
A BILL FOR AN ACT

RELATING TO THE ENFORCEMENT OF LAWS.

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

1 PART I

2 SECTION 1. The legislature finds that the people of the
3 State deserve to live in peace and security, without the public
4 safety risks, health hazards, and traumatic impacts of illegal
5 fireworks use. The legislature also finds that Act 170, Session
6 Laws of Hawaii 2010, established an illegal fireworks task force
7 to develop strategies and make recommendations to the
8 legislature to address the illegal importation and use of
9 fireworks in the State. Among other matters, the illegal
10 fireworks task force recommended that the legislature consider
11 increasing fireworks permit fees and violation fines to deter
12 the use of illegal fireworks, decrease the supply of illegal
13 fireworks in the State, and increase funding for prevention and
14 enforcement efforts.

15 The legislature further finds that Act 184, Session Laws of
16 Hawaii 2019, directed the legislative reference bureau to update
17 the illegal fireworks task force's findings and recommendations.



1 In its report, the bureau noted that, although the legislature
2 has introduced numerous measures to increase fireworks permit
3 fees and violations fines since 2011, none of the measures were
4 enacted.

5 The legislature further finds that technologies, including
6 ShotSpotter, which were originally developed to assist law
7 enforcement in detecting gunshots, have shown the potential to
8 assist police departments in enforcing fireworks laws. The
9 legislature finds that these technologies allow law enforcement
10 officers to instantly detect and locate the geographic origin of
11 explosions caused by gunfire or illegal fireworks. The police
12 department in Denver, Colorado, notes that this technology gives
13 notice of gunshots within forty seconds and allows police to
14 respond within twenty-five feet of the shot's origin. The
15 legislature notes that ShotSpotter is currently being used by
16 more than ninety cities nationwide, including Chicago, Illinois;
17 Milwaukee, Wisconsin; and San Diego, California.

18 The legislature further finds that other technologies may
19 assist law enforcement in data collection pertaining to illegal
20 fireworks, including the web-based reporting tool created and
21 supported by various agencies in Clark County, Nevada. The



1 legislature finds that the Clark County website has successfully
2 forwarded thousands of complaints to Clark County law
3 enforcement agencies since 2018.

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

13 The purpose of this Act is to:

- 14 (1) Incorporate the new fireworks citations into the
15 existing traffic and emergency order citation system
16 under Chapter 291D, Hawaii Revised Statutes;
- 17 (2) Implement the recommendations of the 2010 illegal
18 fireworks task force by:
 - 19 (A) Amending the fines for certain fireworks
20 violations;



1 (B) Clarifying that each aerial device, display
2 firework, or article pyrotechnic having a total
3 weight of twenty-five pounds or less that is
4 illegally imported, transferred, or sold
5 constitutes a separate violation; and

6 (C) Increasing the penalty for removing or extracting
7 the pyrotechnic contents from any fireworks or
8 articles pyrotechnic for certain uses;

9 (3) Authorize the sheriff division of the department of
10 public safety to enforce the fireworks control law;

11 (4) Require the attorney general to establish an explosion
12 detection technology working group; and

13 (5) Require the department of public safety to develop and
14 implement a web-based reporting tool for illegal
15 fireworks that will provide the counties with
16 additional data to enforce the applicable fireworks
17 laws.

18 PART II

19 SECTION 2. Section 132D-14, Hawaii Revised Statutes, is
20 amended by amending its title and subsections (a) and (b) to
21 read as follows:



1 "§132D-14 Penalty[-]; fireworks infractions. (a) Any
2 person:

3 (1) Importing aerial devices, display fireworks, or
4 articles pyrotechnic without having a valid license
5 under section 132D-7 shall be guilty of a class C
6 felony; provided that the unlicensed import of each
7 aerial device, display firework, or article
8 pyrotechnic having a total weight of twenty-five
9 pounds or less shall constitute a separate criminal
10 act under this paragraph;

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

20 (A) If the total weight of the aerial devices,
21 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, 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, 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;
11 provided that the unpermitted transfer or sale of each
12 aerial device, display firework, or article
13 pyrotechnic having a total weight of twenty-five
14 pounds or less shall constitute a separate criminal
15 act under this paragraph; and

16 (4) Who removes or extracts the pyrotechnic contents from
17 any fireworks or articles pyrotechnic and uses the
18 contents to construct fireworks, articles pyrotechnic,
19 or a fireworks or articles pyrotechnic related device
20 shall be guilty of a [~~misdemeanor.~~] class C felony.



1 (b) Except as provided in subsection (a) or as otherwise
 2 specifically provided for in this chapter[-] as a felony or
 3 misdemeanor, any person violating any other provision of this
 4 chapter, shall be fined [~~not more than \$2,000~~] \$5,000 for each
 5 violation[-], subject to the adjudication proceedings under
 6 chapter 291D. Notwithstanding any provision to the contrary in
 7 this section, any person violating section 132D-14.5 shall be
 8 fined [~~at least~~] \$500 [~~and no more than~~] for a single violation
 9 or \$2,000[-] for multiple violations, subject to the
 10 adjudication proceedings under chapter 291D."

11 SECTION 3. Section 132D-20, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§132D-20 Enforcement; probable cause for arrest.** (a)
 14 This chapter shall be enforced by each county[-]; provided that
 15 the sheriff division of the department of public safety may
 16 assist each county in the enforcement of this part. The
 17 counties and the sheriff division are authorized to enforce and
 18 administer the provisions of this chapter.

