
A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that the widespread use
2 of illegal fireworks poses an extreme danger and lethal risk to
3 public health and safety, resulting in fires, serious burn
4 injuries, and fatalities to innocent bystanders. The cost to
5 the community far outweighs any intrinsic benefit, as numerous
6 lives have been lost over the years from the use of illegal
7 fireworks. In addition, the potential for wildfires in this
8 time of climate change is a real and present danger and is a top
9 priority for all levels of government.

10 Tragedies like the New Year's Eve explosion of 2024 have
11 injured or claimed the lives of the elderly, adults, and
12 children, seriously impacting entire neighborhoods in the middle
13 of urban Honolulu and across the State.

14 Fireworks also emit excessive smoke and other toxins into
15 the air, making breathing difficult for thousands of Hawaii
16 residents with respiratory ailments. Noise from loud fireworks
17 traumatizes many residents, particularly war veterans who may



1 suffer from post-traumatic stress disorder from being in combat.
2 Pets and vulnerable species in their natural habitats also must
3 suffer each holiday season when fireworks noise and
4 environmental pollution commences.

5 With the increase in fireworks-related calls, public safety
6 agencies are heavily strained to maintain adequate response
7 levels for other critical emergencies, which adds to the cost of
8 state and county resources that could be used for natural
9 disasters and other emergencies. They are often overwhelmed and
10 are not able to stop the thousands of illegal fireworks being
11 used, making it a death trap for thousands of innocent lives who
12 are not involved in illegal fireworks use.

13 The legislature further finds that people in the State
14 deserve to live in peace and security without the public safety
15 risk and disruptive impact of illegal fireworks. There can be
16 no more gray areas when lives are lost while this black market
17 flourishes.

18 The legislature also finds that improved enforcement of the
19 fireworks control laws is necessary, not only to protect
20 property from avoidable fire damage, but also to protect the
21 community from fire- and explosion-related injuries, respiratory



1 distress caused by the air pollution, and recurring trauma to
2 afflicted persons due to loud explosions.

3 The legislature believes that a more robust continuum of
4 enforcement mechanisms must be established to promote compliance
5 with the fireworks control laws. This includes implementing
6 graduated penalties for repeat or felony-level offenses,
7 imposing enhanced penalties for offenses that result in injury
8 or death, and adjudicating fireworks infractions under the same
9 system used for traffic and emergency period infractions. The
10 fireworks infractions system will allow law enforcement agencies
11 and the judiciary to quickly and efficiently process low-level
12 cases, while also allowing them to prioritize higher-level cases
13 as appropriate.

14 Accordingly, the purpose of this Act is to:

15 (1) Establish various criminal offenses and penalties
16 related to fireworks or articles pyrotechnic;

17 (2) Amend and establish various definitions and penalties
18 for fireworks offenses, including establishing
19 heightened penalties under certain circumstances; and



(3) Incorporate fireworks infractions into the existing adjudication process for traffic and emergency period infractions.

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

"§132D-A General fireworks or articles pyrotechnic prohibitions in the second degree. (a) A person commits the offense of general fireworks or articles pyrotechnic prohibitions in the second degree if, without a permit issued pursuant to sections 132D-10 and 132D-16, the person intentionally, knowingly, or recklessly:

(1) Sets off, ignites, discharges, or otherwise causes to explode any aerial devices, articles pyrotechnic, or display fireworks:

(A) Within one thousand feet of any operating hospital, licensed convalescent home, licensed home for the elderly, zoo, licensed animal shelter, or licensed animal hospital;



1 (B) In any school building, or on any school grounds
2 or yards without first obtaining authorization
3 from appropriate school officials;

4 (C) On any highway, alley, street, sidewalk, other
5 public way, or public beach;

6 (D) In any park or officially designated forest or
7 wildlife preserve;

8 (E) Within fifty feet of a canefield;

9 (F) Within one thousand feet of any building used for
10 public worship during the periods when services
11 are held; or

12 (G) Within five hundred feet of any dwelling; or

13 (2) Throws, catapults, or otherwise manually propels
14 ignited aerial devices, articles pyrotechnic, consumer
15 fireworks, or display fireworks.

16 (b) The state of mind requirement for the offense under
17 subsection (a)(1)(A), (E), (F), and (G) shall not be applicable
18 to whether the person was aware that the person was within the
19 designated distance from an operating hospital, licensed
20 convalescent home, licensed home for the elderly, zoo, licensed
21 animal shelter, or licensed animal hospital; canefield; building



1 used for public worship; or dwelling. A person shall be
2 strictly liable with respect to the attendant circumstance that
3 the person was within the designated distance from a prohibited
4 place at the time of incident.

5 (c) Except as otherwise provided in subsections (d), (e),
6 and (f), the offense of general fireworks or articles
7 pyrotechnic prohibitions in the second degree shall be a
8 misdemeanor.

9 (d) The offense of general fireworks or articles
10 pyrotechnic prohibitions in the second degree shall be a class C
11 felony if the person has been convicted one or more times for
12 any offense under this chapter within ten years of the current
13 offense.

14 (e) The offense of general fireworks or articles
15 pyrotechnic prohibitions in the second degree shall be a class B
16 felony if any of the aerial devices, articles pyrotechnic, or
17 display fireworks set off, ignited, discharged, or otherwise
18 caused to explode in the commission of the offense cause
19 substantial bodily injury to another person.

20 (f) The offense of general fireworks or articles
21 pyrotechnic prohibitions in the second degree shall be a class A



felony if any of the aerial devices, articles pyrotechnic, or display fireworks set off, ignited, discharged, or otherwise caused to explode in the commission of the offense cause serious bodily injury or death to another person.

(g) The state of mind requirement for subsections (e) and (f) shall not be applicable to whether the person was aware the aerial devices, articles pyrotechnic, or display fireworks caused or would cause the injury or death. A person shall be strictly liable with respect to the result that the aerial devices, articles pyrotechnic, or display fireworks caused the injury or death.

§132D-B Sending or receiving fireworks or articles pyrotechnic by air delivery; prohibited. (a) A person commits the offense of sending or receiving fireworks or articles pyrotechnic by air delivery if the person intentionally, knowingly, or recklessly sends or receives any amount of aerial devices, articles pyrotechnic, consumer fireworks, or display fireworks via any form of air delivery, including but not limited to any private courier, commercial carrier, or mail or postal services; provided that a person possessing a current explosives license issued by the federal Bureau of Alcohol,



Tobacco, Firearms and Explosives shall not be prosecuted under this section if the person sends or receives the consumer fireworks, aerial devices, display fireworks, or articles pyrotechnic via any form of air delivery in compliance with federal law.

(b) Except as provided in subsections (c) and (d), the offense of sending or receiving fireworks or articles pyrotechnic by air delivery shall be a class C felony.

(c) The offense of sending or receiving fireworks or articles pyrotechnic by air delivery shall be a class B felony if:

(1) The person has been convicted one or more times for any offense under this chapter within ten years of the current offense; or

(2) The total weight of the aerial devices, articles pyrotechnic, consumer fireworks, and display fireworks sent or received in the commission of the offense is five pounds or more but less than twenty-five pounds.

(d) The offense of sending or receiving fireworks or articles pyrotechnic by air delivery shall be a class A felony if the total weight of the aerial devices, articles pyrotechnic,



1 consumer fireworks, and display fireworks sent or received in
2 the commission of the offense is twenty-five pounds or more.

3 **§132D-C Distributing fireworks or articles pyrotechnic to**
4 **non-permit holder.** (a) A person commits the offense of
5 distributing fireworks or articles pyrotechnic to non-permit
6 holder when the person, who holds a valid license required
7 pursuant to section 132D-7, intentionally, knowingly, or
8 recklessly distributes aerial devices, articles pyrotechnic,
9 consumer fireworks, or display fireworks to another person who
10 does not have a valid permit required pursuant to sections
11 132D-10 and 132D-16.

12 (b) Except as provided in subsections (c) and (d), the
13 offense of distributing fireworks or articles pyrotechnic to
14 non-permit holder shall be a class C felony.

15 (c) The offense of distributing fireworks or articles
16 pyrotechnic to non-permit holder shall be a class B felony if:

17 (1) The person has been convicted one or more times for
18 any offense under this chapter within ten years of the
19 current offense; or

20 (2) Any of the aerial devices, articles pyrotechnic,
21 consumer fireworks, or display fireworks distributed



1 in the commission of the offense cause substantial
2 bodily injury to another person.

3 (d) The offense of distributing fireworks or articles
4 pyrotechnic to non-permit holder shall be a class A felony if
5 any of the aerial devices, articles pyrotechnic, consumer
6 fireworks, or display fireworks distributed in the commission of
7 the offense cause serious bodily injury or death to another
8 person.

9 (e) The state of mind requirement for subsections (c)(2)
10 and (d) shall not be applicable to whether the person was aware
11 the aerial devices, articles pyrotechnic, consumer fireworks, or
12 display fireworks caused or would cause the injury or death. A
13 person shall be strictly liable with respect to the result that
14 the aerial devices, articles pyrotechnic, consumer fireworks, or
15 display fireworks caused the injury or death.

16 **§132D-D Removal or extraction of pyrotechnic contents;**
17 **prohibited.** Any person who removes or extracts the pyrotechnic
18 contents from any aerial devices, articles pyrotechnic, consumer
19 fireworks, or display fireworks shall be guilty of a class C
20 felony.



