adjudication proceedings under part \_\_\_\_. Notwithstanding any



1 provision to the contrary in this section, any person violating  
2 section 132D-14.5 shall be fined at least \$500 and no more than  
3 \$2,000[-], subject to the adjudication proceedings under  
4 part \_\_\_\_\_."

5 SECTION 11. Section 132D-17.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§132D-17.5[+] **County ordinances.** (a) Nothing in this  
8 [~~chapter~~] part shall be construed to supersede or in any manner  
9 affect a county fireworks ordinance; provided that the ordinance  
10 is at least as stringent in the control or prohibition of  
11 fireworks as the law under this [~~chapter~~] part."

12 (b) Nothing in this [~~chapter~~] part shall prohibit a county  
13 from enacting ordinances that are more stringent in the control  
14 or prohibition of fireworks than this chapter. Honolulu city  
15 ordinance prohibiting the importation of consumer fireworks into  
16 Honolulu was an ordinance that was "more stringent in the  
17 control or prohibition of fireworks" enacted within the city's  
18 power granted under this [~~chapter~~] part."

19 SECTION 12. Section 132D-20, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "**§132D-20 Enforcement; probable cause for arrest.** (a)

2   This [~~chapter~~] part shall be enforced by each county. The  
3   counties are authorized to enforce and administer the provisions  
4   of this [~~chapter~~] part

5       (b) Arrests for offenses under this [~~chapter~~] part or  
6   under a county fireworks ordinance shall be made in compliance  
7   with chapter 803. The facts and circumstances to establish  
8   probable cause for an arrest may include but are not limited to:

9       (1) Statements from individuals who witnessed the offense,  
10       even if those individuals are not law enforcement  
11       officers; and

12       (2) Photographs, video recordings, or other recordings  
13       that show the commission of the offense and can be  
14       authenticated by one or more witnesses; provided that  
15       a recording made using an unmanned aerial vehicle  
16       shall be exempt from the requirement of authentication  
17       by one or more witnesses.

18       For the purposes of this subsection:

19       "Other recording" includes any photograph or a video made  
20   using an unmanned aerial vehicle.



1 "Unmanned aerial vehicle" means any aerial vehicle that is  
2 operated without the possibility of direct human intervention  
3 within or on the aerial vehicle. The term "unmanned aerial  
4 vehicle" does not include a remote-controlled airplane."

5 SECTION 13. Section 571-41, Hawaii Revised Statutes, is  
6 amended by amending subsection (f) to read as follows:

7 "(f) The judge, or the senior judge if there is more than  
8 one, may by order confer concurrent jurisdiction on a district  
9 court created under chapter 604 to hear and dispose of cases of  
10 violation of traffic laws or ordinances, or fireworks infraction  
11 rules established pursuant to part of chapter 132D, by  
12 children, provision to the contrary in section 571-11 or  
13 elsewhere notwithstanding. The exercise of jurisdiction over  
14 children by district courts shall, nevertheless, be considered  
15 noncriminal in procedure and result in the same manner as though  
16 the matter had been adjudicated and disposed of by a family  
17 court."

18 SECTION 14. Section 601-3.7, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:



1       "(a) There is established in the state treasury a special  
2 fund to be known as the judiciary computer system special fund,  
3 which shall contain the following:

4       (1) Moneys collected from administrative fees pursuant to  
5 section 287-3(a);

6       (2) Fees prescribed by the supreme court by rule of court  
7 for electronic document certification, electronic  
8 copies of documents, and for providing bulk access to  
9 electronic court records and compilations of data; and

10       (3) Fees pursuant to sections 132D-H(b) (3), 607-4(b) (10),  
11 and 607-5(c) (32)."

12       SECTION 15. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$           or so  
14 much thereof as may be necessary for fiscal year 2021-2022 and  
15 the same sum or so much thereof as may be necessary for fiscal  
16 year 2022-2023 to update the judiciary information management  
17 system to implement the adjudications process established by  
18 this Act.

19       The sums appropriated shall be expended by the judiciary  
20 for the purposes of this Act.



1       SECTION 16. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4       SECTION 17. In codifying the new sections added by  
5 section 2 and referenced in section 14 of this Act, the revisor  
6 of statutes shall substitute appropriate section numbers for the  
7 letters used in designating the new sections in this Act.

8       SECTION 18. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10       SECTION 19. This Act shall take effect on January 1, 2050.



# H.B. NO. 1245 H.D. 2

**Report Title:**

Fireworks; Fireworks Infractions; Adjudication; Judiciary;  
Appropriation

**Description:**

Establishes an expeditious adjudication system for the  
processing of fireworks infractions. Appropriates funds.  
Effective 1/1/2050. (HD2)

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