19 (b) Arrests for offenses under this chapter or under a
 20 county fireworks ordinance shall be made in compliance with



1 chapter 803. The facts and circumstances to establish probable
2 cause for an arrest may include [~~but are not limited to~~]:

3 (1) Statements from individuals who witnessed the offense,
4 even if those individuals are not law enforcement
5 officers; and

6 (2) Photographs, video recordings, or other recordings
7 that show the commission of the offense and can be
8 authenticated by one or more witnesses; provided that
9 a recording made using an unmanned aerial vehicle
10 shall be exempt from the requirement of authentication
11 by one or more witnesses.

12 For the purposes of this subsection:

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

15 "Unmanned aerial vehicle" means any aerial vehicle that is
16 operated without the possibility of direct human intervention
17 within or on the aerial vehicle. The term "unmanned aerial
18 vehicle" does not include a remote-controlled airplane."

19 SECTION 4. Section 571-41, Hawaii Revised Statutes, is
20 amended by amending subsection (f) to read as follows:



1 "(f) The judge, or the senior judge if there is more than
2 one, may by order confer concurrent jurisdiction on a district
3 court created under chapter 604 to hear and dispose of cases of
4 violation of traffic laws, ordinances, fireworks infractions, or
5 emergency period rules by children, provision to the contrary in
6 section 571-11 or elsewhere notwithstanding. The exercise of
7 jurisdiction over children by district courts shall,
8 nevertheless, be considered noncriminal in procedure and result
9 in the same manner as though the matter had been adjudicated and
10 disposed of by a family court."

11 SECTION 5. Section 601-3.7, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

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

- 16 (1) Moneys collected from administrative fees pursuant to
17 section 287-3(a);
- 18 (2) Fees prescribed by the supreme court by rule of court
19 for electronic document certification, electronic
20 copies of documents, and for providing bulk access to



1 electronic court records and compilations of data;

2 [~~and~~]

3 (3) Fees pursuant to sections 607-4(b)(10) and

4 607-5(c)(32) [~~-~~]; and

5 (4) Monetary assessments assessed pursuant to section

6 291D-9 for fireworks infractions. For the purposes of

7 this paragraph, "fireworks infraction" has the same

8 meaning as defined under section 291D-2."

9 SECTION 6. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2022-2023 to
12 update the judiciary information management system to implement
13 the adjudication process established by this part.

14 The sum appropriated shall be expended by the judiciary for
15 the purposes of this part.

16 PART III

17 SECTION 7. (a) The attorney general shall establish an
18 explosion detection technology working group to study the
19 feasibility of purchasing and deploying explosion detection
20 technology for the purpose of assisting the police department in
21 each county having a population of more than five hundred



1 thousand in locating and responding to explosions caused by the
2 illegal use of firearms and fireworks.

3 (b) Members of the working group shall include the:

4 (1) Attorney general, or the attorney general's designee;

5 (2) Chief of the police department of each county having a
6 population of more than five hundred thousand, or the
7 chief's designee;

8 (3) Prosecuting attorney of each county having a
9 population of more than five hundred thousand, or the
10 prosecuting attorney's designee; and

11 (4) Each member of the state fire council.

12 SECTION 8. The explosion detection technology working
13 group shall submit a report of its findings and recommendations,
14 including any proposed legislation, to the legislature no later
15 than twenty days prior to the convening of the regular session
16 of 2023.

17 SECTION 9. The explosion detection technology working
18 group shall cease to exist on June 30, 2023.

19 PART IV

20 SECTION 10. (a) The department of public safety shall
21 collaborate with county law enforcement agencies to develop and



1 implement a statewide web-based reporting tool for illegal
2 fireworks that will allow data to be shared with county law
3 enforcement agencies for the purpose of assisting county law
4 enforcement agencies in accurately identifying problematic
5 geographic areas and subsequently plan targeted methods of
6 enforcement.

7 (b) The statewide web-based reporting tool for illegal
8 fireworks shall include the following features:

- 9 (1) Anonymous reporting functions;
- 10 (2) A location reporting mechanism that uses an
11 interactive global positioning system map of the State
12 to allow for precise address reporting;
- 13 (3) A picture and video upload feature to allow for the
14 submission of evidence;
- 15 (4) An optional contact information submission feature;
- 16 and
- 17 (5) Report-generating features, accessible only by state
18 and county law enforcement agencies.

19 (c) Data collected through the statewide web-based
20 reporting tool for illegal fireworks shall not include public
21 report generating features; provided that state and county law



1 enforcement agencies may provide anonymous data for public
2 information.

3 SECTION 11. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2022-2023 for
6 the department of public safety to develop and implement a
7 statewide web-based reporting tool for illegal fireworks;
8 provided that the department shall collaborate with county law
9 enforcement agencies in the development and implementation of
10 the statewide web-based reporting tool for illegal fireworks.