1 §132D-E Consumer fireworks prohibitions. (a) It shall be
2 unlawful for any person to:

3 (1) Purchase, possess, set off, ignite, discharge, or
4 otherwise cause to explode any consumer fireworks
5 without a permit required pursuant to section 132D-10;
6 or

7 (2) Set off, ignite, discharge, or otherwise cause to
8 explode any consumer fireworks at any time not within
9 the periods for use prescribed in section 132D-3;

10 provided that a person licensed pursuant to sections 132D-7 and
11 132D-8 may purchase and possess consumer fireworks in accordance
12 with the person's license.

13 (b) It shall be unlawful for any person, other than a
14 licensed wholesaler who is distributing consumer fireworks to a
15 licensed retailer in accordance with the person's license, to
16 distribute consumer fireworks:

17 (1) More than five calendar days before the time periods
18 for permissible use under section 132D-3; or

19 (2) After 12:01 a.m. on New Year's Day, 6:00 p.m. on
20 Chinese New Year's Day, or 8:00 p.m. on the Fourth of
21 July.



1 (c) The state of mind requirement for the offense under
2 subsections (a)(2) and (b) shall not be applicable to whether
3 the person was aware of the date or time at the time of offense,
4 or whether the date and time of offense fell within the
5 prohibited periods. A person shall be strictly liable with
6 respect to the date and time of any act proven to have occurred,
7 and with respect to the attendant circumstance that the date and
8 time fell within the prohibited dates and times provided in
9 subsections (a)(2) and (b).

10 (d) Any person who violates:

11 (1) Subsection (a) shall be subject to a \$200 fine;

12 (2) Subsection (b) shall be subject to a \$1,000 fine; and

13 (3) This section shall be subject to proceedings under
14 chapter 291D;

15 provided that nothing in this section shall be construed to
16 prohibit prosecution under section 132D-7, 132D-8.6, or any
17 other provision under this chapter.

18 **§132D-F Refusal to provide identification.** (a) Except as
19 provided in subsection (b), any person detained for violating
20 this chapter shall provide the person's name and current mailing
21 address, or any proof thereof, upon the lawful order or



1 direction of any law enforcement officer in the course and scope
2 of the officer's duties to enforce this chapter.

3 (b) If the law enforcement officer has reasonable grounds
4 to believe that the person is being deceptive or misleading in
5 providing the person's name or address, the person shall provide
6 proof thereof, upon the lawful order or direction of the law
7 enforcement officer.

8 (c) Refusal to provide identification pursuant to this
9 section shall be a petty misdemeanor.

10 **§132D-G Requirements of carrier.** (a) Any carrier or
11 person shipping aerial devices, articles pyrotechnic, consumer
12 fireworks, or display fireworks:

13 (1) Into the State shall notify the appropriate county
14 official and designated state law enforcement agencies
15 at the time the booking is made and, in any case, no
16 later than fourteen days before arrival into the
17 State; or

18 (2) Interisland within the State shall notify the
19 appropriate county official and designated state law
20 enforcement agencies at the time the booking is made



1 and, in any case, no later than five days before
2 departing from the island of origin;
3 provided that the notification shall include, when applicable,
4 the container identification number, manifest, bill of lading,
5 consignee, freight forwarder, sailing vessel name, route number,
6 date of departure, and estimated date of arrival.

7 (b) For a first offense, or any offense not committed
8 within five years of a prior judgment for the State under this
9 section, the carrier or person shall be subject to a \$1,000
10 fine.

11 (c) For a second offense committed within five years of a
12 prior judgment for the State under this section, the carrier or
13 person shall be subject to a \$2,000 fine.

14 (d) For a third or subsequent offense committed within
15 five years of two or more prior judgements for the State under
16 this section, the carrier or person shall be subject to a \$5,000
17 fine.

18 (e) All violations of this section shall be subject to
19 proceedings under chapter 291D. Nothing in this section shall
20 be construed to prohibit criminal prosecution under section
21 132D-8.6 or any other section of this chapter."



SECTION 3. Section 132D-2, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read:

"Carrier" means any shipper or anyone who transports goods, merchandise, property, or people by rail car, aircraft, motor vehicle, or vessel.

"Distribute" or "distribution" means to sell, transfer, deliver to another, give or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.

"Dwelling" means a building that is used or usually used by a person for lodging.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Substantial bodily injury" means bodily injury that causes

a:

(1) Major avulsion, laceration, or penetration of the skin;



- 1 (2) Burn of at least second degree severity;
2 (3) Bone fracture;
3 (4) Serious concussion; or
4 (5) Tearing, rupture, or corrosive damage to the
5 esophagus, viscera, or other internal organs."

6 2. By amending the definition of "aerial device" to read:

7 ~~"Aerial device" means any fireworks [containing one~~
8 ~~hundred thirty milligrams or less of explosive materials that~~
9 ~~produces an audible or visible effect and is designed to rise]~~
10 ~~that upon ignition, discharge, or otherwise being set off rises~~
11 ~~more than twelve feet into the air and [explode or detonate]~~
12 ~~then combusts, explodes, deflagrates, or detonates in the air,~~
13 ~~shoots or emits flaming balls, or [to fly about above the~~
14 ~~ground, and that is prohibited for use by any person who does~~
15 ~~not have a permit for display issued by a county under section~~
16 ~~132D-16. "Aerial devices"]~~ shoots or emits sparks.

17 Alternatively, "aerial device" may include but is not limited to
18 any device classified as fireworks under UN0336 and UN0337 by
19 the United States Department of Transportation as set forth in
20 [Title] title 49 Code of Federal Regulations [include] that
21 contains one hundred thirty milligrams or less of explosive



1 materials, including firework items commonly known as bottle
2 rockets, sky rockets, missile-type rockets, helicopters,
3 torpedoes, daygo bombs, roman candles, flying pigs, and jumping
4 jacks that move about the ground farther than a circle with a
5 radius of twelve feet as measured from the point where the item
6 was placed and ignited, aerial shells, and mines."

7 3. By amending the definition of "consumer fireworks" to
8 read:

9 "Consumer fireworks" means any fireworks ~~[designed~~
10 ~~primarily for retail sale to the public during authorized dates~~
11 ~~and times,]~~ that ~~[produces]~~ upon ignition, discharge, or
12 otherwise being set off, produce visible or audible effects ~~[by~~
13 ~~combustion,]~~ and that ~~[is designed to]~~ remain on or near the
14 ground and, while stationary or spinning rapidly on or near the
15 ground, ~~[emits]~~ emit smoke, a shower of colored sparks,
16 whistling effects, flutter sparks, or balls of colored sparks,
17 and includes combination items that ~~[contain]~~ produce one or
18 more of these effects. ~~["Consumer]~~ Alternatively, "consumer
19 fireworks" [shall comply] may include but is not limited to any
20 firework that complies with the construction, chemical
21 composition, and labeling regulations of the United States



1 Consumer Product Safety Commission as set forth in [~~Title~~] title
2 16 Code of Federal Regulations and fireworks classified as
3 UN0336 and UN0337 by the United States Department of
4 Transportation as set forth in [~~Title~~] title 49 Code of Federal
5 Regulations. "Consumer fireworks" may include but need not be
6 limited to firework items commonly known as firecrackers that
7 are single paper cylinders not exceeding one and one-half inches
8 in length excluding the fuse and one-quarter of an inch in
9 diameter [~~and contain a charge of not more than fifty milligrams~~
10 ~~of pyrotechnic composition~~], snakes, sparklers, fountains, and
11 cylindrical or cone fountains that emit effects up to a height
12 [~~not~~] no greater than twelve feet above the ground, illuminating
13 torches, bamboo cannons, whistles, toy smoke devices, wheels,
14 and ground spinners that when ignited remain within a circle
15 with a radius of twelve feet as measured from the point where
16 the item was placed and ignited, novelty or trick items,
17 combination items, and other fireworks of like construction that
18 are designed to produce the same or similar effects."

19 4. By amending the definitions of "display fireworks",
20 "fireworks", and "import" to read:



1 ""Display fireworks" means any fireworks designed primarily
2 for exhibition display by producing visible or audible effects
3 and classified as display fireworks or contained in the
4 regulations of the United States Department of Transportation
5 and designated as UN0333, UN0334, or UN0335, and includes
6 salutes containing more than two grains (one hundred and thirty
7 milligrams) of explosive materials, aerial shells containing
8 more than forty grams of pyrotechnic compositions, and other
9 display pieces ~~[which]~~ that exceed the limits of explosive
10 materials for classification as "consumer fireworks". ~~[This~~
11 ~~term]~~ "Display fireworks" also includes fused ~~[setpieces]~~ set
12 pieces containing components~~[, which]~~ that together exceed fifty
13 milligrams of salute ~~[power.]~~ powder. The use of display
14 fireworks shall be prohibited for use by any person who does not
15 have a display permit issued by a county.

16 "Fireworks" means any combustible or explosive composition,
17 or any substance or combination of substances, ~~[or article~~
18 ~~prepared for the purpose of producing]~~ that produces a visible
19 or audible effect by combustion, explosion, deflagration, or
20 detonation ~~[and that meets the definition of aerial device or~~
21 ~~consumer or display fireworks as defined by this section and~~



1 ~~contained~~], including but not limited to aerial devices,
2 consumer fireworks, or display fireworks as defined by this
3 section. "Fireworks" also includes but is not limited to aerial
4 devices, consumer fireworks, or display fireworks, as defined in
5 the regulations of the United States Department of
6 Transportation as set forth in [Title] title 49 Code of Federal
7 Regulations. [The term "fireworks" shall] "Fireworks" does not
8 include any explosives or pyrotechnics regulated under chapter
9 396 or automotive safety flares, nor shall [the term]
10 "fireworks" be construed to include toy pistols, toy cannons,
11 toy guns, party poppers, pop-its, or [other] similar devices
12 [which contain twenty-five hundredths of a grain or less of
13 explosive substance].

