



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in OPPOSITION to HB 1246, HD 2
RELATING TO FIREWORKS**

SENATOR CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

Hearing Date: 3/23/2021

Room Number: Via Videoconference

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor’s
2 Executive Budget Request for the Department of Health’s (Department) appropriations and
3 personnel priorities. Additional resources would be required for the Department to take on the
4 increase in enforcement case development for use of illegal fireworks.

5 **Department Testimony:** The Department opposes this bill because it believes this bill will not
6 accomplish its stated purpose, which is to provide a better deterrent to the illegal use of
7 fireworks. House Standing Committee Report 884 states that, “This measure is intended to
8 strengthen enforcement through alternative enforcement mechanisms and imposition of
9 additional penalties ...” While it does the latter by adding air and noise pollution penalties, we
10 do not believe it accomplishes the former – these alternative mechanisms will not result in
11 strengthened enforcement. Police officers, who continue to carry the burden of being the front
12 line of enforcement for illegal fireworks, are not equipped to gather air and noise data that would
13 enable programs to make meaningful enforcement cases.

14 If the intent of this bill is to increase deterrents to illegal fireworks, the most direct and
15 appropriate method would be to strengthen the existing criminal penalties and increase the
16 existing fines in Hawaii Revised Statutes, Chapter 132D, Fireworks, as proposed in HB 508,
17 HD1. Doing so would ensure that greater penalties (monetary and other) are applied to violators,
18 whereas the passing of HB 1246 is not expected to result in significant monetary penalties as
19 intended. In addition, eighty percent of the increased penalties acquired through the passing of

1 HB 508 would be allocated to county law enforcement as required by the Fireworks Control
2 Law, allowing greater resources to be used for fireworks enforcement. Air pollution and noise
3 penalties are allocated to the State Revolving Fund for environmental response activities and
4 would not be used to further support county law enforcement.

5 The air and noise programs are regulatory programs which ensure compliance with and
6 enforce Hawaii's air and noise regulations, such as emissions limits to prevent a source from
7 exceeding established air quality standards. Should a violation occur, the programs must know
8 the severity and impact of the violation in order to determine the appropriate penalty; in general,
9 the more severe or impactful the violation, the greater the penalty would be. However, the
10 enforcement action case development and penalty calculation for such a fireworks rule would be
11 unfeasible for the Department's programs. In the bill, the police are responsible for catching and
12 citing violators and the Department's programs would perform a secondary evaluation of
13 fireworks violations and add their penalties based on the police reports. In practice, it would be
14 extremely difficult, if not impossible, for the air program to identify the volume of air pollutant
15 emissions and type of pollutant from a report, or to distinguish the emissions from other
16 fireworks, some of which are legal, or even from background concentrations that normally exist.
17 Similarly, it is highly unlikely that the noise program will be able to determine key penalty
18 factors such as decibel levels and duration based on police reports. As a result, very few
19 violations, if any, would result in a substantial air or noise violation penalty as intended in this
20 bill.

21 Three enforcement options exist for any potential air pollution violation. The first is
22 No Further Action, if no evidence of a violation is found. Second is an Informal Notice of
23 Violation (INOV), which carries no monetary fine. The INOV is most often used for a first
24 offender or when the severity of a violation cannot be determined. Finally, a formal Notice and
25 Finding of Violation and Order (NFVO) which does have a monetary fine, the amount of which
26 would depend on the program's ability to determine criteria such as severity. The formal NFVO
27 can be a half-year or longer process that may include appeals, negotiations, and a contested case
28 hearing, all of which would require the use of additional staff resources.

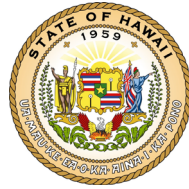
1 This proposal would also increase the workload on the staff of the two environmental
2 programs. The Department has experienced budget cuts and restrictions on filling vacant staff
3 positions due to the State’s current economic situation. Both the air and noise programs are
4 currently operating at a decreased capacity. Performing these new tasks proposed in the bill
5 would take staff away from working on other air and noise enforcement cases and cause delays
6 in pursuing violations of air emissions limits and noise standards established to protect public
7 health. While smoke and noise pollution on New Year’s Eve clearly have a negative impact on
8 many people in the community, data over the last ten years informs the Department that the air
9 pollutant levels on that day have not exceeded the health-based National Ambient Air Quality
10 Standards or necessarily constituted a noise violation. Having additional agencies, such as
11 environmental protection programs, pursue different penalties for a single violation would take
12 away resources from other air and noise program responsibilities without accomplishing the
13 bill’s purpose of deterrence.

14 **Offered Amendments:** None

15 Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



ANNE E. PERREIRA-EUSTAQUIO
DIRECTOR

JOANN A. VIDINHAR
DEPUTY DIRECTOR

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March 19, 2021

The Honorable Clarence K. Nishihara, Chair
Committee on Public Safety, Intergovernmental,
and Military Affairs
The State Senate
State Capitol, Room 214
Honolulu, Hawaii 96813

Dear Chair Nishihara:

Subject: House Bill (HB) 1246, House Draft (HD) 2 Relating to Fireworks

I am Steven Goble, Vice Chair of the State Fire Council (SFC). The SFC offers the following comments on HB 1246, HD 2, which specifies that certain violations of the Fireworks Control Law shall be considered an activity that causes air pollution and is a violation of noise control rules, which may subject the violator to citations under the air and noise pollution laws. Penalties under these laws are higher than the Fireworks Control Law.

This bill would penalize violators for use of fireworks outside of the permissible dates and times and for not having valid fireworks permits. Using the more stringent penalties found in the air and noise pollution laws, this bill would attempt to curtail illegal fireworks use by imposing greater penalties for violators. The bill does not consider the burden of proof placed on the Department of Health to accurately measure air quality or decibel levels while the illegal fireworks use is taking place. This presents a nearly impossible task and would result in no impact to the problem.