11 The sum appropriated shall be expended by the department of
12 public safety for the purposes of this part.

13 PART V

14 SECTION 12. Section 291D-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§291D-1 Purpose.** (a) Act 222, Session Laws of Hawaii
17 1978, began the process of decriminalizing certain traffic
18 offenses, not of a serious nature, to the status of violations.
19 In response to a request by the legislature, the judiciary
20 prepared a report in 1987 that recommended, among other things,
21 further decriminalization of traffic offenses, elimination of



1 most traffic arraignments, disposition of uncontested violations
2 by mail, and informal hearings where the violation or the
3 proposed penalty is questioned. The legislature finds that
4 further decriminalization of certain traffic offenses and
5 streamlining of the handling of those traffic cases will achieve
6 a more expeditious system for the judicial processing of traffic
7 infractions. The system of processing traffic infractions
8 established by this chapter will:

- 9 (1) Eliminate the long and tedious arraignment proceeding
10 for a majority of traffic matters;
- 11 (2) Facilitate and encourage the resolution of many
12 traffic infractions through the payment of a monetary
13 assessment;
- 14 (3) Speed the disposition of contested cases through a
15 hearing, similar to small claims proceedings, in which
16 the rules of evidence will not apply and the court
17 will consider as evidence the notice of traffic
18 infraction, applicable police reports, or other
19 written statements by the police officer who issued
20 the notice, any other relevant written material, and



1 any evidence or statements by the person contesting
2 the notice of traffic infraction;

3 (4) Dispense in most cases with the need for witnesses,
4 including law enforcement officers, to be present and
5 for the participation of the prosecuting attorney;

6 (5) Allow judicial, prosecutorial, and law enforcement
7 resources to be used more efficiently and effectively;
8 and

9 (6) Save the taxpayers money and reduce their frustration
10 with the judicial system by simplifying the traffic
11 court process.

12 The legislature further finds that this chapter will not require
13 expansion of the current traffic division of the district
14 courts, but will achieve greater efficiency through more
15 effective use of existing resources of the district courts.

16 (b) The legislature finds that the pandemic related to the
17 coronavirus disease 2019 necessitated the imposition of
18 emergency period rules in an attempt to control the spread of
19 the disease in the State. The thousands of violations of the
20 emergency period rules caused an examination of the ability to
21 impose infractions for lesser offenses as an alternative to



1 using the Penal Code and to allow for more efficient use of the
2 judicial system. The system of processing traffic infractions
3 under this chapter was enacted in 1993 and has provided a useful
4 mechanism for handling offenses deemed as infractions and is
5 well-suited to certain types of violations of emergency period
6 rules that are designated infractions by the governor or mayor
7 under the state's emergency management laws.

8 (c) The legislature further finds that the illegal use of
9 fireworks poses a serious public health and safety hazard. Due
10 to the high number of fireworks set off throughout the State, an
11 expeditious adjudication system for fireworks infractions,
12 including the system for processing traffic infractions, will
13 allow the judiciary to expediently process violations of the
14 fireworks control law. This system will allow the judiciary to
15 reserve resources for cases that require more resources."

16 SECTION 13. Section 291D-2, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding a new definition to be appropriately inserted
19 and to read:

20 "Fireworks infraction" means any violation of chapter 132D
21 that is not explicitly classified as a felony or misdemeanor,



1 any rule adopted pursuant to chapter 132D, or any county
2 ordinance or rule enacted pursuant to chapter 132D."

3 2. By amending the definitions of "concurrent trial" and
4 "hearing" to read:

5 "Concurrent trial" means a trial proceeding held in the
6 district or family court in which the defendant is tried
7 simultaneously in a civil case for any charged traffic
8 infraction [e#], emergency period infraction, or fireworks
9 infraction and in a criminal case for any related criminal
10 offense, with trials to be held in one court on the same date
11 and at the same time.

12 "Hearing" means a proceeding conducted by the district
13 court pursuant to section 291D-8 at which the person to whom a
14 notice of traffic infraction [e#], notice of emergency period
15 infraction, or notice of fireworks infraction was issued either
16 admits to the infraction, contests the notice of traffic
17 infraction [e#], notice of emergency period infraction, or
18 notice of fireworks infraction, or admits to the traffic
19 infraction [e#], emergency period infraction, or fireworks
20 infraction but offers an explanation to mitigate the monetary
21 assessment imposed."



1 3. By amending the definition of "related criminal
2 offense" to read:

3 "Related criminal offense" means any criminal violation or
4 crime, committed in the same course of conduct as a traffic
5 infraction [~~or~~], emergency period infraction, or fireworks
6 infraction, for which the defendant is arrested or charged."

7 SECTION 14. Section 291D-3, Hawaii Revised Statutes, is
8 amended by amending subsections (a) through (e) to read as
9 follows:

10 "(a) Notwithstanding any other provision of law to the
11 contrary, all traffic infractions [~~and~~], emergency period
12 infractions, and fireworks infractions, including infractions
13 committed by minors, shall be adjudicated pursuant to this
14 chapter, except as provided in subsection (b). This chapter
15 shall be applied uniformly throughout the State and in all
16 counties. No penal sanction that includes imprisonment shall
17 apply to a violation of a state statute or rule, or county
18 ordinance or rule, that would constitute a traffic infraction
19 [~~or~~], an emergency period infraction, or a fireworks infraction
20 under this chapter. No traffic infraction [~~or~~], emergency



1 period infraction, or fireworks infraction shall be classified
2 as a criminal offense.

3 (b) Where a defendant is charged with a traffic infraction
4 [~~or~~], an emergency period infraction, or a fireworks infraction
5 and the infraction is committed in the same course of conduct as
6 a criminal offense for which the offender is arrested or
7 charged, the traffic infraction [~~or~~], emergency period
8 infraction, or fireworks infraction shall be adjudicated
9 pursuant to this chapter; provided that the court may schedule
10 any initial appearance, hearing, or trial on the traffic
11 infraction [~~or~~], emergency period infraction, or fireworks
12 infraction at the same date, time, and place as the arraignment,
13 hearing, or trial on the related criminal offense.

14 Notwithstanding this subsection and subsection (c), the
15 court shall not schedule any initial appearance, hearing, or
16 trial on the traffic infraction [~~or~~], emergency period
17 infraction, or fireworks infraction at the same date, time, and
18 place as the arraignment, hearing, or trial on the related
19 criminal offense where the related criminal offense is a felony
20 or is a misdemeanor for which the defendant has demanded a jury
21 trial.



