



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

**Testimony COMMENTING on HB 1246, HD1
RELATING TO FIREWORKS**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 3/2/2021

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 offers the following comments on this bill that
6 proposes to apply air and noise pollution penalties to illegal fireworks. The Department supports
7 attempts to find additional deterrents to the use of illegal fireworks but cautions that there may be
8 a number of unintended consequences to this bill.

9 The air and noise programs are regulatory programs which ensure compliance with and
10 enforce Hawaii's air and noise regulations, such as emissions limits to prevent a source from
11 exceeding established air quality standards. Should a violation occur, the programs must know
12 the severity and impact of the violation in order to determine the appropriate penalty; in general,
13 the more severe or impactful the violation, the greater the penalty would be. However, the
14 enforcement action case development and penalty calculation for such a fireworks rule would be
15 unfeasible for the Department's programs. In the bill, the police are responsible for catching and
16 citing violators and the Department's programs would perform a secondary evaluation of
17 fireworks violations and add their penalties based on the police reports. It would be extremely
18 difficult, if not impossible, for the air program to identify the volume of air pollutant emissions
19 and type of pollutant from a report, or to distinguish the emissions from other fireworks, some of

1 which are legal, or even from background concentrations that normally exist. Similarly, the
2 noise program would be hard-pressed to determine key penalty factors such as decibel levels and
3 duration based on police reports. As a result, few violations, if any, would result in a substantial
4 penalty as envisioned in this bill.

5 Three enforcement options exist for any potential air pollution violation.

- 6 • No further Action, if no evidence of a violation is found;
- 7 • An Informal Notice of Violation, which carries no monetary fine; or
- 8 • A formal Notice and Finding of Violation and Order (NFVO).

9 While the last does have a monetary fine, the amount would depend on the program's
10 ability to determine criteria such as severity. Moreover, the formal NFVO can be a lengthy
11 process that may include appeals, negotiations, and a contested case hearing, all of which would
12 require the use of additional staff resources.

13 Second, this proposal would increase the workload on the staff of the two environmental
14 programs. The Department has experienced budget cuts and restrictions on filling vacant staff
15 positions due to the State's current economic situation. Both the air and noise programs are
16 operating at a decreased capacity. With minimal current staff resources and the understanding
17 that additional resources will not be available in the near future given the fiscal forecast for the
18 State, the programs are currently working to maximize efficiencies through prioritizing work,
19 redistributing tasks, and doing more with less.

20 Performing these new tasks proposed in the bill would take staff away from working on
21 other air and noise enforcement cases and cause delays in pursuing violations of air emissions
22 limits and noise standards established to protect public health. While smoke and noise pollution
23 on New Year's Eve clearly have a negative impact on many people in the community, the air
24 pollutant levels do not exceed the health-based National Ambient Air Quality Standards or
25 constitute a noise violation.

1 If the intent of this bill is to increase deterrent to illegal fireworks, the most direct and
2 appropriate method would be to strengthen the existing criminal penalties and increase the
3 existing fines in Hawaii Revised Statutes, Chapter 132D, Fireworks. Having additional agencies
4 pursue different penalties for a single violation would take away resources from other air and
5 noise program responsibilities without accomplishing the bill's purpose of deterrence.

6 **Offered Amendments:** None

7 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 1, 2021

The Honorable Mark M. Nakashima, Chair
Committee on Judiciary and Hawaiian Affairs
House of Representatives
State Capitol, Room 432
Honolulu, Hawaii 96813

Dear Chair Nakashima:

Subject: House Bill (HB) 1246, House Draft (HD) 1 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 1, 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 Mark M. Nakashima, Chair
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March 1, 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 1.

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 'S. Goble', with a long horizontal flourish extending to the right.

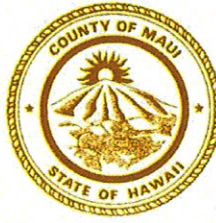
Steven R. Goble
Vice Chair

SG/LR: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 2, 2021

The Honorable Mark M. Nakashima, Chair
Committee on Judiciary and Hawaiian Affairs
House of Representatives
State Capitol, Room 432
Honolulu, HI 96813

Dear Chair Nakashima,

Subject: House Bill (HB) 1246, House Draft (HD) 1 Relating to Fireworks

I am David Thyne, member of the State Fire Council (SFC). The SFC offers the following comments on HB 1246, HD 1, which specifies that certain violations of the Fireworks Control Law shall be considered be an activity that causes air pollution and is a violation of noise control rules, which may subject the violator to citation under the air and noise pollution laws. Penalties under these laws are higher than the Fireworks Control Law.

This 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 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 its transported throughout the state. Deaths,

The Honorable Mark M. Nakashima, Chair

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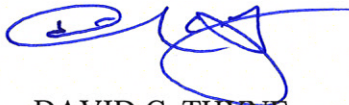
March 2, 2021

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 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 1.

Should you have any 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 Waialae Avenue Honolulu, Hawaii 96826
808.356.2200 • HawaiianHumane.org

Date: Feb. 26, 2021

To: Chair Rep. Mark Nakashima
Vice Chair Rep. Scot Matayoshi
and Members of the Committee on Judiciary & Hawaiian Affairs

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

RE: Testimony in support of HB 1246: Relating to Fireworks
Tuesday, March 2, 2021, 2 p.m., Capitol Conference Room 325

Aloha Chair Nakashima, Vice Chair Matayoshi and Committee Members,

On behalf of the Hawaiian Humane Society, thank you for considering our support for House Bill 1246, HD1, 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-1

Submitted on: 2/26/2021 6:31:33 PM

Testimony for JHA on 3/2/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

I support HB1246. Illegal fireworks pose many risks and harms to our community, and noise pollution is surely one of the harms. It truly wreaks havoc on many of our residents and their pets. We wouldn't tolerate these noise levels from other activities, even if the activities themselves were legal. Here, the fireworks are already illegal. Let's expand our penalties to help provide more effective deterrence.

Thank you for your consideration of this matter.

HB-1246-HD-1

Submitted on: 2/27/2021 10:14:28 AM

Testimony for JHA on 3/2/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

If we have to have fireworks (which I believe we should not!), then at least put some teeth into how to punish those who do not use them in a safe manner.

HB-1246-HD-1

Submitted on: 3/1/2021 4:06:17 PM

Testimony for JHA on 3/2/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members,

Please support HB1246.

Thank you,

Andrea Quinn