14 "Import" (and any nounal, verbal, adjectival, adverbial,
15 and other equivalent form of the term used interchangeably in
16 this chapter) means to bring or attempt to bring [~~fireworks~~]
17 into the State or to cause [~~fireworks~~] to be brought into the
18 State[7] any aerial devices, articles pyrotechnic, consumer
19 fireworks, or display fireworks, as defined in this section or
20 as defined by the United States Department of Transportation as
21 set forth in title 49 Code of Federal Regulations, and includes



1 ~~[fireworks]~~ any aerial devices, articles pyrotechnic, consumer
2 fireworks, or display fireworks labeled or designated as
3 samples, even if not intended for retail sale."

4 5. By amending the definition of "pyrotechnic composition"
5 or "pyrotechnic contents" to read:

6 "Pyrotechnic composition" or "pyrotechnic contents" means
7 the combustible or explosive component of aerial devices,
8 articles pyrotechnic, consumer fireworks, and display
9 fireworks."

10 6. By repealing the definition of "law enforcement or fire
11 officer".

12 [~~"Law enforcement or fire officer" means any law~~
13 ~~enforcement officer having police power or county fire~~
14 ~~department officer, including firefighters."~~]

15 SECTION 4. Section 132D-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§132D-5 General fireworks or articles pyrotechnic**
18 **prohibitions~~[-]~~ in the first degree.** (a) It shall be unlawful
19 for any person [~~without a permit issued under section 132D-10 by~~
20 ~~a county fire department]~~ to:



1 ~~[(1) Remove or extract the pyrotechnic contents from any~~
2 ~~fireworks;~~

3 ~~+(2)]~~ (1) Throw, catapult, or otherwise manually propel any
4 ignited aerial devices, articles pyrotechnic, consumer
5 fireworks, or display fireworks:

6 (A) From, at, or into a vehicle;

7 (B) At a person or an animal; ~~[and]~~ or

8 (C) From above the first floor of any building; or

9 ~~[(3)]~~ (2) Set off, ignite, discharge, or otherwise cause to
10 explode any aerial devices, articles pyrotechnic,
11 consumer fireworks, or display fireworks:

12 (A) ~~[Above]~~ From above the first floor of any
13 building;

14 (B) In any vehicle; or

15 ~~[(C) At any time not within the periods for use~~
16 ~~prescribed in section 132D-3;~~

17 ~~+(D) Within one thousand feet of any operating~~
18 ~~hospital, licensed convalescent home, licensed~~
19 ~~home for the elderly, zoo, licensed animal~~
20 ~~shelter, or licensed animal hospital;~~



1 ~~(E) In any school building, or on any school grounds~~
2 ~~and yards without first obtaining authorization~~
3 ~~from appropriate school officials;~~

4 ~~(F) On any highway, alley, street, sidewalk, or other~~
5 ~~public way; in any park; on any public beach; in~~
6 ~~any officially designated forest or wildlife~~
7 ~~preserve; within fifty feet of a canefield; or~~
8 ~~within one thousand feet of any building used for~~
9 ~~public worship during the periods when services~~
10 ~~are held; and~~

11 ~~(G) Within five hundred feet of any hotel.~~

12 ~~(b) It shall be unlawful to purchase consumer fireworks~~
13 ~~more than five calendar days before the time periods for~~
14 ~~permissible use under section 132D-3.~~

15 ~~(c) It shall be unlawful to sell consumer fireworks after~~
16 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~
17 ~~Day, and 8:00 p.m. on the Fourth of July.]~~

18 (C) In any building; provided that firecrackers shall
19 be permitted if used in accordance with sections
20 132D-3 and 132D-10 and all other applicable state
21 and county laws, ordinances, and rules.



1 (b) Except as provided in subsections (c) and (d), the
2 offense of general fireworks or articles pyrotechnic
3 prohibitions in the first degree shall be a class C felony.

4 (c) If in the commission of the offense of general
5 fireworks or articles pyrotechnic prohibitions in the first
6 degree the person negligently causes substantial bodily injury
7 to another person, the person shall be guilty of a class B
8 felony.

9 (d) If in the commission of the offense of general
10 fireworks or articles pyrotechnic prohibitions in the first
11 degree the person negligently causes serious bodily injury or
12 death to another person, the person shall be guilty of a class A
13 felony."

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

16 "**§132D-6 Exceptions.** The prohibitions in ~~[section]~~
17 sections 132D-5 ~~[et]~~, 132D-A, and 132D-D shall not apply to:

- 18 (1) The use of flares, noisemakers, or signals for
19 warning~~[7]~~ or pest control, or illumination purposes
20 by police and fire departments, utility companies,
21 transportation agencies, and other governmental or



1 private agencies or persons, including agricultural
2 operations, in connection with emergencies, their
3 duties, or business;

4 (2) The sale or use of blank cartridges for a show or
5 theater, or for signal, commercial, or institutional
6 purposes in athletics or sports;

7 (3) The purchase and use of aerial devices, articles
8 pyrotechnic, consumer fireworks, [~~aerial devices,~~] or
9 display fireworks[~~, or articles pyrotechnic~~]:

10 (A) In a movie, television production, or theatrical
11 production for which valid permits have been issued
12 by a county pursuant to section 132D-10; and

13 (B) In a movie or television production for which
14 valid permits have been issued by the department
15 of business, economic development, and tourism
16 pursuant to section 201-14, or for which permits
17 have been approved by the authority having
18 jurisdiction; and

19 (4) The testing, disposal, or destruction of [~~illegal~~] any
20 fireworks or articles pyrotechnic by an agency with
21 authority to enforce this chapter."



SECTION 6. Section 132D-7, Hawaii Revised Statutes, is amended to read as follows:

"§132D-7 License or permit required. A person shall not:

(1) Import, store, ~~[offer to sell, or sell,]~~ or distribute, including at wholesale or retail, any aerial devices, ~~[display fireworks,]~~ articles pyrotechnic, ~~[or]~~ consumer fireworks, or display fireworks unless the person has a valid license issued ~~[by the county,]~~ pursuant to this chapter; or

(2) Possess any aerial devices, ~~[display fireworks, or]~~ articles pyrotechnic, or display fireworks without a valid license to import, store, or ~~[sell]~~ distribute aerial devices, ~~[display fireworks, or]~~ articles pyrotechnic, or display fireworks, or a valid display permit ~~[as provided for in]~~ issued pursuant to this chapter."

SECTION 7. Section 132D-8, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) Each storage, wholesaling, and retailing site shall be required to obtain a separate license. The license shall



1 specify the date of issuance or effect and the date of
2 expiration, which shall be March 31 of each year. The
3 application shall be made on a form setting forth the date upon
4 which the storage~~[, sale, or offers for sale]~~ or distribution
5 are to begin, the address of the location of the licensee, and
6 the name of the proprietor or, if a partnership, the name of the
7 partnership and the names of all partners or, if a corporation,
8 the name of the corporation and the names of its officers. Any
9 license issued pursuant to this chapter may be revoked by the
10 county if the licensee violates any provision of this chapter or
11 if the licensee stores or handles the fireworks in a manner that
12 presents an unreasonable safety hazard."

13 2. By amending subsection (d) to read:

14 "(d) It shall be unlawful for any licensee, other than a
15 licensed wholesaler who is ~~[selling or transferring]~~
16 distributing fireworks or articles pyrotechnic to a licensed
17 retailer~~[,]~~ pursuant to the person's license, to ~~[sell or offer~~
18 ~~to sell, exchange for consideration, give, transfer, or donate]~~
19 distribute any fireworks or articles pyrotechnic at any time to
20 any person who does not present a permit duly issued as required
21 by ~~[section]~~ sections 132D-10 ~~[or]~~ and 132D-16. The permit



1 shall be signed by the seller or transferor at the time of [~~sale~~
2 ~~or transfer~~] distribution of the fireworks or articles
3 pyrotechnic, and the seller or transferor shall indicate on the
4 permit the amount and type of fireworks or articles pyrotechnic
5 [~~sold or transferred.~~] distributed. No person shall [~~sell or~~
6 ~~deliver~~] distribute fireworks to any permittee in any amount in
7 excess of the amount specified in the permit, less the amount
8 shown on the permit to have been previously purchased; provided
9 that no fireworks shall be sold to a permittee holding a permit
10 issued for purposes of section 132D-3, more than five calendar
11 days before the applicable time period under section 132D-3."

12 SECTION 8. Section 132D-8.6, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Any person who has obtained a license [~~under~~]
15 required pursuant to section 132D-7 and ships fireworks or
16 articles pyrotechnic into the State shall:

17 (1) Clearly designate the types of fireworks or articles
18 pyrotechnic in each shipment on the bill of lading or
19 shipping manifest with specificity;

20 (2) Declare on the bill of lading or shipping manifest the
21 gross weight of aerial devices, articles pyrotechnic,



1 consumer fireworks, and display fireworks~~[, articles~~
2 ~~pyrotechnic, and aerial devices]~~ to be imported in
3 each shipment and the location of the storage
4 facility, if applicable, in which the fireworks or
5 articles pyrotechnic are to be stored;

6 (3) ~~[Prior to]~~ Before shipment and when booking each
7 shipment of fireworks~~[, display fireworks,]~~ or
8 articles pyrotechnic~~[, or aerial devices]~~ notify the
9 ~~[appropriate county official as determined by the~~
10 ~~county]~~ state fire marshal regarding whether the
11 shipment will be distributed from:

12 (A) Pier to pier;

13 (B) Pier to warehouse or storage facility; or

14 (C) Pier to redistribution;

15 (4) ~~[Prior to]~~ Before booking the shipment, provide to the
16 ~~[applicable county fire chief:]~~ state fire marshal:

17 (A) Written documentation regarding the proposed
18 display event or events and related contact
19 information to allow the ~~[fire chief]~~ state fire
20 marshal to validate the importation of a three-



1 month or six-month inventory under section 132D-

2 8.5; and

3 (B) An inventory breakdown for each proposed display;

4 and

5 (5) At the time shipping is booked, the importer or
6 consignee shall notify the ~~[appropriate county~~
7 ~~official as determined by the county]~~ state fire
8 marshal in writing of the expected shipment's landing
9 date~~[-]~~; provided that:

10 (A) Notifications shall be made through a system
11 designated by the state fire marshal; and

12 (B) If a licensee fails to notify the state fire
13 marshal two or more times within one year of the
14 issuance of a license, the license may be
15 revoked."