1 (c) If the defendant requests a trial pursuant to section
2 291D-13, the trial shall be held in the district court of the
3 circuit in which the traffic infraction [~~or~~], emergency period
4 infraction, or fireworks infraction was committed. If the court
5 schedules a concurrent trial pursuant to paragraph (1), the
6 concurrent trial shall be held in the appropriate district or
7 family court of the circuit in which the traffic infraction
8 [~~or~~], emergency period infraction, or fireworks infraction was
9 committed, whichever has jurisdiction over the related criminal
10 offense charged pursuant to the applicable statute or rule of
11 court; provided that:

12 (1) The district or family court, for the purpose of
13 trial, may schedule a civil trial on the traffic
14 infraction [~~or~~], emergency period infraction, or
15 fireworks infraction on the same date and at the same
16 time as a criminal trial on the related criminal
17 offense charged. The court shall enter a civil
18 judgment as to the traffic infraction [~~or~~], emergency
19 period infraction, or fireworks infraction and a
20 judgment of conviction or acquittal as to the related
21 criminal offense following such concurrent trial; and



1 (2) If trial on the traffic infraction [~~or~~], emergency
2 period infraction, or fireworks infraction is held
3 separately from and before trial on any related
4 criminal offense, the following shall be inadmissible
5 in the prosecution or trial of the related criminal
6 offense, except as expressly provided by the Hawaii
7 rules of evidence:

8 (A) Any written or oral statement made by the
9 defendant in proceedings conducted pursuant to
10 section 291D-7(b); and

11 (B) Any testimony given by the defendant in the trial
12 on the traffic infraction [~~or~~], emergency period
13 infraction[~~-~~], or fireworks infraction.

14 Such statements or testimony shall not be deemed a
15 waiver of the defendant's privilege against self-
16 incrimination in connection with any related criminal
17 offense.

18 (d) In no event shall section 701-109 preclude prosecution
19 for a related criminal offense where a traffic infraction [~~or~~],
20 an emergency period infraction, or a fireworks infraction



1 committed in the same course of conduct has been adjudicated
2 pursuant to this chapter.

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

5 (1) The defendant's civil liability for the traffic
6 infraction [øæ], emergency period infraction, or
7 fireworks infraction has not yet been adjudicated
8 pursuant to section 291D-8, the court shall enter a
9 judgment by default in favor of the State for the
10 traffic infraction [øæ], emergency period infraction,
11 or fireworks infraction unless the court determines
12 that good cause or excusable neglect exists for the
13 defendant's failure to appear; or

14 (2) The defendant's civil liability for the traffic
15 infraction [øæ], emergency period infraction, or
16 fireworks infraction has been adjudicated previously
17 pursuant to section 291D-8, the judgment earlier
18 entered in favor of the State shall stand unless the
19 court determines that good cause or excusable neglect
20 exists for the defendant's failure to appear."



1 SECTION 15. Section 291D-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§291D-4 Venue and jurisdiction.** (a) All violations of
4 state law, ordinances, or rules designated as traffic
5 infractions [~~or~~], emergency period infractions, or fireworks
6 infractions in this chapter shall be adjudicated in the district
7 and circuit where the alleged infraction occurred, except as
8 otherwise provided by law.

9 (b) Except as otherwise provided by law, jurisdiction is
10 in the district court of the circuit where the alleged traffic
11 infraction [~~or~~], emergency period infraction, or fireworks
12 infraction occurred. Except as otherwise provided in this
13 chapter, district court judges shall adjudicate traffic
14 infractions [~~and~~], emergency period infractions [~~-~~], and
15 fireworks infractions."

16 SECTION 16. Section 291D-5, Hawaii Revised Statutes, is
17 amended by amending subsections (a) through (d) to read as
18 follows:

19 "(a) The notice of traffic infraction for moving
20 violations, [~~and~~] the notice of emergency period infraction, and
21 the notice of fireworks infraction, shall include the summons



1 for the purposes of this chapter. Whenever a notice of traffic
2 infraction [~~or~~], notice of emergency period infraction, or
3 notice of fireworks infraction is issued, the person's
4 signature, driver's license number or state identification
5 number, electronic mail address, and current address shall be
6 noted on the notice. If the person refuses to sign the notice
7 of traffic infraction [~~or~~], notice of emergency period
8 infraction, or notice of fireworks infraction, the officer shall
9 record this refusal on the notice and issue the notice to the
10 person. Anyone to whom a notice of traffic infraction [~~or~~],
11 notice of emergency period infraction, or notice of fireworks
12 infraction is issued under this chapter need not be arraigned
13 before the court, unless required by rule of the supreme court.

14 (b) The forms for the notice of traffic infraction [~~and~~],
15 notice of emergency period infraction, and notice of fireworks
16 infraction shall be prescribed by rules of the district court,
17 which shall be uniform throughout the State; provided that each
18 judicial circuit may include differing statutory, rule, or
19 ordinance provisions on its respective notice of traffic
20 infraction [~~or~~], notice of emergency period infraction[+], or
21 notice of fireworks infraction.



1 (c) A notice of traffic infraction [~~or~~], notice of
2 emergency period infraction, or notice of fireworks infraction
3 that is generated by the use of electronic equipment or that
4 bears the electronically stored image of any person's signature,
5 or both, shall be valid under this chapter.

