

JAN 24 2024

A BILL FOR AN ACT

RELATING TO ILLEGAL FIREWORKS.

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

1 SECTION 1. Act 67, Session Laws of Hawaii 2023, created
2 the illegal fireworks task force to, among other things, plan,
3 coordinate, and engage in law enforcement operations to
4 interdict illegal fireworks. The legislature finds that
5 additional provisions are needed for the ability of county and
6 state agencies to address the illegal use of fireworks in
7 Hawaii.

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

11 "§132D- Entry for examination; obstructing law
12 enforcement or fire department operations; penalty. (a) Any
13 law enforcement officer having police power and any county fire
14 department officer, which includes firefighters, may at
15 reasonable hours enter and inspect the premises of the holder of
16 a license or permit issued under this chapter and any books or
17 records therein, to verify compliance with this chapter and the
18 conditions of the license or the permit. For purposes of this

S.B. NO. 3148

1 section, "premises of the holder of a license or permit" does
2 not include the holder's private residences, defined as
3 dwelling considered to be a person's home, including a single
4 family house, apartment unit, condominium, townhouse, or
5 cooperative unit.

6 (b) Upon a request by any law enforcement officer having
7 police power and any county fire department officer, which
8 includes firefighters, to enter and inspect the premises at
9 reasonable hours, the holder of the license or permit or the
10 holder's employee shall make available for immediate inspection
11 and examination the premises and all the relevant books and
12 records therein.

13 (c) Any holder of a license or permit issued under this
14 chapter who refuses entry or access to an officer to the
15 premises shall be found in violation of conditions of the
16 license or the permit and the license or permit shall be
17 suspended or revoked by the issuing department after hearing,
18 for violation of any certificate requirement or condition or any
19 provision of this chapter or rule adopted under this chapter.
20 Any order made by the issuing department for the suspension or
21 revocation of a license or permit shall be in writing and shall
22 set forth the reasons for the revocation. The action of the

S.B. NO. 3148

1 issuing department in suspending or revoking the proceedings may
2 be reviewed in the manner provided in chapter 91. The
3 department that issued the license or permit shall provide the
4 license or permit holder with a written notice and order
5 describing the basis for the revocation. Any person aggrieved
6 by the revocation determination may request a contested case
7 hearing pursuant to chapter 91. To request a contested case
8 hearing, the person shall submit a written request to the
9 department that issued the license or permit within thirty
10 calendar days of the date of the notice and order of the
11 revocation. Appeal to the circuit court under section 91-14, or
12 any other applicable statute, shall only be taken from the
13 issuing department's final order pursuant to a contested case.

14 (d) If any officer, or any person called by the officer to
15 the officer's aid, is threatened with the use of violence,
16 force, or physical interference or obstacle, or is hindered,
17 obstructed, or prevented by any licensee, permittee, the
18 licensee's or permittee's employees, or any other person from
19 entering into the licensee's or permittee's premises, or
20 whenever any officer is by any licensee or permittee, the
21 licensee's or permittee's employees, or any of the other persons
22 opposed, obstructed, or molested in the performance of the

S.B. NO. 3148

1 officer's duty in any respect, the licensee, permittee, the
2 licensee's or permittee's employee, or any of the other persons
3 shall be guilty of a misdemeanor, punishable by a fine of no
4 more than \$2,000, or by imprisonment for no more than one year,
5 or both.

6 (e) Whenever any officer, having demanded admittance into
7 any licensee's or permittee's premises and declared the
8 officer's name and office, is not admitted by the licensee, or
9 permittee, or the person in charge of the premises, it shall be
10 lawful for the officer to use force to enter the premises.