16 SECTION 9. Section 132D-10, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§132D-10 Permits.** (a) A permit shall be required for
19 the purchase and use of:

20 (1) Any consumer fireworks commonly known as firecrackers
21 upon payment of a fee of \$25;



(2) Any aerial devices, [~~display fireworks, or~~] articles pyrotechnic, or display fireworks for the purposes of section 132D-16 upon payment of a fee of \$110; and

(3) Any consumer fireworks [~~for the purposes of section 132D-5 or~~] for cultural uses that occur at any time other than during the periods prescribed in section 132D-3(1) upon a payment of a fee of \$25.

(b) Each person may purchase a maximum of fifty permits per year; provided that this limit shall not apply to permits issued under subsection (a)(2); provided further that nothing in this section shall prohibit a county from enacting ordinances more stringent than this section for permits issued under subsection (a)(1) or (3)."

SECTION 10. Section 132D-12, Hawaii Revised Statutes, is amended to read as follows:

"§132D-12 [Sale] Distribution to minors; [sale by minors,]
prohibited. (a) It shall be unlawful for any person to [~~offer~~
~~for sale, sell, or give~~] distribute any aerial devices, articles
pyrotechnic, consumer fireworks, or [~~articles pyrotechnic~~]
display fireworks to minors, [~~and for any minor to possess,~~
~~purchase, sell, or set off, ignite, or otherwise cause to~~



1 ~~explode any fireworks or articles pyrotechnic,~~ except as
2 provided in section 132D-13.

3 (b) Any person who violates this section shall be guilty
4 of a class C felony."

5 SECTION 11. Section 132D-13, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§132D-13 Liability of parents or guardians.** [The
8 ~~parents,~~] (a) Except as provided in subsection (b), it shall be
9 unlawful for a parent, guardian, [and] or other [persons] person
10 having the custody or control of any minor[~~, who~~] to knowingly
11 permit the minor to [possess,]:

12 (1) Possess or purchase[~~, or set~~] any aerial devices,
13 articles pyrotechnic, consumer fireworks, or display
14 fireworks; or

15 (2) Set off, ignite, discharge, or otherwise cause to
16 explode any aerial devices, articles pyrotechnic,
17 consumer fireworks, or display fireworks [~~or articles~~
18 pyrotechnic, shall be deemed to be in violation of
19 this chapter and shall be subject to the penalties
20 thereunder, except that the parents].



1 (b) The parent or guardian may allow the minor to use
2 consumer fireworks while under the immediate supervision and
3 control of the parent or guardian, or under the immediate
4 supervision and control of another adult.

5 (c) Separate and apart from any civil liability that may
6 result from this or any related incident, and except as provided
7 in subsections (d) and (e), the violation of subsection (a)
8 shall be a misdemeanor.

9 (d) If any of the aerial devices, articles pyrotechnic,
10 consumer fireworks, or display fireworks set off, ignited,
11 discharged, or otherwise caused to explode in violation of
12 subsection (a)(2) cause substantial bodily injury to another
13 person, the violation of subsection (a) shall be a class C
14 felony.

15 (e) If any of the aerial devices, articles pyrotechnic,
16 consumer fireworks, or display fireworks set off, ignited,
17 discharged, or otherwise caused to explode in violation of
18 subsection (a)(2) cause serious bodily injury or death to
19 another person, the violation of subsection (a) shall be a class
20 B felony.



1 (f) The state of mind requirement for subsections (d) and
2 (e) shall not be applicable to whether the person was aware that
3 the aerial devices, articles pyrotechnic, consumer fireworks, or
4 display fireworks caused or would cause the injury or death. A
5 person shall be strictly liable with respect to the result that
6 the aerial devices, articles pyrotechnic, consumer fireworks, or
7 display fireworks caused the injury or death."

8 SECTION 12. Section 132D-14, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§132D-14 Penalty.** (a) [Any] Except as provided in
11 subsections (b) and (c), any person:

12 (1) Importing, storing, or distributing aerial devices,
13 [display fireworks, or] articles pyrotechnic, consumer
14 fireworks, or display fireworks without having a valid
15 license [under] as required pursuant to section 132D-7
16 [shall]:

17 (A) Shall be guilty of a class C felony; and

18 (B) Notwithstanding subparagraph (A), if the total
19 weight of the aerial devices, articles
20 pyrotechnic, consumer fireworks, and display



1 fireworks is twenty-five pounds or more, shall be
2 guilty of a class B felony; and

3 (2) Purchasing, possessing, setting off, igniting, [~~or~~]
4 discharging, or otherwise causing to explode aerial
5 devices, [~~display fireworks, or~~] articles pyrotechnic,
6 or display fireworks without a valid permit [~~under~~]
7 required pursuant to sections 132D-10 and 132D-16[~~, or~~
8 ~~storing, selling, or possessing aerial devices,~~
9 ~~display fireworks, or articles pyrotechnic without a~~
10 ~~valid license under section 132D-7, or allowing an~~
11 ~~individual to possess, set off, ignite, discharge, or~~
12 ~~otherwise cause to explode any aerial device in~~
13 ~~violation of section 132D-14.5]:~~

14 (A) If the total weight of the aerial devices,
15 articles pyrotechnic, and display fireworks is
16 fifty pounds or more, shall be guilty of a class
17 B felony;

18 [~~(A)~~] (B) If the total weight of the aerial devices,
19 [~~display fireworks, or~~] articles pyrotechnic, and
20 display fireworks is twenty-five pounds or more,
21 shall be guilty of a class C felony; [~~or~~]



1 ~~(B)]~~ (C) If the total weight of the aerial devices,
2 ~~[display fireworks, or]~~ articles pyrotechnic, and
3 display fireworks is ~~[less than twenty-five~~
4 ~~pounds,]~~ five pounds or more, shall be guilty of
5 a misdemeanor; and

6 (D) If the total weight of the aerial devices,
7 articles pyrotechnic, and display fireworks is
8 less than five pounds or if the total weight
9 cannot be determined, shall be fined \$300 and
10 subject to proceedings under chapter 291D.

11 ~~[(3) Who transfers or sells aerial devices, display~~
12 ~~fireworks, or articles pyrotechnic to a person who~~
13 ~~does not have a valid permit under sections 132D-10~~
14 ~~and 132D-16, shall be guilty of a class C felony; and~~

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

20 (b) Any person who would otherwise be subject to
21 sentencing for a criminal offense under subsection (a) shall be



1 guilty of an offense one class or grade higher, as the case may
2 be, than that provided in subsection (a) if:

3 (1) The person has been convicted one or more times for
4 any offense under this chapter within ten years of the
5 instant offense; or

6 (2) Any of the aerial devices, articles pyrotechnic,
7 consumer fireworks, or display fireworks imported,
8 stored, distributed, purchased, possessed, set off,
9 ignited, discharged, or otherwise caused to explode in
10 the commission of the offense under subsection (a)
11 cause substantial bodily injury to another person.

12 (c) Any person who would otherwise be subject to
13 sentencing for a criminal offense under subsection (a) shall be
14 guilty of an offense two classes or grades higher, as the case
15 may be, than that provided in subsection (a) if any of the
16 aerial devices, articles pyrotechnic, consumer fireworks, or
17 display fireworks imported, stored, distributed, purchased,
18 possessed, set off, ignited, discharged, or otherwise caused to
19 explode in the commission of the offense under subsection (a)
20 cause serious bodily injury or death to another person; provided



1 that for an offense already classified as a class B felony, the
2 person shall be guilty of a class A felony.

3 (d) The state of mind requirement for subsections (b) and
4 (c) shall not be applicable to whether the person was aware that
5 any of the aerial devices, articles pyrotechnic, consumer
6 fireworks, or display fireworks caused or would cause the injury
7 or death. A person shall be strictly liable with respect to the
8 attendant circumstance that the aerial devices, articles
9 pyrotechnic, consumer fireworks, or display fireworks caused the
10 injury or death.

11 [~~(b)~~] (e) Except as provided in subsection (a), (b), or
12 (c), or as otherwise specifically provided for in this chapter,
13 any person violating any other provision of this chapter, shall
14 be guilty of a violation and fined no less than \$500 and no more
15 than \$5,000 for each violation. [~~Notwithstanding any provision~~
16 ~~to the contrary in this section, any person violating section~~
17 ~~132D-14.5 shall be fined at least \$500 and no more than \$5,000.]~~

18 [~~(e)~~] (f) The court shall collect the fines imposed in
19 subsections (a) [~~and~~], (b), (c), and (e), for violating this
20 chapter and, of the fines collected, shall pay twenty per cent
21 to the State and eighty per cent to the county in which the fine



1 was imposed, which shall be expended by the county for law
2 enforcement purposes.