6 (d) The notice of traffic infraction [~~or~~], notice of
7 emergency period infraction, or notice of fireworks infraction
8 shall include the following:

- 9 (1) A statement of the specific infraction for which the
10 notice was issued;
- 11 (2) Except in the case of parking-related traffic
12 infractions, a brief statement of the facts;
- 13 (3) A statement of the total amount to be paid for each
14 infraction, which amount shall include any fee,
15 surcharge, or cost required by statute, ordinance, or
16 rule, and any monetary assessment, established for the
17 particular infraction pursuant to section 291D-9, to
18 be paid by the person to whom the notice was issued,
19 which shall be uniform throughout the State;



- 1 (4) A statement of the options provided in section
2 291D-6(b) for answering the notice and the procedures
3 necessary to exercise the options;
- 4 (5) A statement that the person to whom the notice is
5 issued shall answer, choosing one of the options
6 specified in section 291D-6(b), within twenty-one days
7 of issuance of the notice;
- 8 (6) A statement that failure to answer the notice within
9 twenty-one days of issuance shall result in the entry
10 of judgment by default for the State and may result in
11 the assessment of a late penalty;
- 12 (7) A statement that, at a hearing requested to contest
13 the notice, pursuant to section 291D-8, no officer
14 shall be present unless the person to whom the notice
15 was issued timely requests the court to have the
16 officer present, and that the standard of proof to be
17 applied by the court is whether a preponderance of the
18 evidence proves that the specified infraction was
19 committed;
- 20 (8) A statement that, at a hearing requested for the
21 purpose of explaining mitigating circumstances



1 surrounding the commission of the infraction or in
2 consideration of a written request for mitigation, the
3 person shall be considered to have committed the
4 infraction;

5 (9) A space in which the signature of the person to whom
6 the notice was issued may be affixed; and

7 (10) The date, time, and place at which the person to whom
8 the notice was issued shall appear in court, if the
9 person is required by the notice to appear in person
10 at the hearing."

11 SECTION 17. Section 291D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§291D-6 Answer required.** (a) A person who receives a
14 notice of traffic infraction [~~or~~], notice of emergency period
15 infraction, or notice of fireworks infraction shall answer the
16 notice within twenty-one days of the date of issuance of the
17 notice. There shall be included with the notice of traffic
18 infraction [~~or~~], notice of emergency period infraction, or
19 notice of fireworks infraction a preaddressed envelope directed
20 to the traffic and emergency period violations bureau of the
21 applicable district court.



1 (b) Provided that the notice of traffic infraction [~~œ~~],
2 notice of emergency period infraction, or notice of fireworks
3 infraction does not require an appearance in person at a hearing
4 as set forth in section 291D-5(d)(10), in answering a notice of
5 traffic infraction [~~œ~~], notice of emergency period infraction,
6 or notice of fireworks infraction, a person shall have the
7 following options:

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

10 (A) By mail or in person, by completing the
11 appropriate portion of the notice of traffic
12 infraction, notice of emergency period
13 infraction, notice of fireworks infraction, or
14 preaddressed envelope and submitting it to the
15 authority specified on the notice together with
16 payment of the total amount stated on the notice
17 of traffic infraction [~~œ~~], notice of emergency
18 period infraction[~~-~~], or notice of fireworks
19 infraction. Payment by mail shall be in the form
20 of a check, money order, or by an approved credit
21 or debit card. Payment in person shall be in the



1 form of United States currency, check, money
 2 order, or by an approved credit or debit card; or
 3 (B) Via the Internet or by telephone, by submitting
 4 payment of the total amount stated on the notice
 5 of traffic infraction [~~or~~], notice of emergency
 6 period infraction[~~or~~], or notice of fireworks
 7 infraction. Payment via the Internet or by
 8 telephone shall be by an approved credit or debit
 9 card;

10 (2) Deny the commission of the infraction and request a
 11 hearing to contest the infraction by completing the
 12 appropriate portion of the notice of traffic
 13 infraction, notice of emergency period infraction,
 14 notice of fireworks infraction, or preaddressed
 15 envelope and submitting it, either by mail or in
 16 person, to the authority specified on the notice. In
 17 lieu of appearing in person at a hearing, the person
 18 may submit a written statement of grounds on which the
 19 person contests the notice of traffic infraction [~~or~~],
 20 notice of emergency period infraction, or notice of
 21 fireworks infraction, which shall be considered by the



1 court as a statement given in court pursuant to
2 section 291D-8(a); or
3 (3) Admit the commission of the infraction and request a
4 hearing to explain circumstances mitigating the
5 infraction by completing the appropriate portion of
6 the notice of traffic infraction, notice of emergency
7 period infraction, notice of fireworks infraction, or
8 preaddressed envelope and submitting it, either by
9 mail or in person, to the authority specified on the
10 notice. In lieu of appearing in person at a hearing,
11 the person may submit a written explanation of the
12 mitigating circumstances, which shall be considered by
13 the court as a statement given in court pursuant to
14 section 291D-8(b).

15 (c) When answering the notice of traffic infraction [~~or~~],
16 notice of emergency period infraction, or notice of fireworks
17 infraction, the person shall affix the person's signature to the
18 answer and shall state the address at which the person will
19 accept future mailings from the court. No other response shall
20 constitute an answer for purposes of this chapter."



1 SECTION 18. Section 291D-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§291D-7 Court action after answer or failure to answer.**

4 (a) When an admitting answer is received, the court shall enter
5 judgment in favor of the State in the total amount specified in
6 the notice of traffic infraction [~~or~~], notice of emergency
7 period infraction[-], or notice of fireworks infraction.