11 §132D- Administrative inspections. (a) The director of
12 law enforcement or the director's designee may conduct
13 administrative inspections of controlled premises upon
14 presenting appropriate credentials to the licensee or permittee
15 or persons subject to this chapter or their agents in accordance
16 with the following provisions:

17 (1) Inspections shall be at reasonable times and within
18 reasonable limits and in a reasonable manner of
19 controlled premises in which persons licensed or
20 permitted under this chapter are authorized to hold,
21 store, transport, sell, possess, or otherwise dispose
22 of any fireworks and articles pyrotechnic to verify

S.B. NO. 3148

1 compliance with this chapter and the conditions of the
2 license or the permit;

3 (2) The director of law enforcement or the director's
4 designee shall have access to, and may copy, any and
5 all records, books, logs, or documents pertaining to
6 the holding, storing, transporting, selling,
7 possessing, or disposition of fireworks or articles
8 pyrotechnic regulated under this chapter without a
9 warrant; and

10 (3) The director of law enforcement or the director's
11 designee may inventory any stock of any fireworks or
12 articles pyrotechnic regulated under this chapter and
13 secure samples or specimens of any fireworks or any
14 articles pyrotechnic not seized as evidence by paying
15 for the sample. The director of law enforcement or
16 the director's designee shall make or cause to be made
17 examinations of samples secured under this section to
18 verify compliance with this chapter or the conditions
19 of the license or the permit.

20 (4) The regulatory authority, under this chapter, shall
21 remain with the five county fire departments. The
22 director of law enforcement or the director's designee

S.B. NO. 3148

1 conducting these inspections are aiding the county
2 fire departments' enforcement of its regulatory
3 authority.

4 (b) For purposes of this section, "controlled premises"
5 means:

6 (1) Places where persons licensed or permitted under this
7 chapter are required to keep records; and

8 (2) Places, including factories, warehouses,
9 establishments, businesses, storefronts, vehicles, and
10 conveyances in which persons licensed under this
11 chapter are permitted to hold, store, transport, sell,
12 possess, or otherwise dispose of any fireworks and
13 articles pyrotechnic.

14 §132D- Records of licensees and permittees. (a)

15 Persons licensed or permitted to hold, store, transport, sell,
16 possess, or otherwise dispose of any fireworks and articles
17 pyrotechnic shall keep records and maintain inventories in
18 conformance with the recordkeeping and inventory requirements of
19 this chapter.

20 (b) Every person who holds a license or permit under this
21 chapter shall keep a record of all fireworks and articles
22 pyrotechnic received, imported, held, distributed, sold

S.B. NO. 3148

1 possessed, or disposed of that shows the amounts received,
2 imported, held, distributed, sold, possessed, or disposed of for
3 a period of five years.

4 (c) Records required under this section shall be
5 maintained separately in a file, log book, or electronic
6 database that is readily accessible by the holder of the license
7 or permit;

8 (d) All records pertaining to the receipt, importation,
9 storage, distribution, sale, possession, and disposal of
10 fireworks and articles pyrotechnic must be produced and made
11 available upon request by the director of law enforcement, or
12 the county fire chiefs, or their designees.

13 §132D- Mandatory reporting. (a) Notwithstanding any
14 other law concerning confidentiality to the contrary, the holder
15 of a license or permit issued under this chapter who, in the
16 holder's professional or official capacity, has reason to
17 believe that fireworks or articles pyrotechnic in the holder's
18 inventory have been stolen, embezzled, or otherwise obtained by
19 fraud or diversion, shall immediately report the matter verbally
20 to the director of law enforcement and the county fire chief of
21 the county in which the holder of the license or permit resides
22 or conducts business.

S.B. NO. 3148

1 (b) The holder of a license or permit under this chapter
2 shall submit a written report to the director of law enforcement
3 and the county fire chief of the county in which the holder of
4 the license or permit resides or conducts business as soon as
5 practicable following the verbal report. The written report
6 shall contain:

7 (1) The name and address of the suspected perpetrator, if
8 known;

9 (2) The nature and extent of the theft, embezzlement,
10 fraud, or diversion; and

11 (3) Any other information that the reporter believes might
12 be helpful or relevant to the investigation of the
13 theft, embezzlement, fraud, or diversion.

14 (c) Any person subject to subsection (a), upon demand of
15 the director of law enforcement or the county fire chief of the
16 county in which the holder of the license or permit resides or
17 conducts business, shall provide all information related to the
18 alleged incident of theft, embezzlement, fraud, or diversion,
19 including records, reports, and any image, film, video, or other
20 electronic medium, that was not included in the written report
21 submitted pursuant to subsection (b).

S.B. NO. 3148

1 (d) This chapter shall not be construed to provide a basis
2 for a cause of action against the director of law enforcement or
3 the county fire chief or their departments.

