
A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. Chapter 132D, Hawaii Revised Statutes, is

2 amended by adding a new section to be appropriately designated

3 and to read as follows:

4 "§132D- Consumer and display fireworks, aerial devices,

5 and articles pyrotechnic tax. (a) For the privilege of

6 conducting business and other activities in the State, every

7 wholesaler or retailer, in addition to any other taxes provided

8 by law, shall pay an excise tax equal to twenty-five per cent of

9 the value of each consumer or display firework, aerial device,

10 or article pyrotechnic sold, used, or possessed by a wholesaler

11 or retailer, whether or not sold at wholesale, or if not sold

12 then at the same rate upon the use by the wholesaler or

13 retailer.

14 (b) Where the tax imposed pursuant to this section has

15 been paid on consumer or display fireworks, aerial devices, or

16 articles pyrotechnic that thereafter become the subject of a

17 casualty loss deduction allowable under chapter 235, the tax



1 paid shall be refunded or credited to the account of the
2 wholesaler or retailer."

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

5 1. By amending the definition of "aerial device" to read:

6 "Aerial device" means any fireworks containing one hundred
7 thirty milligrams or less of explosive materials that produces
8 an audible or visible effect and is designed to rise into the
9 air and explode or detonate in the air or to fly about above the
10 ground[, ~~and that is prohibited for use by any person who does~~
11 ~~not have a permit for display issued by a county under section~~
12 ~~132D-16~~]. "Aerial devices" classified as fireworks under UN0336
13 and UN0337 by the United States Department of Transportation as
14 set forth in Title 49 Code of Federal Regulations include
15 firework items commonly known as bottle rockets, sky rockets,
16 missile-type rockets, helicopters, torpedoes, daygo bombs, roman
17 candles, flying pigs, and jumping jacks that move about the
18 ground farther than a circle with a radius of twelve feet as
19 measured from the point where the item was placed and ignited,
20 aerial shells, and mines."

21 2. By deleting the definition of "cultural":



1 [~~"Cultural" means relating to the arts, customs,~~
2 ~~traditions, mores, and history of all of the various ethnic~~
3 ~~groups of Hawaii."~~]

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

6 "**§132D-3 Permissible uses of consumer fireworks~~[-]~~ and**
7 **aerial devices.** Consumer fireworks and aerial devices may be
8 set off, ignited, discharged, or otherwise caused to explode
9 within the State [~~only~~:-

10 ~~(1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New~~
11 ~~Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New~~
12 ~~Year's Day; and from 1:00 p.m. to 9:00 p.m. on the~~
13 ~~Fourth of July; or~~

14 ~~(2) From 9:00 a.m. to 9:00 p.m. as allowed by permit~~
15 ~~pursuant to section 132D 10 if the proposed cultural~~
16 ~~use is to occur at any time other than during the~~
17 ~~periods prescribed in paragraph (1);~~

18 ~~provided that the purchase of not more than five thousand~~
19 ~~individual consumer fireworks commonly known as firecrackers~~
20 ~~shall be allowed under each permit.] at any time."~~



SECTION 4. Section 132D-4, Hawaii Revised Statutes, is amended to read as follows:

"§132D-4 Permissible uses of display fireworks~~[,]~~ and articles pyrotechnic~~[, and aerial devices]~~. (a) Display fireworks~~[,]~~ and articles pyrotechnic~~[, and aerial devices]~~ may be purchased, set off, ignited, or otherwise caused to explode in the State only if for display and permitted in writing pursuant to sections 132D-10 and 132D-16.

(b) Display fireworks~~[,]~~ and articles pyrotechnic~~[, and aerial devices]~~ shall be set off, ignited, discharged, or otherwise caused to explode within the State only from 9:00 a.m. to 9:00 p.m.; provided that the applicable county fire chief may extend the time period for special events; provided further that the time restriction established in this subsection shall not apply to display fireworks~~[,]~~ and articles pyrotechnic~~[, and aerial devices]~~ set off, ignited, discharged, or otherwise caused to explode within the State solely as part of a movie or television production."