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

10 (1) In the case of a traffic infraction [~~or~~], emergency
11 period infraction, or fireworks infraction where the
12 person requests a hearing at which the person will
13 appear in person to contest the infraction, the court
14 shall notify the person in writing of the date, time,
15 and place of hearing to contest the notice of traffic
16 infraction [~~or~~] notice of emergency period
17 infraction[-], or notice of fireworks infraction. The
18 notice of hearing shall be mailed to the address
19 stated in the denying answer, or if none is given, to
20 the address stated on the notice of traffic infraction
21 [~~or~~], notice of emergency period infraction[-], or



1 notice of fireworks infraction. An electronic copy of
2 the notice of hearing may be sent to the electronic
3 mail address stated on the notice of infraction. The
4 notification also shall advise the person that, if the
5 person fails to appear at the hearing, the court shall
6 enter judgment by default in favor of the State, as of
7 the date of the scheduled hearing, that the total
8 amount specified in the default judgment shall be paid
9 within thirty days of entry of default judgment; and

10 (2) When a denying answer is accompanied by a written
11 statement of the grounds on which the person contests
12 the notice of traffic infraction [~~or~~], notice of
13 emergency period infraction, or notice of fireworks
14 infraction, the court shall proceed as provided in
15 section 291D-8(a) and shall notify the person of its
16 decision, including the total amount assessed, if any,
17 by mailing the notice of entry of judgment within
18 forty-five days of the postmarked date of the answer
19 to the address provided by the person in the denying
20 answer, or if none is given, to the address given when
21 the notice of traffic infraction [~~or~~], notice of



1 emergency period infraction, or notice of fireworks
2 infraction was issued or, in the case of parking
3 violations, to the address at which the vehicle is
4 registered. An electronic copy of the notice of entry
5 of judgment may be sent to the electronic mail address
6 stated on the notice of infraction. The notice of
7 entry of judgment also shall advise the person, if it
8 is determined that the infraction was committed and
9 judgment is entered in favor of the State, that the
10 person has the right, within thirty days of entry of
11 judgment, to request a trial and shall specify the
12 procedures for doing so. The notice of entry of
13 judgment shall also notify the person, if an amount is
14 assessed by the court for monetary assessments, fees,
15 surcharges, or costs, that if the person does not
16 request a trial within the time specified in this
17 paragraph, the total amount assessed shall be paid
18 within thirty days of entry of judgment.

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



1 (1) In the case of a traffic infraction [~~or~~], emergency
2 period infraction, or fireworks infraction where the
3 person requests a hearing at which the person will
4 appear in person to explain mitigating circumstances,
5 the court shall notify the person in writing of the
6 date, time, and place of hearing to explain mitigating
7 circumstances. The notice of hearing shall be mailed
8 to the address stated in the answer, or if none is
9 given, to the address stated on the notice of traffic
10 infraction [~~or~~], notice of emergency period
11 infraction[~~or~~], or fireworks infraction. An electronic
12 copy of the notice of hearing may be sent to the
13 electronic mail address stated on the notice of
14 infraction. The notification also shall advise the
15 person that, if the person fails to appear at the
16 hearing, the court shall enter judgment by default in
17 favor of the State, as of the date of the scheduled
18 hearing, and that the total amount stated in the
19 default judgment shall be paid within thirty days of
20 entry of default judgment; and



1 (2) If a written explanation is included with an answer
2 admitting commission of the infraction, the court
3 shall enter judgment for the State and, after
4 reviewing the explanation, determine the total amount
5 of the monetary assessments, fees, surcharges, or
6 costs to be assessed, if any. The court shall then
7 notify the person of the total amount to be paid for
8 the infraction, if any. There shall be no appeal from
9 the judgment. If the court assesses an amount for
10 monetary assessments, fees, surcharges, or costs, the
11 court shall also notify the person that the total
12 amount shall be paid within thirty days of entry of
13 judgment.

14 (d) If the person fails to answer within twenty-one days
15 of issuance of the notice of traffic infraction [~~or~~], notice of
16 emergency period infraction, or notice of fireworks infraction,
17 the court shall take action as provided in subsection (e).

18 (e) Whenever judgment by default in favor of the State is
19 entered, the court shall mail a notice of entry of default
20 judgment to the address provided by the person when the notice
21 of traffic infraction [~~or~~], notice of emergency period



1 infraction, or notice of fireworks infraction was issued or, in
2 the case of parking infractions, to the address stated in the
3 answer, if any, or the address at which the vehicle is
4 registered. An electronic copy of the notice of entry of
5 default judgment may be sent to the electronic mail address
6 stated on the notice of infraction. The notice of entry of
7 default judgment shall advise the person that the total amount
8 specified in the default judgment shall be paid within thirty
9 days of entry of default judgment and shall explain the
10 procedure for setting aside a default judgment. Judgment by
11 default for the State entered pursuant to this chapter may be
12 set aside pending final disposition of the traffic infraction
13 [~~or~~], emergency period infraction, or fireworks infraction upon
14 written application of the person and posting of an appearance
15 bond equal to the amount of the total amount specified in the
16 default judgment and any other assessment imposed pursuant to
17 section 291D-9. The application shall show good cause or
18 excusable neglect for the person's failure to take action
19 necessary to prevent entry of judgment by default. Thereafter,
20 the court shall determine whether good cause or excusable
21 neglect exists for the person's failure to take action necessary



1 to prevent entry of judgment by default. If so, the application
 2 to set aside default judgment shall be granted, the default
 3 judgment shall be set aside, and the notice of traffic
 4 infraction [~~or~~], notice of emergency period infraction, or
 5 notice of fireworks infraction shall be disposed of pursuant to
 6 this chapter. If not, the application to set aside default
 7 judgment shall be denied, the appearance bond shall be forfeited
 8 and applied to satisfy amounts due under the default judgment,
 9 and the notice of traffic infraction [~~or~~], notice of emergency
 10 period infraction, or notice of fireworks infraction shall be
 11 finally disposed. In either case, the court shall determine the
 12 existence of good cause or excusable neglect and notify the
 13 person of its decision on the application in writing."