It is our belief that illegal fireworks are being shipped into the State undeclared, and escaping any detection by law enforcement authorities. Once in the community, fireworks becomes nearly impossible to trace, making it difficult for law enforcement to cite or arrest reported violators. Therefore, the illegal use continues to multiply each year. A comprehensive effort by federal, state, and county officials using every available method for discovery prior to its distribution into the State would have the greatest impact in curtailing illegal fireworks use.

The Honorable Clarence Nishihara, Chair
Page 2
March 19, 2021

The SFC fully supports a total ban on fireworks. Its continued widespread use endangers the public, not only when it is being used, but also when it is transported throughout the state. Deaths, serious injuries, and fires have occurred along with property damage. Neighborhoods are impacted by noise and air pollution, veterans are reminded of combat conditions, and animals are traumatized for weeks and sometimes months preceding these holiday celebrations.

The general welfare, public safety, and property protection are priorities for the SFC and we thank you for the opportunity to provide comments to HB 1246, HD 2.

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

Sincerely,

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

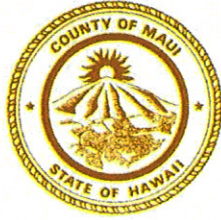
Steven Goble
Vice Chair

SG/GL:st

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

March 19, 2021

The Honorable Clarence K. Nishihara, Chair
Committee on Public Safety, Intergovernmental,
and Military Affairs
The State Senate
State Capitol, Room 214
Honolulu, Hawaii 96813

Dear Chair Nishihara:

Subject: House Bill (HB) 1246, House Draft (HD) 2 Relating to Fireworks

I am David C. Thyne, member of the State Fire Council (SFC) and Fire Chief of the Maui Fire Department (MFD). The SFC offers the following comments on HB 1246, HD 2, which specifies that certain violations of the Fireworks Control Law shall be considered an activity that causes air pollution and is a violation of noise control rules, which may subject the violator to citations under the air and noise pollution laws. Penalties under these laws are higher than the Fireworks Control Law.

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It is our belief that illegal fireworks are being shipped into the State undeclared, and escaping any detection by law enforcement authorities. Once in the community, fireworks become nearly impossible to trace, making it difficult for law enforcement to cite or arrest reported violators. Therefore, the illegal use continues to multiply each year. A comprehensive effort by federal, state, and county officials using every available method for discovery prior to its distribution into the State would have the greatest impact in curtailing illegal fireworks use.

The SFC fully supports a total ban on fireworks. Its continued widespread use endangers the public, not only when it is being used, but also when it is transported throughout the state. Neighborhoods are impacted by noise and air pollution, veterans are reminded of combat conditions, and animals are traumatized for weeks and sometimes months preceding these holiday celebrations. Deaths, serious injuries, and fires have occurred along with property damage. While fireworks injuries occur primarily to children, an adult male who lived on Kauai succumbed to fatal injuries sustained from a fireworks explosion on December 31, 2020. Hawaii news media reports at least seven others, including juveniles, were injured from fireworks misuse on New Year's Eve 2020.

The general welfare, public safety, and property protection are priorities for the SFC and we thank you for the opportunity to provide comments to HB 1246, HD 2.

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

Sincerely,



DAVID C. THYNE
Fire Chief



Hawaiian Humane Society

People for animals. Animals for people.

2700 Waiialae Avenue Honolulu, Hawaii 96826
808.356.2200 • HawaiianHumane.org

Date: March 18, 2021

To: Chair Senator Clarence K. Nishihara
Vice Chair Senator J. Kalani English
and Members of the Committee on
Public Safety, Intergovernmental, and Military Affairs

Submitted By: Stephanie Kendrick, Public Policy Advocate
Hawaiian Humane Society, 808-356-2217

RE: Testimony in support of HB 1246, HD2: Relating to Fireworks
Tuesday, March 23, 2021, 1 p.m., Via Videoconference

Aloha Chair Nishihara, Vice Chair English and Committee Members,

On behalf of the Hawaiian Humane Society, thank you for considering our support for House Bill 1246, HD2, which specifies that certain violations of the fireworks control law shall be considered a violation of noise control rules, which may subject the violator to a citation under the noise pollution law.

Hawaiian Humane supports any attempt to remove fireworks from residential neighborhoods, to increase penalties, and to enhance enforcement. The noise pollution caused by fireworks is especially harmful to our animal companions.

Animals who flee their homes in fear are at enormous risk of injury and death. Good Samaritans often bring deceased pets to the Hawaiian Humane Society with the goal of providing closure to their owners. That number averages 1-2 a day. Between New Year's Day and Jan. 2 the number spikes. This year we received 13 deceased animals within that timeframe, last year 14 and in 2019 seven. Even when families keep their pets safely indoors, the loud noises fireworks produce cause fear, anxiety and stress in animals. This anxiety can do lasting damage to a pet's emotional and physical health. Neither people nor animals should have to take tranquilizers just to survive the impacts of illegal behavior by their neighbors.

We urge the committee to restore peace and safety to our neighborhoods. Mahalo for your consideration.

HB-1246-HD-2

Submitted on: 3/18/2021 2:51:23 PM

Testimony for PSM on 3/23/2021 1:00:00 PM

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

Comments:

anything that will impede illegal fireworks is welcome. the only fireworks should be the display ones put on by fireworks companies. while the illegal aerals were impressive, the noise, smoke, and dangers were not. please support.

HB-1246-HD-2

Submitted on: 3/18/2021 8:18:05 PM

Testimony for PSM on 3/23/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

All your are doing here is pissing every one off.