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



1 "§132D-5 General prohibitions. [~~(a)~~] It shall be
2 unlawful for any person without a permit issued under section
3 132D-10 by a county fire department to:

4 (1) Remove or extract the pyrotechnic contents from any
5 fireworks;

6 (2) Throw any ignited fireworks:

7 (A) From, at, or into a vehicle;

8 (B) At a person or an animal; and

9 (C) From above the first floor of any building; or

10 (3) Set off, ignite, discharge, or otherwise cause to
11 explode any fireworks:

12 (A) Above the first floor of any building;

13 (B) In any vehicle;

14 ~~[(C) At any time not within the periods for use~~
15 ~~prescribed in section 132D-3;~~

16 ~~(D)]~~ (C) Within one thousand feet of any operating
17 hospital, licensed convalescent home, licensed
18 home for the elderly, zoo, licensed animal
19 shelter, or licensed animal hospital;



[~~(E)~~] (D) In any school building, or on any school grounds and yards without first obtaining authorization from appropriate school officials;

[~~(F)~~] (E) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; in any officially designated forest or wildlife preserve; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; and

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

~~[(b) It shall be unlawful to purchase consumer fireworks more than five calendar days before the time periods for permissible use under section 132D 3.]~~

~~(c) It shall be unlawful to sell consumer fireworks after 12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's Day, and 8:00 p.m. on the Fourth of July.] "~~

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

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



- 1 (1) Import, store, offer to sell, or sell, at wholesale or
2 retail, aerial devices, display fireworks, articles
3 pyrotechnic, or consumer fireworks unless the person
4 has a valid license issued by the county; or
- 5 (2) Possess [~~aerial devices,~~] display fireworks[~~7~~] or
6 articles pyrotechnic without a valid license to
7 import, store, or sell [~~aerial devices,~~] display
8 fireworks[~~7~~] or articles pyrotechnic, or a valid
9 display permit as provided for in this chapter."

10 SECTION 7. Section 132D-8, Hawaii Revised Statutes, is
11 amended by amending subsections (d) and (e) to read as follows:

12 "(d) It shall be unlawful for any licensee, other than a
13 wholesaler who is selling or transferring fireworks or articles
14 pyrotechnic to a licensed retailer, to sell or offer to sell,
15 exchange for consideration, give, transfer, or donate any
16 fireworks or articles pyrotechnic at any time to any person who
17 does not present a permit duly issued as required by section
18 132D-10 or 132D-16. The permit shall be signed by the seller or
19 transferor at the time of sale or transfer of the fireworks or
20 articles pyrotechnic, and the seller or transferor shall
21 indicate on the permit the amount and type of fireworks or



1 articles pyrotechnic sold or transferred. No person shall sell
2 or deliver fireworks to any permittee in any amount in excess of
3 the amount specified in the permit, less the amount shown on the
4 permit to have been previously purchased[~~;~~ ~~provided that no~~
5 ~~fireworks shall be sold to a permittee holding a permit issued~~
6 ~~for purposes of section 132D-3, more than five calendar days~~
7 ~~before the applicable time period under section 132D-3~~].

8 (e) [~~Aerial devices, display~~] Display fireworks[~~;~~ ~~or~~] and
9 articles pyrotechnic shall only be sold or transferred by a
10 wholesaler to a person with a valid permit under sections
11 132D-10 and 132D-16. No person with a valid permit under
12 sections 132D-10 and 132D-16 shall sell or transfer [~~aerial~~
13 ~~devices,~~] display fireworks[~~;~~] or articles pyrotechnic to any
14 other person."

15 SECTION 8. Section 132D-8.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§132D-8.5 Importation of [~~aerial devices,~~] display**
18 **fireworks[~~;~~] or articles pyrotechnic for display.** [~~Aerial~~
19 ~~devices,~~ ~~display~~] Display fireworks[~~;~~ ~~or~~] and articles
20 pyrotechnic shall only be imported and stored, if necessary, in
21 an amount sufficient for an anticipated three-month inventory;



1 provided that if a licensee under section 132D-7 provides
2 ~~[aerial devices]~~ display fireworks~~[7]~~ or articles pyrotechnic
3 for displays as allowed under section 132D-16 more than once a
4 month, the licensee may import or store, if necessary,
5 sufficient ~~[aerial devices]~~ display fireworks~~[7]~~ or articles
6 pyrotechnic for a six-month inventory."

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

9 "**§132D-9 Application for permit.** The permit required
10 under section 132D-10 or 132D-16 shall be issued by the county
11 or its authorized designees and be nontransferable. The county
12 or its authorized designees shall issue all permits for which
13 complete applications have been submitted and which contain only
14 correct information. The permit shall specify the date of
15 issuance or effect and the date of expiration but in no case for
16 a period to exceed one year. ~~[The permit for the purchase of~~
17 ~~consumer fireworks for the purposes of section 132D-3 shall not~~
18 ~~allow purchase for more than one event as set forth in section~~
19 ~~132D-3.]~~ The application shall be made on a form setting forth
20 the dates for which the permit shall be valid, the location
21 where the permitted activity is to occur, and the name of the



1 proprietor or, if a partnership, the name of the partnership and
2 the names of all partners or, if a corporation, the name of the
3 corporation and the names of its officers. The permit
4 application may be denied if the proposed use of fireworks or
5 articles pyrotechnic presents a substantial inconvenience to the
6 public or presents an unreasonable fire or safety hazard. Any
7 permit issued pursuant to this chapter shall be prominently
8 displayed in public view at the site."