14 SECTION 19. Section 291D-8, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "**§291D-8 Hearings.** (a) In proceedings to contest a
 17 notice of traffic infraction [~~or~~], notice of emergency period
 18 infraction, or notice of fireworks infraction where the person
 19 to whom the notice was issued has timely requested a hearing and
 20 appears at such hearing:



- 1 (1) In lieu of the personal appearance by the officer who
2 issued the notice of traffic infraction [~~or~~], notice
3 of emergency period infraction, or notice of fireworks
4 infraction, the court shall consider the notice of
5 traffic infraction [~~or~~], notice of emergency period
6 infraction, or notice of fireworks infraction, and any
7 other written report made by the officer, if provided
8 to the court by the officer, together with any oral or
9 written statement by the person to whom the notice of
10 infraction was issued, or in the case of traffic
11 infractions involving parking or equipment, the
12 operator or registered owner of the motor vehicle;
- 13 (2) The court may compel by subpoena the attendance of the
14 officer who issued the notice of traffic infraction
15 [~~or~~], notice of emergency period infraction, or notice
16 of fireworks infraction, and other witnesses from whom
17 it may wish to hear;
- 18 (3) The standard of proof to be applied by the court shall
19 be whether, by a preponderance of the evidence, the
20 court finds that the traffic infraction [~~or~~],



1 emergency period infraction, or fireworks infraction
2 was committed; and
3 (4) After due consideration of the evidence and arguments,
4 if any, the court shall determine whether commission
5 of the traffic infraction [~~or~~], emergency period
6 infraction, or fireworks infraction has been
7 established. Where the commission of the traffic
8 infraction [~~or~~], emergency period infraction, or
9 fireworks infraction has not been established,
10 judgment in favor of the defendant, dismissing the
11 notice of traffic infraction [~~or~~], notice of emergency
12 period infraction, or notice of fireworks infraction
13 or any count therein with prejudice, shall be entered
14 in the record. Where it has been established that the
15 traffic infraction [~~or~~] emergency period infraction,
16 or fireworks infraction was committed, the court shall
17 enter judgment in favor of the State and shall assess
18 a monetary assessment pursuant to section 291D-9,
19 together with any fees, surcharges, or costs. The
20 court also shall inform the person of the right to
21 request a trial pursuant to section 291D-13. If the



1 person requests a trial at the time of the hearing,
2 the court shall provide the person with the trial date
3 as soon as practicable.

4 (b) In proceedings to explain mitigating circumstances
5 where the person to whom the notice of traffic infraction [~~or~~],
6 notice of emergency period infraction, or notice of fireworks
7 infraction was issued has timely requested a hearing and appears
8 at such hearing:

9 (1) The procedure shall be limited to the issue of
10 mitigating circumstances. A person who requests to
11 explain the circumstances shall not be permitted to
12 contest the notice of traffic infraction [~~or~~], notice
13 of emergency period infraction[+], or notice of
14 fireworks infraction;

15 (2) After the court has received the explanation, the
16 court shall enter judgment in favor of the State and
17 may assess a monetary assessment pursuant to section
18 291D-9, together with any fees, surcharges, or costs;

19 (3) The court, after receiving the explanation, may vacate
20 the admission and enter judgment in favor of the
21 defendant, dismissing the notice of traffic



1 infraction, notice of emergency period infraction,
2 notice of firework infraction, or any count therein
3 with prejudice, where the explanation establishes that
4 the infraction was not committed; and

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

6 (c) If a person for whom a hearing has been scheduled, to
7 contest the notice of traffic infraction [~~or~~], notice of
8 emergency period infraction, or notice of fireworks infraction,
9 or to explain mitigating circumstances, fails to appear at the
10 hearing, the court shall enter judgment by default for the State
11 and take action as provided in section 291D-7(e)."

12 SECTION 20. Section 291D-9, Hawaii Revised Statutes, is
13 amended by amending subsections (a) through (c) to read as
14 follows:

15 "(a) A person found to have committed a traffic infraction
16 [~~or~~], emergency period infraction, or fireworks infraction shall
17 be assessed a monetary assessment not to exceed the maximum fine
18 specified in the law or rule defining the traffic infraction
19 [~~or~~], emergency period infraction[~~-~~], or fireworks infraction.
20 The court shall consider a person's financial circumstances, if
21 disclosed, in determining the monetary assessment.



1 (b) Notwithstanding section 291C-161 or any other law to
 2 the contrary, the district court of each circuit shall prescribe
 3 a schedule of monetary assessments for all traffic infractions
 4 [~~and~~], emergency period infractions, and fireworks infractions,
 5 and any additional assessments to be imposed pursuant to
 6 subsection (c). The particular assessment to be entered on the
 7 notice of traffic infraction [~~or~~], notice of emergency period
 8 infraction, or notice of fireworks infraction pursuant to
 9 section 291D-5 shall correspond to the schedule prescribed by
 10 the district court. Except after proceedings conducted pursuant
 11 to section 291D-8 or a trial conducted pursuant to section
 12 291D-13, monetary assessments assessed pursuant to this chapter
 13 shall not vary from the schedule prescribed by the district
 14 court having jurisdiction over the traffic infraction [~~or~~],
 15 emergency period infraction[-], or fireworks infraction.