3 ~~[(d)]~~ (g) Notwithstanding any penalty set forth herein,
4 violations of subsection (a)(1) ~~[or (3)]~~ may be subject to
5 nuisance abatement proceedings provided in part V of chapter
6 712.

7 ~~[(e) For the purposes of this section:~~

8 ~~(1) Each type of prohibited firework imported, purchased,~~
9 ~~sold, possessed, set off, ignited, or discharged shall~~
10 ~~constitute a separate violation for each unopened~~
11 ~~package; and~~

12 ~~(2) Each separate firework imported, purchased, sold,~~
13 ~~possessed, set off, ignited, or discharged shall be a~~
14 ~~separate violation if the package is opened or the~~
15 ~~firework is not in a package.~~

16 ~~(f) For the purposes of this section, "package":~~

17 ~~(1) Means any aerial device, display firework, or article~~
18 ~~pyrotechnic:~~

19 ~~(A) Enclosed in a container or wrapped in any manner~~
20 ~~in advance of wholesale or retail sale; and~~



1 ~~(B) With a weight or measure determined in advance of~~
2 ~~wholesale or retail sale; and~~

3 ~~(2) Does not mean:~~

4 ~~(A) Inner wrappings not intended to be individually~~
5 ~~sold to the customer;~~

6 ~~(B) Shipping containers or wrapping used solely for~~
7 ~~the transportation of any commodities in bulk or~~
8 ~~in quantity;~~

9 ~~(C) Auxiliary containers or outer wrappings used to~~
10 ~~deliver commodities if the containers or~~
11 ~~wrappings bear no printed matter pertaining to~~
12 ~~any particular aerial device, display firework,~~
13 ~~or article pyrotechnic;~~

14 ~~(D) Containers used for retail tray pack displays~~
15 ~~when the container itself is not intended to be~~
16 ~~sold; or~~

17 ~~(E) Open carriers and transparent wrappers or~~
18 ~~carriers for containers when the wrappers or~~
19 ~~carriers do not bear printed matter pertaining to~~
20 ~~any particular aerial devices, display fireworks,~~
21 ~~or articles pyrotechnic.] "~~



SECTION 13. Section 132D-14.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§132D-14.5[+] Liability of homeowner, renter, or person otherwise responsible for real property. [A] (a) Except as provided in subsections (b) and (c), a homeowner, renter, or person otherwise responsible for [the] real property who intentionally, knowingly, [~~or~~] recklessly [~~allows~~], or negligently:

(1) Allows an individual, while on the real property, to possess, set off, ignite, discharge, or otherwise cause to explode any aerial [~~device~~] devices, articles pyrotechnic, or display fireworks without a permit issued pursuant to this chapter shall be [~~deemed to be in violation of this chapter and shall be subject to the penalties specified in section 132D-14(a)(2) and (b).~~] guilty of a petty misdemeanor;

(2) Allows any aerial devices, articles pyrotechnic, display fireworks, or pyrotechnic composition to be stored in the real property without a license issued pursuant to this chapter shall be guilty of a misdemeanor; and



1 (3) Notwithstanding paragraph (2), allows any aerial
2 devices, articles pyrotechnic, display fireworks, or
3 pyrotechnic composition to be stored in the real
4 property, if the total weight of the aerial devices,
5 articles pyrotechnic, display fireworks, and
6 pyrotechnic composition is twenty-five pounds or more
7 without a license issued pursuant to this chapter,
8 shall be guilty of a class C felony.

9 (b) Any person who would otherwise be subject to
10 sentencing under subsection (a) shall be guilty of an offense
11 one class or grade higher, as the case may be, than that
12 provided in subsection (a) if:

13 (1) The person has been convicted one or more times for
14 any offense under this chapter within ten years of the
15 instant offense; or

16 (2) Any of the aerial devices, articles pyrotechnic,
17 display fireworks, or pyrotechnic composition
18 possessed, set off, ignited, discharged, otherwise
19 caused to explode, or stored in violation of
20 subsection (a) cause substantial bodily injury to
21 another person.



1 (c) Any person who would otherwise be subject to
2 sentencing under subsection (a) shall be guilty of an offense
3 two classes or grades higher, as the case may be, than that
4 provided in subsection (a) if any of the aerial devices,
5 articles pyrotechnic, display fireworks, or pyrotechnic
6 composition possessed, set off, ignited, discharged, otherwise
7 caused to explode, or stored in violation of subsection (a)
8 cause serious bodily injury or death to another person.

9 (d) The state of mind requirement for subsections (b) and
10 (c) shall not be applicable to whether the person was aware that
11 any of the aerial devices, articles pyrotechnic, display
12 fireworks, or pyrotechnic composition caused or would cause the
13 injury or death. A person shall be strictly liable with respect
14 to the attendant circumstance that the aerial devices, articles
15 pyrotechnic, display fireworks, or pyrotechnic composition
16 caused the injury or death."

17 SECTION 14. Section 132D-15, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~{}~~**\$132D-15**~~}~~ **Notice requirements.** Each licensed retail
20 outlet shall post adequate notice that clearly cautions each
21 person purchasing consumer fireworks of the prohibitions,



1 liabilities, and penalties incorporated in sections 132D-12,
2 132D-13, ~~[and]~~ 132D-14~~[-]~~, and 132D-E."

3 SECTION 15. Section 132D-17.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]~~**\$132D-17.5**~~[+]~~ **County ordinances.** (a) Nothing in this
6 chapter shall be construed to supersede or in any manner affect
7 a county fireworks ordinance; provided that the ordinance is at
8 least as stringent in the control or prohibition of aerial
9 devices, articles pyrotechnic, consumer fireworks, and display
10 fireworks as the law under this chapter.

11 (b) Nothing in this chapter shall prohibit a county from
12 enacting ordinances that are more stringent in the control or
13 prohibition of aerial devices, articles pyrotechnic, consumer
14 fireworks, and display fireworks than this chapter."

15 SECTION 16. Section 132D-21, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**\$132D-21 Health care facilities; report of fireworks and**
18 **articles pyrotechnic incidents.** (a) Health care facilities in
19 this State shall report all incidents of serious injuries and
20 fatalities caused by legal and illegal aerial devices, articles
21 pyrotechnic, consumer fireworks, or display fireworks ~~[or~~



1 ~~articles pyrotechnie]~~ to the department of health and the police
2 department of the county in which the person was attended or
3 treated. All reports shall be in writing or in the manner
4 specified by the department of health.

5 **(b)** As used in this section, "health care facilities"
6 includes any outpatient clinic, emergency room, or physician's
7 office, private or public, whether organized for profit or not,
8 used, operated, or designed to provide medical diagnosis,
9 treatment, nursing, rehabilitative, or preventive care to any
10 person or persons. ~~[The term]~~ "Health care facilities" includes
11 but is not limited to health care facilities that are commonly
12 referred to as hospitals, extended care and rehabilitation
13 centers, nursing homes, skilled nursing facilities, intermediate
14 care facilities, hospices for the terminally ill that require
15 licensure or certification by the department of health, kidney
16 disease treatment centers, including freestanding hemodialysis
17 units, outpatient clinics, organized ambulatory health care
18 facilities, emergency care facilities and centers, home health
19 agencies, health maintenance organizations, and others providing
20 similarly organized services regardless of nomenclature."



1 SECTION 17. Section 132D-22, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~§132D-22[~~§~~] Entry onto premises; inspection of
4 premises, books, and records; obstructing [~~law enforcement or~~
5 ~~fire department~~] inspector operations; penalty. (a) Any [~~law~~
6 ~~enforcement or fire officer~~] inspector may, at reasonable hours,
7 enter and inspect the premises of a licensee or permittee and
8 any relevant books or records therein to verify compliance with
9 this chapter and the conditions of the license or permit.

10 (b) Upon a request by any [~~law enforcement or fire~~
11 ~~officer~~] inspector to enter and inspect the premises of a
12 licensee or permittee at reasonable hours, the licensee, the
13 permittee, or an employee of the licensee or permittee shall
14 make [~~available for immediate inspection and examination~~] the
15 premises and all relevant books and records therein[~~✓~~] available
16 for immediate inspection and examination.

17 (c) Any licensee or permittee who refuses the [~~law~~
18 ~~enforcement or fire officer~~] inspector entry or access to the
19 premises, books, or records shall be in violation of the
20 conditions of the license or permit. After a hearing, the
21 issuing department shall suspend or revoke the license or permit



1 for refusing entry or access or for violations of any other
2 requirement or condition of the license or permit or any
3 provision of this chapter or rule adopted pursuant to this
4 chapter. The issuing department shall provide the licensee or
5 permittee with a written notice and order describing the basis
6 for the suspension or revocation. Any person aggrieved by the
7 suspension or revocation determination may request a contested
8 case hearing pursuant to chapter 91. To request a contested
9 case hearing, the person shall submit a written request to the
10 issuing department within thirty calendar days of the date of
11 the notice and order of the suspension or revocation. Appeal to
12 the circuit court under section 91-14, or any other applicable
13 statute, shall only be taken from the issuing department's final
14 order pursuant to a contested case.

15 (d) Any licensee, permittee, employee of a licensee or
16 permittee, or other person who:

17 (1) Threatens with the use of violence, force, or physical
18 interference or obstacle, or hinders, obstructs, or
19 prevents any ~~[law enforcement or fire officer,]~~
20 inspector, or any person assisting ~~[a law enforcement~~



1 ~~or fire officer,~~ an inspector, from entering into the
2 premises of the licensee or permittee; or

3 (2) Opposes, obstructs, or molests ~~[a law enforcement or~~
4 ~~fire officer]~~ an inspector in the ~~[officer's]~~
5 inspector's enforcement of this chapter,

6 shall be guilty of a misdemeanor, punishable by a fine of no
7 more than \$2,000 or imprisonment for no more than one year, or
8 both.