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

11 "**§132D-10 Permits.** A permit shall be required for the
12 purchase and use of:

13 ~~[(1) Any consumer fireworks commonly known as firecrackers~~
14 ~~upon payment of a fee of \$25;~~

15 ~~+(2)]~~ (1) Any ~~[aerial devices,~~ display fireworks~~]~~ or
16 articles pyrotechnic for the purposes of section
17 132D-16 upon payment of a fee of \$110; and

18 ~~[(+3)]~~ (2) Any consumer fireworks or aerial devices for the
19 purposes of section 132D-5 ~~[or for cultural uses that~~
20 ~~occur at any time other than during the periods~~



1 ~~prescribed in section 132D-3(1)]~~ upon a payment of a
2 fee of \$25."

3 SECTION 11. Section 132D-14, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) Any person:

6 (1) Importing aerial devices, display fireworks, or
7 articles pyrotechnic without having a valid license
8 under section 132D-7 shall be guilty of a class C
9 felony;

10 (2) Purchasing, possessing, setting off, igniting, or
11 discharging [~~aerial devices,~~] display fireworks[~~]~~ or
12 articles pyrotechnic without a valid permit under
13 sections 132D-10 and 132D-16, or storing, selling, or
14 possessing [~~aerial devices,~~] display fireworks[~~]~~ or
15 articles pyrotechnic without a valid license under
16 section 132D-7 [~~, or allowing an individual to possess,~~
17 ~~set off, ignite, or otherwise cause to explode any~~
18 ~~aerial device in violation of section 132D-14.5]~~:

19 (A) If the total weight of the [~~aerial devices,~~]
20 display fireworks[~~]~~ or articles pyrotechnic is



1 twenty-five pounds or more, shall be guilty of a
2 class C felony; or

3 (B) If the total weight of the [~~aerial devices,~~]
4 display fireworks[~~7~~] or articles pyrotechnic is
5 less than twenty-five pounds, shall be guilty of
6 a misdemeanor;

7 (3) Who transfers or sells [~~aerial devices,~~] display
8 fireworks[~~7~~] or articles pyrotechnic to a person who
9 does not have a valid permit under sections 132D-10
10 and 132D-16, shall be guilty of a class C felony; and

11 (4) Who removes or extracts the pyrotechnic contents from
12 any fireworks or articles pyrotechnic and uses the
13 contents to construct fireworks, articles pyrotechnic,
14 or a fireworks or articles pyrotechnic related device
15 shall be guilty of a misdemeanor.

16 (b) Except as provided in subsection (a) or as otherwise
17 specifically provided for in this chapter, any person violating
18 any other provision of this chapter, shall be fined not more
19 than \$2,000 for each violation. [~~Notwithstanding any provision~~
20 to the contrary in this section, any person violating section



1 ~~132D-14.5 shall be fined at least \$500 and no more than~~
2 ~~\$2,000.] "~~

3 SECTION 12. Section 132D-16, Hawaii Revised Statutes, is
4 amended as follows:

5 **"§132D-16 Permit for display.** (a) Any person desiring to
6 set off, ignite, or discharge [~~aerial devices,~~] display
7 fireworks[~~,~~] or articles pyrotechnic for a display shall apply
8 to, and obtain a permit as required by section 132D-10, from the
9 county not less than twenty days before the date of the display.

10 (b) The application shall state, among other things:

11 (1) The name, age, and address of the applicant;

12 (2) The name, age, and address of the person who will
13 operate the display, and verification that the person
14 is a licensed pyrotechnic operator;

15 (3) The time, date, and place of the display;

16 (4) The type and quantity of [~~aerial devices,~~] display
17 fireworks[~~,~~] or articles pyrotechnic to be displayed;
18 and

19 (5) The purpose or occasion for which the display is to be
20 presented.