4 (e) Any person subject to this section who knowingly
5 prevents another person from reporting as required by this
6 section, or who knowingly fails to provide information as
7 required by this section, shall be guilty of a misdemeanor.

8 §132D- Disposal of confiscated fireworks. A county fire
9 department or law enforcement agency that confiscates prohibited
10 fireworks or articles pyrotechnic pursuant to this chapter may
11 safely destroy or dispose of the confiscated fireworks; provided
12 that the law enforcement agency shall retain a sample of each
13 type of confiscated fireworks or articles pyrotechnic for
14 evidentiary purposes.

15 §132D- Storage and disposal fine. In any
16 administrative, civil, or criminal action, following notice and
17 an opportunity for hearing, the agency or court hearing the
18 action shall hold liable any party in violation of this chapter
19 and from whom fireworks or articles pyrotechnic were
20 confiscated, seized, or otherwise taken into custody by the
21 state or county agency or agencies for the total amount of the
22 costs incurred by the agency or agencies for the storage and

S.B. NO. 3148

1 disposal of the confiscated or seized fireworks or articles
2 pyrotechnic. An administrative or civil order to pay a storage
3 and disposal fine may be collected in the same manner as a
4 judgment in a civil action. An agency or agencies may collect
5 the full amount of the storage and disposal fine together with
6 any costs, interest, and attorney's fees incurred in any action
7 to enforce the order to pay a storage and disposal fine."

8 SECTION 3. Section 132D-8, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§132D-8 **Application for license.** (a) All licenses
11 required under section 132D-7 shall be issued by the county and
12 shall be nontransferable. Licenses to import shall specify the
13 date of issuance or effect and the date of expiration, which
14 shall be March 31 of each year. The application shall be made
15 on a form setting forth the date upon which the importations are
16 to begin, the address of the location of the importer, and the
17 name of the proprietor or, if a partnership, the name of the
18 partnership and the names of all partners or, if a corporation,
19 the name of the corporation and the names of its officers. The
20 application for a license to import display fireworks, articles
21 pyrotechnic, or aerial devices shall include written
22 documentation of the proposed display event and related contact

S.B. NO. 3148

1 information in a form prescribed by the applicable county. If
2 the state fire council or county discovers at a later date that
3 a licensee has been convicted of a felony under this chapter,
4 the licensee's license shall be revoked and no new license shall
5 be issued to the licensee for two years.

6 (b) Each storage, wholesaling, and retailing site shall be
7 required to obtain a separate license. The license shall
8 specify the date of issuance or effect and the date of
9 expiration, which shall be March 31 of each year. The
10 application shall be made on a form setting forth the date upon
11 which the storage, sale, or offers for sale are to begin, the
12 address of the location of the licensee, and the name of the
13 proprietor, or, if a partnership, the name of the partnership
14 and the names of all partners or, if a corporation, the name of
15 the corporation and the name of its officers. Any license
16 issued pursuant to this chapter may be revoked by the county if
17 the licensee violates any provision of this chapter or if the
18 licensee stores or handles the fireworks in such a manner as to
19 present an unreasonable safety hazard.

20 (c) Permanent and temporary fireworks storage buildings or
21 structures and buildings or facilities where redistribution
22 activities are performed shall comply with the currently adopted

S.B. NO. 3148

1 county building or fire codes or the latest edition of
2 nationally recognized standards.

3 (d) It shall be unlawful for any licensee, other than a
4 wholesaler who is selling or transferring fireworks or articles
5 pyrotechnic to a licensed retailer, to sell or offer to sell,
6 exchange for consideration, give, transfer, or donate any
7 fireworks or articles pyrotechnic at any time to any person who
8 does not present a permit duly issued as required by section
9 132D-10 or 132D-16. The permit shall be signed by the seller or
10 transferor at the time of sale or transfer of the fireworks or
11 articles pyrotechnic, and the seller or transferor shall
12 indicate on the permit the amount and type of fireworks or
13 articles pyrotechnic sold or transferred. No person shall sell
14 or deliver fireworks to any permittee in any amount in excess of
15 the amount specified in the permit, less the amount shown on the
16 permit to have been previously purchased; provided that no
17 fireworks shall be sold to a permittee holding a permit issued
18 for purposes of section 132D-3, more than five calendar days
19 before the applicable time period under section 132D-3.