9 (e) If any ~~[law enforcement or fire officer,~~ inspector
10 having demanded admittance onto the premises of a licensee or
11 permittee and declared the ~~[officer's]~~ inspector's name and
12 office, is not admitted by the licensee, permittee, or person in
13 charge of the premises, the ~~[officer]~~ inspector may use force to
14 enter the premises.

15 (f) For purposes of this section~~["premises"]~~:

16 "Inspector" means any county fire department officer,
17 including firefighters.

18 "Premises of a licensee or permittee" does not include the
19 licensee's or permittee's private residence or a dwelling that
20 is considered to be the person's ~~[home,~~ dwelling, including a



1 ~~[single-family]~~ single-family house, apartment unit,
2 condominium, townhouse, or cooperative unit."

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

5 **"§291D-1 Purpose.** (a) Act 222, Session Laws of Hawaii
6 1978, began the process of decriminalizing certain traffic
7 offenses, not of a serious nature, to the status of violations.
8 In response to a request by the legislature, the judiciary
9 prepared a report in 1987 that recommended, among other things,
10 further decriminalization of traffic offenses, elimination of
11 most traffic arraignments, disposition of uncontested violations
12 by mail, and informal hearings where the violation or the
13 proposed penalty is questioned. The legislature finds that
14 further decriminalization of certain traffic offenses and
15 streamlining of the handling of those traffic cases will achieve
16 a more expeditious system for the judicial processing of traffic
17 infractions. The system of processing traffic infractions
18 established by this chapter will:

19 (1) Eliminate the long and tedious arraignment proceeding
20 for a majority of traffic matters;



- 1 (2) Facilitate and encourage the resolution of many
2 traffic infractions through the payment of a monetary
3 assessment;
- 4 (3) Speed the disposition of contested cases through a
5 hearing, similar to small claims proceedings, in which
6 the rules of evidence will not apply and the court
7 will consider as evidence the notice of traffic
8 infraction, applicable police reports, or other
9 written statements by the police officer who issued
10 the notice, any other relevant written material, and
11 any evidence or statements by the person contesting
12 the notice of traffic infraction;
- 13 (4) Dispense in most cases with the need for witnesses,
14 including law enforcement officers, to be present and
15 for the participation of the prosecuting attorney;
- 16 (5) Allow judicial, prosecutorial, and law enforcement
17 resources to be used more efficiently and effectively;
18 and
- 19 (6) Save the taxpayers money and reduce their frustration
20 with the judicial system by simplifying the traffic
21 court process.



1 The legislature further finds that this chapter will not require
2 expansion of the current traffic division of the district
3 courts, but will achieve greater efficiency through more
4 effective use of existing resources of the district courts.

5 (b) The legislature finds that the pandemic related to the
6 coronavirus disease 2019 necessitated the imposition of
7 emergency period rules in an attempt to control the spread of
8 the disease in the State. The thousands of violations of the
9 emergency period rules caused an examination of the ability to
10 impose infractions for lesser offenses as an alternative to
11 using the Penal Code and to allow for more efficient use of the
12 judicial system. The system of processing traffic infractions
13 under this chapter was enacted in 1993 and has provided a useful
14 mechanism for handling offenses deemed as infractions and is
15 well-suited to certain types of violations of emergency period
16 rules that are designated infractions by the governor or mayor
17 under the state's emergency management laws.

18 (c) The legislature further finds that the illegal use of
19 fireworks poses a serious public health and safety hazard. Due
20 to the high number of fireworks being set off throughout the
21 State, an expeditious adjudication system for fireworks



1 infractions, such as the system for processing traffic
2 infractions, will allow the judiciary to expediently process
3 violations of the fireworks control law. This system will allow
4 the judiciary to reserve resources for cases that require more
5 resources."

6 SECTION 19. Section 291D-2, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "Fireworks infraction" means any violation of chapter 132D
11 that is not explicitly classified as a felony or misdemeanor,
12 any rule adopted pursuant to chapter 132D, or any county
13 ordinance or rule enacted pursuant to chapter 132D."

14 2. By amending the definition of "concurrent trial" to
15 read:

16 "Concurrent trial" means a trial proceeding held in the
17 district or family court in which the defendant is tried
18 simultaneously in a civil case for any charged traffic
19 infraction ~~[or]~~, emergency period infraction, or fireworks
20 infraction and in a criminal case for any related criminal



1 offense, with trials to be held in one court on the same date
2 and at the same time."

3 3. By amending the definition of "hearing" to read:

4 "Hearing" means a proceeding conducted by the district
5 court pursuant to section 291D-8 at which the person to whom a
6 notice of traffic infraction [~~or~~], notice of emergency period
7 infraction, or notice of fireworks infraction was issued either
8 admits to the infraction, contests the notice of traffic
9 infraction [~~or~~], notice of emergency period infraction, or
10 notice of fireworks infraction, or admits to the traffic
11 infraction [~~or~~], emergency period infraction, or fireworks
12 infraction but offers an explanation to mitigate the monetary
13 assessment imposed."

14 4. By amending the definition of "related criminal
15 offense" to read:

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



1 SECTION 20. Section 291D-3, Hawaii Revised Statutes, is
2 amended by amending subsections (a) through (e) to read as
3 follows:

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

17 (b) Where a defendant is charged with a traffic infraction
18 [~~or~~], an emergency period infraction, or a fireworks infraction
19 and the infraction is committed in the same course of conduct as
20 a criminal offense for which the offender is arrested or
21 charged, the traffic infraction [~~or~~], emergency period



1 infraction, or fireworks infraction shall be adjudicated
2 pursuant to this chapter; provided that the court may schedule
3 any initial appearance, hearing, or trial on the traffic
4 infraction ~~[or]~~, emergency period infraction, or fireworks
5 infraction at the same date, time, and place as the arraignment,
6 hearing, or trial on the related criminal offense.

7 Notwithstanding this subsection and subsection (c), the
8 court shall not schedule any initial appearance, hearing, or
9 trial on the traffic infraction ~~[or]~~, emergency period
10 infraction, or fireworks infraction at the same date, time, and
11 place as the arraignment, hearing, or trial on the related
12 criminal offense where the related criminal offense is a felony
13 or is a misdemeanor for which the defendant has demanded a jury
14 trial.

15 (c) If the defendant requests a trial pursuant to section
16 291D-13, the trial shall be held in the district court of the
17 circuit in which the traffic infraction ~~[or]~~, emergency period
18 infraction, or fireworks infraction was committed. If the court
19 schedules a concurrent trial pursuant to paragraph (1), the
20 concurrent trial shall be held in the appropriate district or
21 family court of the circuit in which the traffic infraction



1 ~~[or]~~, emergency period infraction, or fireworks infraction was
2 committed, whichever has jurisdiction over the related criminal
3 offense charged pursuant to the applicable statute or rule of
4 court; provided that:

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

16 (2) If trial on the traffic infraction ~~[or]~~, emergency
17 period infraction, or fireworks infraction is held
18 separately from and before trial on any related
19 criminal offense, the following shall be inadmissible
20 in the prosecution or trial of the related criminal



1 offense, except as expressly provided by the Hawaii
2 rules of evidence:

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

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

9 ~~[Such]~~ These statements or testimony shall not be
10 deemed a waiver of the defendant's privilege against
11 self-incrimination in connection with any related
12 criminal offense.

13 (d) In no event shall section 701-109 preclude prosecution
14 for a related criminal offense where a traffic infraction ~~[or]~~,
15 an emergency period infraction, or a fireworks infraction
16 committed in the same course of conduct has been adjudicated
17 pursuant to this chapter.

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

20 (1) The defendant's civil liability for the traffic
21 infraction ~~[or]~~, emergency period infraction, or



1 fireworks infraction has not yet been adjudicated
2 pursuant to section 291D-8, the court shall enter a
3 judgment by default in favor of the State for the
4 traffic infraction [~~or~~], emergency period infraction,
5 or fireworks infraction unless the court determines
6 that good cause or excusable neglect exists for the
7 defendant's failure to appear; or

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

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

17 "**§291D-4 Venue and jurisdiction.** (a) All violations of
18 state law, ordinances, or rules designated as traffic
19 infractions [~~or~~], emergency period infractions, or fireworks
20 infractions in this chapter shall be adjudicated in the district



1 and circuit where the alleged infraction occurred, except as
2 otherwise provided by law.

3 (b) Except as otherwise provided by law, jurisdiction is
4 in the district court of the circuit where the alleged traffic
5 infraction ~~[or]~~, emergency period infraction, or fireworks
6 infraction occurred. Except as otherwise provided in this
7 chapter, district court judges shall adjudicate traffic
8 infractions ~~[and]~~, emergency period infractions, and
9 fireworks infractions."

10 SECTION 22. Section 291D-5, Hawaii Revised Statutes, is
11 amended by amending subsections (a) through (d) to read as
12 follows:

13 "(a) The notice of traffic infraction for moving
14 violations, ~~[and]~~ the notice of emergency period infraction, and
15 the notice of fireworks infraction shall include the summons for
16 the purposes of this chapter. Whenever a notice of traffic
17 infraction ~~[or]~~, notice of emergency period infraction, or
18 notice of fireworks infraction is issued, the person's
19 signature, driver's license number or state identification
20 number, electronic mail address, and current address shall be
21 noted on the notice. If the person refuses to sign the notice



1 of traffic infraction [~~or~~], notice of emergency period
2 infraction, or notice of fireworks infraction, the officer shall
3 record this refusal on the notice and issue the notice to the
4 person. Anyone to whom a notice of traffic infraction [~~or~~],
5 notice of emergency period infraction, or notice of fireworks
6 infraction is issued under this chapter need not be arraigned
7 before the court, unless required by rule of the supreme court.