1 (c) No permit shall be issued under this section unless
2 the applicant presents, at the applicant's option, either:

3 (1) A written certificate of an insurance carrier, which
4 has been issued to or for the benefit of the
5 applicant, or a policy providing for the payment of
6 damages in the amount of not less than \$5,000 for
7 injury to, or death of, any one person, and subject to
8 the foregoing limitation for one person; in the amount
9 of not less than \$10,000 for injury to, or death of,
10 two or more persons; and in the amount of not less
11 than \$5,000 for damage to property, caused by reason
12 of the authorized display and arising from any
13 tortious acts or negligence of the permittee, the
14 permittee's agents, employees, or subcontractors. The
15 certificate shall state that the policy is in full
16 force and effect and will continue to be in full force
17 and effect for not less than ten days after the date
18 of the display; or

19 (2) The bond of a surety company duly authorized to
20 transact business within the State, or a bond with not
21 less than two individual sureties who together have



1 assets in the State equal in value to not less than
2 twice the amount of the bond, or a deposit of cash, in
3 the amount of not less than \$10,000 conditioned upon
4 the payment of all damages that may be caused to any
5 person or property by reason of the authorized display
6 and arising from any tortious acts or negligence of
7 the permittee, the permittee's agents, employees, or
8 subcontractors. The security shall continue to be in
9 full force and effect for not less than ten days after
10 the date of the display.

11 The county may require coverage in amounts greater than the
12 minimum amounts set forth in paragraph (1) or (2) if deemed
13 necessary or desirable in consideration of ~~[such]~~ various
14 factors ~~[as]~~, including the location and scale of the display,
15 the type of ~~[aerial devices]~~ display fireworks~~[7]~~ or articles
16 pyrotechnic to be used, and the number of spectators expected.

17 (d) The county, pursuant to duly adopted rules, shall
18 issue the permit after being satisfied that the requirements of
19 subsection (c) have been met, the display will be handled by a
20 pyrotechnic operator duly licensed by the State, the display
21 will not be hazardous to property, and the display will not



1 endanger human life. The permit shall authorize the holder to
2 display [~~aerial devices~~,] display fireworks[7] or articles
3 pyrotechnic only at the place and during the time set forth
4 therein, and to acquire and possess the specified [~~aerial~~
5 ~~devices~~,] display fireworks[7] or articles pyrotechnic between
6 the date of the issuance of the permit and the time during which
7 the display of those [~~aerial devices~~,] display fireworks[7] or
8 articles pyrotechnic is authorized."

9 SECTION 13. Section 132D-16.6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§132D-16.6[+] **Display site inspection.** Each county
12 fire chief [~~is authorized to~~] may conduct inspections of the
13 persons conducting a display, including the site where the
14 display is occurring or will occur within the fire chief's
15 county to determine compliance with the applicable county code
16 and the current editions of the National Fire Protection
17 Association's "NFPA 1123: Code for Fireworks Display" and "NFPA
18 1126: Standard for the Use of Pyrotechnics Before a Proximate
19 Audience". An inspection fee of \$200 shall be assessed by the
20 county upon the holder of a permit for a display under section
21 [~~132D-10(2)~~,] 132D-10(1), which shall be separate from the



1 display permit fee under that section. The inspection fee shall
2 be paid to the county in which the display will occur, and shall
3 be used to defray the cost of the official conducting the
4 inspection of the display setup."

5 SECTION 14. Section 132D-16.7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[+]~~**\$132D-16.7**~~[+]~~ **Display stop order.** A county fire chief
8 ~~[is authorized to]~~ may immediately revoke or suspend any permit
9 issued under section 132D-16 for display of display fireworks~~[,]~~
10 or articles pyrotechnic~~[, or aerial devices]~~ within the fire
11 chief's county for the following reasons:

- 12 (1) Adverse climatic or atmospheric conditions;
13 (2) The issuance of red flag warnings; or
14 (3) Any other conditions determined to make the display
15 potentially hazardous to persons or property."

16 SECTION 15. Section 132D-14.5, Hawaii Revised Statutes, is
17 repealed.

18 "~~[+]~~**\$132D-14.5**~~[+]~~ **Liability of homeowner, renter, or person**
19 **otherwise responsible for real property.** A homeowner, renter,
20 or person otherwise responsible for the real property who
21 intentionally, knowingly, or recklessly allows an individual,



1 ~~while on the real property, to possess, set off, ignite, or~~
2 ~~otherwise cause to explode any aerial device shall be deemed to~~
3 ~~be in violation of this chapter and shall be subject to the~~
4 ~~penalties specified in section 132D-14(a)(2) and (b)."]~~

5 SECTION 16. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 17. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 18. This Act shall take effect on July 1, 2021.

11
INTRODUCED BY: _____



JAN 22 2021



H.B. NO. 661

Report Title:

Fireworks; Aerial Devices; Legalization; Taxation

Description:

Authorizes the use of aerial devices and consumer fireworks, including firecrackers, at any time without a permit. Imposes a 25% tax on all fireworks, aerial devices, and articles pyrotechnic.

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