20 (e) Aerial devices, display fireworks, or articles
21 pyrotechnic shall only be sold or transferred by a wholesaler to
22 a person with a valid permit under sections 132D-10 and 132D-16.

S.B. NO. 3148

1 No person with a valid permit under sections 132D-10 and 132D-16
2 shall sell or transfer aerial devices, display fireworks, or
3 articles pyrotechnic to any other person.

4 (f) Any license issued pursuant to this chapter shall be
5 prominently displayed in public view at each licensed location.

6 (g) Any licensee under this chapter consents to allow the
7 director of law enforcement or the director's designee to
8 inspect the premises of the licensee. If a licensee withdraws
9 consent to inspect the premises of the licensee, the license
10 shall be revoked."

11 SECTION 4. Section 132D-8.6, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The department of law enforcement or the fire
14 department of a county, in which a shipment of fireworks or
15 articles pyrotechnic has landed and becomes subject to the
16 jurisdiction of the fire department, shall be allowed to
17 inspect, if it chooses, any shipment declared on the shipping
18 manifest as fireworks or articles pyrotechnic[-] or any facility
19 in which such fireworks or articles pyrotechnic are stored."

20 SECTION 5. Section 132D-9, Hawaii Revised Statutes, is
21 amended to read as follows:

S.B. NO. 3148

1 "§132D-9 Application for permit. The permit required
2 under section 132D-10 or 132D-16 shall be issued by the county
3 or its authorized designees and be nontransferable. The county
4 or its authorized designees shall issue all permits for which
5 complete applications have been submitted and which contain only
6 correct information. The permit shall specify the date of
7 issuance or effect and the date of expiration but in no case for
8 a period to exceed one year. The permit for the purchase of
9 consumer fireworks for the purposes of section 132D-3 shall not
10 allow purchase for more than one event as set forth in section
11 132D-3. The application shall be made on a form setting forth
12 the dates for which the permit shall be valid, the location
13 where the permitted activity is to occur, and the name of the
14 proprietor or, if a partnership, the name of the partnership and
15 the names of all partners or, if a corporation, the name of the
16 corporation and the names of its officers. The permit
17 application may be denied if the proposed use of fireworks or
18 articles pyrotechnic presents a substantial inconvenience to the
19 public or presents an unreasonable fire or safety hazard. Any
20 permit issued pursuant to this chapter shall be prominently
21 displayed in public view at the site. Any permittee under this
22 chapter consents to allow the director of law enforcement or the

S.B. NO. 3148

1 director's designee to inspect the premises of the permittee,
2 except for private residences. If a permittee withdraws consent
3 to inspect the premises of the permittee, the permit shall be
4 revoked."

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

7 "§132D-14 Penalty. (a) Any person:

- 8 (1) Importing aerial devices, display fireworks, or
9 articles pyrotechnic without having a valid license
10 under section 132D-7 shall be guilty of a class C
11 felony;
- 12 (2) Purchasing, possessing, setting off, igniting, or
13 discharging aerial devices, display fireworks, or
14 articles pyrotechnic without a valid permit under
15 sections 132D-10 and 132D-16, or storing, selling, or
16 possessing aerial devices, display fireworks, or
17 articles pyrotechnic without a valid license under
18 section 132D-7, or allowing an individual to possess,
19 set off, ignite, discharge, or otherwise cause to
20 explode any aerial device in violation of section
21 132D-14.5:

S.B. NO. 3148

- 1 (A) If the total weight of the aerial devices,
2 display fireworks, or articles pyrotechnic is
3 twenty-five pounds or more, shall be guilty of a
4 class C felony; or
- 5 (B) If the total weight of the aerial devices,
6 display fireworks, or articles pyrotechnic is
7 less than twenty-five pounds, shall be guilty of
8 a misdemeanor;
- 9 (3) Who transfers or sells aerial devices, display
10 fireworks, or articles pyrotechnic to a person who
11 does not have a valid permit under sections 132D-10
12 and 132D-16, shall be guilty of a class C felony; and
- 13 (4) Who removes or extracts the pyrotechnic contents from
14 any fireworks or articles pyrotechnic and uses the
15 contents to construct fireworks, articles pyrotechnic,
16 or a fireworks or articles pyrotechnic related device
17 shall be guilty of a misdemeanor.
- 18 (b) Except as provided in subsection (a) or as otherwise
19 specifically provided for in this chapter, any person violating
20 any other provision of this chapter, shall be fined no more than
21 \$5,000 for each violation. Notwithstanding any provision to the

S.B. NO. 3148

1 contrary in this section, any person violating section 132D-14.5
2 shall be fined at least \$500 and no more than \$5,000.