8 (b) The forms for the notice of traffic infraction [~~and~~],
9 notice of emergency period infraction, and notice of fireworks
10 infraction shall be prescribed by rules of the district court,
11 which shall be uniform throughout the State; provided that each
12 judicial circuit may include differing statutory, rule, or
13 ordinance provisions on its respective notice of traffic
14 infraction [~~or~~], notice of emergency period infraction, or
15 notice of fireworks infraction.

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



1 (d) The notice of traffic infraction [~~or~~], notice of
2 emergency period infraction, or notice of fireworks infraction
3 shall include the following:

4 (1) A statement of the specific infraction for which the
5 notice was issued;

6 (2) Except in the case of parking-related traffic
7 infractions, a brief statement of the facts;

8 (3) A statement of the total amount to be paid for each
9 infraction, which amount shall include any fee,
10 surcharge, or cost required by statute, ordinance, or
11 rule, and any monetary assessment, established for the
12 particular infraction pursuant to section 291D-9, to
13 be paid by the person to whom the notice was issued,
14 which shall be uniform throughout the State;

15 (4) A statement of the options provided in section
16 291D-6(b) for answering the notice and the procedures
17 necessary to exercise the options;

18 (5) A statement that the person to whom the notice is
19 issued shall answer, choosing one of the options
20 specified in section 291D-6(b), within twenty-one days
21 of issuance of the notice;



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



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

5 SECTION 23. Section 291D-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§291D-6 Answer required.** (a) A person who receives a
8 notice of traffic infraction [~~or~~], notice of emergency period
9 infraction, or notice of fireworks infraction shall answer the
10 notice within twenty-one days of the date of issuance of the
11 notice. There shall be included with the notice of traffic
12 infraction [~~or~~], notice of emergency period infraction, or
13 notice of fireworks infraction a preaddressed envelope directed
14 to the traffic [~~and~~], emergency period, and fireworks violations
15 bureau of the applicable district court.

16 (b) Provided that the notice of traffic infraction [~~or~~],
17 notice of emergency period infraction, or notice of fireworks
18 infraction does not require an appearance in person at a hearing
19 as set forth in section 291D-5(d)(10), in answering a notice of
20 traffic infraction [~~or~~], notice of emergency period infraction,



1 or notice of fireworks infraction, a person shall have the
2 following options:

3 (1) Admit the commission of the infraction in one of the
4 following ways:

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



1 period infraction[~~+~~], or notice of fireworks
2 infraction. Payment via the Internet or by
3 telephone shall be by an approved credit or debit
4 card;

5 (2) Deny the commission of the infraction and request a
6 hearing to contest the infraction by completing the
7 appropriate portion of the notice of traffic
8 infraction, notice of emergency period infraction,
9 notice of fireworks infraction, or preaddressed
10 envelope and submitting it, either by mail or in
11 person, to the authority specified on the notice. In
12 lieu of appearing in person at a hearing, the person
13 may submit a written statement of grounds on which the
14 person contests the notice of traffic infraction [~~or~~],
15 notice of emergency period infraction, or notice of
16 fireworks infraction, which shall be considered by the
17 court as a statement given in court pursuant to
18 section 291D-8(a); or

19 (3) Admit the commission of the infraction and request a
20 hearing to explain circumstances mitigating the
21 infraction by completing the appropriate portion of



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

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

16 SECTION 24. Section 291D-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§291D-7 Court action after answer or failure to answer.**

19 (a) When an admitting answer is received, the court shall enter
20 judgment in favor of the State in the total amount specified in



1 the notice of traffic infraction [~~or~~], notice of emergency
2 period infraction[~~or~~], or notice of fireworks infraction.

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

5 (1) In the case of a traffic infraction [~~or~~], emergency
6 period infraction, or fireworks infraction where the
7 person requests a hearing at which the person will
8 appear in person to contest the infraction, the court
9 shall notify the person in writing of the date, time,
10 and place of hearing to contest the notice of traffic
11 infraction [~~or~~], notice of emergency period
12 infraction[~~or~~], or notice of fireworks infraction. The
13 notice of hearing shall be mailed to the address
14 stated in the denying answer[~~or~~] or, if none is given,
15 to the address stated on the notice of traffic
16 infraction [~~or~~], notice of emergency period
17 infraction[~~or~~], or notice of fireworks infraction. An
18 electronic copy of the notice of hearing may be sent
19 to the electronic mail address stated on the notice of
20 infraction. The notification also shall advise the
21 person that, if the person fails to appear at the



1 hearing, the court shall enter judgment by default in
2 favor of the State, as of the date of the scheduled
3 hearing, and that the total amount specified in the
4 default judgment shall be paid within thirty days of
5 entry of default judgment; and

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



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

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

18 (1) In the case of a traffic infraction [~~or~~], emergency
19 period infraction, or fireworks infraction where the
20 person requests a hearing at which the person will
21 appear in person to explain mitigating circumstances,



1 the court shall notify the person in writing of the
2 date, time, and place of hearing to explain mitigating
3 circumstances. The notice of hearing shall be mailed
4 to the address stated in the answer[7] or, if none is
5 given, to the address stated on the notice of traffic
6 infraction [0], notice of emergency period
7 infraction[-], or notice of fireworks infraction. An
8 electronic copy of the notice of hearing may be sent
9 to the electronic mail address stated on the notice of
10 infraction. The notification also shall advise the
11 person that, if the person fails to appear at the
12 hearing, the court shall enter judgment by default in
13 favor of the State, as of the date of the scheduled
14 hearing, and that the total amount stated in the
15 default judgment shall be paid within thirty days of
16 entry of default judgment; and

- 17 (2) If a written explanation is included with an answer
18 admitting commission of the infraction, the court
19 shall enter judgment for the State and, after
20 reviewing the explanation, determine the total amount
21 of the monetary assessments, fees, surcharges, or



1 costs to be assessed, if any. The court shall then
2 notify the person of the total amount to be paid for
3 the infraction, if any. There shall be no appeal from
4 the judgment. If the court assesses an amount for
5 monetary assessments, fees, surcharges, or costs, the
6 court shall also notify the person that the total
7 amount shall be paid within thirty days of entry of
8 judgment.

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

13 (e) Whenever judgment by default is entered in favor of
14 the State ~~[is entered]~~, the court shall mail a notice of entry
15 of default judgment to the address provided by the person when
16 the notice of traffic infraction ~~[or]~~, notice of emergency
17 period infraction, or notice of fireworks infraction was issued
18 or, in the case of parking infractions, to the address stated in
19 the answer, if any, or the address at which the vehicle is
20 registered. An electronic copy of the notice of entry of
21 default judgment may be sent to the electronic mail address



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



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

9 SECTION 25. Section 291D-8, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§291D-8 Hearings.** (a) In proceedings to contest a
12 notice of traffic infraction [~~or~~], notice of emergency period
13 infraction, or notice of fireworks infraction where the person
14 to whom the notice was issued has timely requested a hearing and
15 appears at [~~such~~] the hearing:

16 (1) In lieu of the personal appearance by the officer who
17 issued the notice of traffic infraction [~~or~~], notice
18 of emergency period infraction, or notice of fireworks
19 infraction, the court shall consider the notice of
20 traffic infraction [~~or~~], notice of emergency period
21 infraction, or notice of fireworks infraction, and any



1 other written report made by the officer, if provided
2 to the court by the officer, together with any oral or
3 written statement by the person to whom the notice of
4 infraction was issued, or in the case of traffic
5 infractions involving parking or equipment, the
6 operator or registered owner of the motor vehicle;

7 (2) The court may compel by subpoena the attendance of the
8 officer who issued the notice of traffic infraction
9 ~~[or]~~, notice of emergency period infraction, or notice
10 of fireworks infraction, and other witnesses from whom
11 it may wish to hear;

12 (3) The standard of proof to be applied by the court shall
13 be whether, by a preponderance of the evidence, the
14 court finds that the traffic infraction ~~[or]~~,
15 emergency period infraction, or fireworks infraction
16 was committed; and

17 (4) After due consideration of the evidence and arguments,
18 if any, the court shall determine whether commission
19 of the traffic infraction ~~[or]~~, emergency period
20 infraction, or fireworks infraction has been
21 established. Where the commission of the traffic



1 infraction [~~or~~], emergency period infraction, or
2 fireworks infraction has not been established,
3 judgment in favor of the defendant, dismissing the
4 notice of traffic infraction [~~or~~], notice of emergency
5 period infraction, or notice of fireworks infraction
6 or any count therein with prejudice, shall be entered
7 in the record. Where it has been established that the
8 traffic infraction [~~or~~], emergency period infraction,
9 or fireworks infraction was committed, the court shall
10 enter judgment in favor of the State and shall assess
11 a monetary assessment pursuant to section 291D-9,
12 together with any fees, surcharges, or costs. The
13 court also shall inform the person of the right to
14 request a trial pursuant to section 291D-13. If the
15 person requests a trial at the time of the hearing,
16 the court shall provide the person with the trial date
17 as soon as practicable.

