
A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that, despite criminal
2 laws prohibiting the use of aerials and other fireworks, their
3 use and popularity have grown in leaps and bounds across the
4 State, jeopardizing the safety and health of residents, veterans
5 with post-traumatic stress disorder, and animals, among others.
6 In order to support a conviction for illegal use of fireworks,
7 the burden of proof of beyond a reasonable doubt must be met.
8 As such, the legislature finds that, if any enforcement occurs,
9 these cases are rarely prosecuted because the required evidence
10 can be difficult to obtain.

11 The legislature further finds that by allowing for civil
12 actions against those illegally operating fireworks, the burden
13 of proof is lowered to a preponderance of the evidence, which is
14 a threshold that can be met more readily. The legislature finds
15 that this approach, while novel in the State, is not without
16 precedent nationally. The approach of allowing citizen suits as
17 a way to enforce laws is currently under consideration by the



1 state of California for assault weapons and is an approach that
2 has been upheld by the United States Supreme Court as being
3 constitutionally valid.

4 The purpose of this Act is to create a civil cause of
5 action that may be brought by any person, other than an officer
6 or employee of the State or a local governmental entity in the
7 State, for certain violations or aiding or abetting certain
8 violations of the Fireworks Control Law.

9 SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§132D- Civil liability for violation or aiding or
13 abetting violation. (a) Any person, other than an officer or
14 employee of the State or an officer or employee of a local
15 governmental entity in the State, may bring a civil action
16 against:

17 (1) Any person who sets off, ignites, discharges, causes
18 to explode, stores, or uses, or induces or allows to
19 be set off, ignited, discharged, exploded, stored, or
20 used, fireworks in violation of this chapter;



1 (2) Any person who knowingly engages in conduct that aids
2 or abets the setting off, ignition, discharge,
3 explosion, storage, or use of fireworks in violation
4 of this chapter, including paying for or reimbursing
5 the cost of the fireworks; provided that it shall not
6 be a defense that the person did not know a violation
7 of this chapter would occur;

8 (3) A shipper who violates a requirement of section 132D-
9 8.6(a);

10 (4) A homeowners' association that violates section 132D-
11 14.5; or

12 (5) Any person who intends to engage in the conduct
13 prohibited by this chapter.

14 (b) A party prevailing in an action brought under this
15 section shall be entitled to an award by the court for:

16 (1) Injunctive relief, if applicable;

17 (2) Statutory damages of not less than \$10,000 for each
18 violation; and

19 (3) Reasonable costs and attorney's fees;

20 provided that a court shall not award relief under this

21 subsection if a defendant demonstrates that the defendant has



1 paid in full the statutory damages, costs, and attorney's fees
2 awarded against the defendant in a prior action arising from the
3 same incident.

4 (c) Notwithstanding any other law to the contrary, an
5 action under this section shall be commenced within six years
6 after the cause of action accrued.

7 (d) The following shall not be a defense to an action
8 brought under this section:

- 9 (1) Ignorance or mistake of the law;
10 (2) A defendant's belief that the requirements of this
11 chapter are unconstitutional;
12 (3) A defendant's reliance on any court decision that has
13 been overruled on appeal or by a subsequent court,
14 even if that court decision had not been overruled at
15 the time the defendant engaged in conduct that
16 violates this chapter;
17 (4) A defendant's reliance on any state or federal court
18 decision that is not binding on the court in which the
19 action has been brought;



1 (5) The consent and knowledge of the property owner,
2 landlord, property manager, co-tenants, or homeowners'
3 association; or

4 (6) Any claim that the enforcement of this chapter or the
5 imposition of civil liability against the defendant
6 will violate the constitutional rights of third
7 parties.

8 (e) Notwithstanding any other law to the contrary, the
9 State, a state official, or a district or county attorney shall
10 not intervene in an action brought under this section; provided
11 that the State, a state official, or a district or county
12 attorney may file an amicus curiae brief in the action upon
13 leave granted by the court.

14 (f) A court shall not award costs or attorney's fees to a
15 defendant in an action brought under this section.

16 (g) The remedies in this section are cumulative and in
17 addition to any other remedies allowed by law."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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JAN 26 2022



H.B. NO. 2502

Report Title:

Fireworks Control Law; Civil Liability

Description:

Creates a civil cause of action that may be brought by any person, other than an officer or employee of the State or a local governmental entity in the State, for certain violations or aiding or abetting certain violations of the Fireworks Control Law, with statutory damages.

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