3 (c) The court shall collect the fines imposed in
4 subsections (a) and (b) for violating this chapter and, of the
5 fines collected, shall pay twenty per cent to the State and
6 eighty per cent to the county in which the fine was imposed
7 which shall be expended by the county for law enforcement
8 purposes.

9 (d) Notwithstanding any penalty set forth herein,
10 violations of subsection (a) (1) or (3) may be subject to
11 nuisance abatement proceedings provided in part V of chapter
12 712.

13 (e) For the purposes of this section, each type of
14 prohibited fireworks as defined by section 132D-2 imported,
15 purchased, sold, possessed, ignited, or discharged shall
16 constitute a separate violation for each unopened package, and
17 each separate firework imported, purchased, sold, possessed,
18 ignited, or discharged shall be a separate violation if the
19 package is opened or the firework is not in a package.

20 (f) For the purposes of this section:

21 "Package" (1) means any aerial devices, display fireworks,
22 or articles pyrotechnic (A) enclosed in a container or wrapped

S.B. NO. 3148

1 in any manner in advance of wholesale or retail sale; and (B)
2 whose weight or measure has been determined in advance of
3 wholesale or retail sale; (2) but does not mean (A) inner
4 wrappings not intended to be individually sold to the customer;
5 (B) shipping containers or wrapping used solely for the
6 transportation of any commodities in bulk or in quantity; (C)
7 auxiliary containers or outer wrappings used to deliver such
8 commodities if such containers or wrappings bear no printed
9 matter pertaining to any particular aerial devices, display
10 fireworks, or articles pyrotechnic; (D) containers used for
11 retail tray pack displays when the container itself is not
12 intended to be sold; or (E) open carriers and transparent
13 wrappers or carriers for containers when the wrappers or
14 carriers do not bear printed matter pertaining to any particular
15 aerial devices, display fireworks, or articles pyrotechnic."

16 SECTION 7. Section 132D-20, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) This chapter shall be enforced by each county[-] or
19 the department of law enforcement. The counties, the department
20 of law enforcement, or both are authorized to enforce and
21 administer the provisions of this chapter."

S.B. NO. 3148

1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.


4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect upon its approval.

7

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INTRODUCED BY:

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9

BY REQUEST

S.B. NO. 3148

Report Title:

Illegal Fireworks; Enforcement

Description:

Amends chapter 132D, HRS, to strengthen county and state agencies' ability to address the illegal use of fireworks in Hawaii.

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

SB. NO. 3148

JUSTIFICATION SHEET

DEPARTMENT: LAW ENFORCEMENT

TITLE: A BILL FOR AN ACT RELATING TO ILLEGAL FIREWORKS.

PURPOSE: To strengthen county and state agencies' ability to address the illegal use of fireworks in Hawaii by addressing inspection and disposal of illegal fireworks and enforcement and penalties of laws related to illegal fireworks.

MEANS: Add six new sections to chapter 132D, Hawaii Revised Statutes (HRS), and amend sections 132D-8, 132D-8.6(b), 132D-9, 132D-14, and 132D-20(a), HRS.

JUSTIFICATION: Increasing licensing and inspection requirements and authorities increases the ability of authorities and the Illegal Fireworks Task Force to identify illegal fireworks entering the State and initiate and conduct meaningful and successful law enforcement investigations and operations.

Impact on the public: The public is currently at risk through the widespread use of illegal fireworks in our communities. This bill will provide additional tools to county, state, and federal law enforcement agencies, whether acting alone or as part of the Illegal Fireworks Task Force.

Impact on the department and other agencies: This bill would increase the ability of the department to combat the illegal fireworks in the community.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

LAW 900.

OTHER AFFECTED
AGENCIES:

Fire Council, county fire and law
enforcement departments; counties of Hawaii

EFFECTIVE DATE:

Upon approval.