16 (c) In addition to any monetary assessment imposed for a
 17 traffic infraction [~~or~~], an emergency period infraction, or a
 18 fireworks infraction, the court may impose additional
 19 assessments for:

- 20 (1) Failure to pay a monetary assessment by the scheduled
- 21 date of payment; or



1 (2) The cost of service of a penal summons issued pursuant
2 to this chapter."

3 SECTION 21. Section 291D-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§291D-12 Powers of the district court judge sitting in**
6 **the traffic [~~and~~], emergency period, and fireworks division.**

7 (a) A district court judge sitting in the traffic [~~and~~],
8 emergency period, and fireworks division and hearing cases
9 pursuant to this chapter shall have all the powers of a district
10 court judge under chapter 604, including the following powers:

11 (1) To conduct traffic infraction [~~and~~], emergency period
12 infraction, and fireworks infraction hearings and to
13 impose monetary assessments;

14 (2) To permit deferral of monetary assessment or impose
15 community service in lieu thereof;

16 (3) To dismiss a notice of traffic infraction [~~or~~], notice
17 of emergency period infraction, or fireworks
18 infraction, with or without prejudice, or to set aside
19 a judgment for the State;

20 (4) To order temporary driver's license suspension or
21 driver's license reinstatement;



- 1 (5) To approve the issuance or renewal of a driver's
2 license or instruction permit pursuant to section
3 286-109(c);
- 4 (6) To issue penal summonses and bench warrants and
5 initiate contempt of court proceedings in proceedings
6 conducted pursuant to section 291D-13;
- 7 (7) To issue penal summonses and bench warrants and
8 initiate failure to appear proceedings in proceedings
9 conducted pursuant to section 291D-5(d)(10); and
- 10 (8) To exercise other powers the court finds necessary and
11 appropriate to carry out the purposes of this chapter.
- 12 (b) A district court judge sitting in the traffic [~~and~~],
13 emergency period, and fireworks division and hearing cases
14 pursuant to this chapter shall not order the director of finance
15 to withhold issuing or renewing the driver's license, or
16 registering, renewing the registration of, or issuing the title
17 to a motor vehicle, of any person who has not paid a monetary
18 assessment, has not performed community service in lieu thereof,
19 or has not otherwise satisfied a judgment for the State entered
20 pursuant to this chapter."



1 SECTION 22. Section 291D-13, Hawaii Revised Statutes, is
2 amended by amending subsections (a) through (c) to read as
3 follows:

4 "(a) There shall be no right to trial unless the defendant
5 contests the notice of traffic infraction [~~or~~], notice of
6 emergency period infraction, or fireworks infraction pursuant to
7 section 291D-8. If, after proceedings to contest the notice of
8 traffic infraction or emergency period infraction, a
9 determination is made that the defendant committed the traffic
10 infraction [~~or~~], emergency period infraction, or fireworks
11 infraction, judgment shall enter in favor of the State. The
12 defendant may request a trial pursuant to the Hawaii rules of
13 evidence and the rules of the district court; provided that any
14 request for trial shall be made within thirty days of entry of
15 judgment. If, after appearing in person at a hearing to contest
16 the notice of traffic infraction [~~or~~] notice of emergency period
17 infraction, or notice of fireworks infraction, the person
18 requests a trial at the conclusion of the hearing, the court
19 shall provide the person with the trial date as soon as
20 practicable.



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

10 (c) If trial on the traffic infraction [~~or~~] emergency
11 period infraction, or fireworks infraction is held before trial
12 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 291D-7(b);
17 and
18 (2) Any testimony given by the defendant in the traffic
19 infraction [~~or~~], emergency period infraction, or
20 fireworks infraction trial.



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 SECTION 23. Section 291D-14, Hawaii Revised Statutes, is
5 amended by amending subsections (c) and (d) to read as follows:

6 "(c) Notwithstanding section 604-17, while the court is
7 sitting in any matter pursuant to this chapter, the court shall
8 not be required to preserve the testimony or proceedings, except
9 proceedings conducted pursuant to section 291D-13 and
10 proceedings in which the traffic infraction [~~or~~], emergency
11 period infraction, or fireworks infraction is heard on the same
12 date and time as any related criminal offense.

13 (d) The prosecuting attorney shall not participate in
14 traffic infraction [~~or~~], emergency period infraction, or
15 fireworks infraction proceedings conducted pursuant to this
16 chapter, except proceedings pursuant to section 291D-13 and
17 proceedings in which a related criminal offense is scheduled for
18 arraignment, hearing, or concurrent trial."



1 PART VI

2 SECTION 24. This Act does not affect rights and duties
3 that matured, penalties that were incurred, and proceedings that
4 were begun before its effective date.

5 SECTION 25. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 26. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 27. This Act shall take effect on July 30, 2075.



Report Title:

Judiciary; Department of the Attorney General; PSD; Fireworks; Adjudication; Enforcement; Working Group; Appropriations

Description:

Establishes an expeditious adjudication system for the processing of fireworks infractions. Increases the fine for certain fireworks violations. Clarifies what constitutes a separate violation. Increases the penalty for removing or extracting pyrotechnic contents. Authorizes the Sheriff Division to enforce the fireworks control law. Requires the Attorney General to establish an explosion detection technology working group. Requires the Department of Public Safety to develop and implement a web-based reporting tool for illegal fireworks. Appropriates moneys. Effective 7/30/2075. (SD2)

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