18 (b) In proceedings to explain mitigating circumstances
19 where the person to whom the notice of traffic infraction [~~or~~],
20 notice of emergency period infraction, or notice of fireworks



1 infraction was issued has timely requested a hearing and appears
2 at ~~[such]~~ the hearing:

3 (1) The procedure shall be limited to the issue of
4 mitigating circumstances. A person who requests to
5 explain the circumstances shall not be permitted to
6 contest the notice of traffic infraction ~~[or]~~, notice
7 of emergency period infraction~~[+]~~, or notice of
8 fireworks infraction;

9 (2) After the court has received the explanation, the
10 court shall enter judgment in favor of the State and
11 may assess a monetary assessment pursuant to section
12 291D-9, together with any fees, surcharges, or costs;

13 (3) The court, after receiving the explanation, may vacate
14 the admission and enter judgment in favor of the
15 defendant, dismissing the notice of traffic
16 infraction, notice of emergency period infraction,
17 notice of fireworks infraction, or any count therein
18 with prejudice, where the explanation establishes that
19 the infraction was not committed; and

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



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

7 SECTION 26. Section 291D-9, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291D-9 Monetary assessments.** (a) A person found to
10 have committed a traffic infraction [~~or~~], emergency period
11 infraction, or fireworks infraction shall be assessed a monetary
12 assessment not to exceed the maximum fine specified in the law
13 or rule defining the traffic infraction [~~or~~], emergency period
14 infraction[~~-~~], or fireworks infraction. The court shall
15 consider a person's financial circumstances, if disclosed, in
16 determining the monetary assessment.

17 (b) Notwithstanding section 291C-161 or any other law to
18 the contrary, the district court of each circuit shall prescribe
19 a schedule of monetary assessments for all traffic infractions
20 [~~and~~], emergency period infractions, and fireworks infractions,
21 and any additional assessments to be imposed pursuant to



1 subsection (c). The particular assessment to be entered on the
2 notice of traffic infraction [~~or~~], notice of emergency period
3 infraction, or notice of fireworks infraction pursuant to
4 section 291D-5 shall correspond to the schedule prescribed by
5 the district court. Except after proceedings conducted pursuant
6 to section 291D-8 or a trial conducted pursuant to section 291D-
7 13, monetary assessments assessed pursuant to this chapter shall
8 not vary from the schedule prescribed by the district court
9 having jurisdiction over the traffic infraction [~~or~~], emergency
10 period infraction[~~or~~], or fireworks infraction.

11 (c) In addition to any monetary assessment imposed for a
12 traffic infraction [~~or~~], an emergency period infraction, or a
13 fireworks infraction, the court may impose additional
14 assessments for:

15 (1) Failure to pay a monetary assessment by the scheduled
16 date of payment; or

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

19 (d) In addition to any monetary assessment imposed for a
20 fireworks infraction, the court shall impose an administrative
21 fee of \$20 for each fireworks infraction in which judgment is



1 entered in favor of the State. The clerk of the district court
2 shall deposit the administrative fees collected into the
3 judiciary computer system special fund pursuant to section
4 601-3.7.

5 ~~[(d)]~~ (e) Upon request of a person claiming inability to
6 pay a monetary assessment, the court may grant an extension of
7 the period in which the monetary assessment shall be paid or may
8 impose community service in lieu thereof.

9 ~~[(e)]~~ (f) At any point before full payment of a monetary
10 assessment, any person who suffers a change in financial
11 circumstances may request a hearing to modify the monetary
12 assessment or to request community service in lieu thereof."

13 SECTION 27. Section 291D-12, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§291D-12 Powers of the district court judge sitting in**
16 **the traffic ~~[and]~~, emergency period, and fireworks division.**

17 (a) A district court judge sitting in the traffic ~~[and]~~,
18 emergency period, and fireworks division and hearing cases
19 pursuant to this chapter shall have all the powers of a district
20 court judge under chapter 604, including the ~~[following powers:]~~
21 power to:



- 1 (1) ~~[To conduct]~~ Conduct traffic infraction ~~[and]~~,
2 emergency period infraction, and fireworks infraction
3 hearings and ~~[to]~~ impose monetary assessments;
- 4 (2) ~~[To permit]~~ Permit deferral of monetary assessment or
5 impose community service in lieu thereof;
- 6 (3) ~~[To dismiss]~~ Dismiss a notice of traffic infraction
7 ~~[or]~~, notice of emergency period infraction, or notice
8 of fireworks infraction, with or without prejudice, or
9 ~~[to]~~ set aside a judgment for the State;
- 10 (4) ~~[To order]~~ Order temporary driver's license suspension
11 or driver's license reinstatement;
- 12 (5) ~~[To approve]~~ Approve the issuance or renewal of a
13 driver's license or instruction permit pursuant to
14 section 286-109(c);
- 15 (6) ~~[To issue]~~ Issue penal summonses and bench warrants
16 and initiate contempt of court proceedings in
17 proceedings conducted pursuant to section 291D-13;
- 18 (7) ~~[To issue]~~ Issue penal summonses and bench warrants
19 and initiate failure to appear proceedings in
20 proceedings conducted pursuant to section 291D-
21 5(d)(10); and



1 (8) ~~[To exercise]~~ Exercise other powers the court finds
2 necessary and appropriate to carry out the purposes of
3 this chapter.

4 (b) A district court judge sitting in the traffic ~~[and]~~,
5 emergency period, and fireworks division and hearing cases
6 pursuant to this chapter shall not order the director of finance
7 to withhold issuing or renewing the driver's license, or
8 registering, renewing the registration of, or issuing the title
9 to a motor vehicle, of any person who has not paid a monetary
10 assessment, has not performed community service in lieu thereof,
11 or has not otherwise satisfied a judgment for the State entered
12 pursuant to this chapter."

13 SECTION 28. Section 291D-13, Hawaii Revised Statutes, is
14 amended by amending subsections (a) through (c) to read as
15 follows:

16 "(a) There shall be no right to trial unless the defendant
17 contests the notice of traffic infraction ~~[or]~~, notice of
18 emergency period infraction, or notice of fireworks infraction
19 pursuant to section 291D-8. If, after proceedings to contest
20 the notice of traffic infraction ~~[or]~~, notice of emergency
21 period infraction, or notice of fireworks infraction, a



1 determination is made that the defendant committed the traffic
2 infraction [~~or~~], emergency period infraction, or fireworks
3 infraction, judgment shall enter in favor of the State. The
4 defendant may request a trial pursuant to the Hawaii rules of
5 evidence and the rules of the district court; provided that any
6 request for trial shall be made within thirty days of entry of
7 judgment. If, after appearing in person at a hearing to contest
8 the notice of traffic infraction [~~or~~], notice of emergency
9 period infraction, or notice of fireworks infraction, the person
10 requests a trial at the conclusion of the hearing, the court
11 shall provide the person with the trial date as soon as
12 practicable.

13 (b) At the time of trial, the State shall be represented
14 by a prosecuting attorney of the county in which the infraction
15 occurred. The prosecuting attorney shall orally recite the
16 charged civil traffic infraction [~~or~~], emergency period
17 infraction, or fireworks infraction in court before commencement
18 of the trial. Proof of the defendant's commission of the
19 traffic infraction [~~or~~], emergency period infraction, or
20 fireworks infraction shall be by a preponderance of the
21 evidence.



1 (c) If trial on the traffic infraction [~~or~~], emergency
2 period infraction, or fireworks infraction is held before trial
3 on any related criminal offense, the following shall be
4 inadmissible in the subsequent prosecution or trial of the
5 related criminal offense:

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

9 (2) Any testimony given by the defendant in the traffic
10 infraction [~~or~~], emergency period infraction, or
11 fireworks infraction trial.

12 The statement or testimony, or both, shall not be deemed a
13 waiver of the defendant's privilege against self-incrimination
14 in connection with any related criminal offense."

15 SECTION 29. Section 291D-14, Hawaii Revised Statutes, is
16 amended by amending subsections (c) and (d) to read as follows:

17 "(c) Notwithstanding section 604-17, while the court is
18 sitting in any matter pursuant to this chapter, the court shall
19 not be required to preserve the testimony or proceedings, except
20 proceedings conducted pursuant to section 291D-13 and
21 proceedings in which the traffic infraction [~~or~~], emergency



1 period infraction, or fireworks infraction is heard on the same
2 date and time as any related criminal offense.

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

9 SECTION 30. Section 571-41, Hawaii Revised Statutes, is
10 amended by amending subsection (f) to read as follows:

11 "(f) The judge, or the senior judge if there is more than
12 one, may by order confer concurrent jurisdiction on a district
13 court created under chapter 604 to hear and dispose of cases of
14 violation of traffic laws, traffic ordinances, [~~or~~] emergency
15 period rules, or fireworks infractions established pursuant to
16 chapter 291D, by children, provision to the contrary in section
17 571-11 or elsewhere notwithstanding. The exercise of
18 jurisdiction over children by district courts shall,
19 nevertheless, be considered noncriminal in procedure and result
20 in the same manner as though the matter had been adjudicated and
21 disposed of by a family court."



1 SECTION 31. Section 601-3.7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There [~~is~~] shall be established in the state treasury
4 a special fund to be known as the judiciary computer system
5 special fund, which shall contain the following:

6 (1) Moneys collected from administrative fees pursuant to
7 section 287-3(a);

8 (2) Fees prescribed by the supreme court by rule of court
9 for electronic document certification, electronic
10 copies of documents, and for providing bulk access to
11 electronic court records and compilations of data; and

12 (3) Fees pursuant to sections 291D-9(d), 607-4(b)(10), and
13 607-5(c)(32)."

14 SECTION 32. Section 712-1270, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§712-1270 Places used to commit offenses against public**
17 **health and morals or other offenses, a nuisance.** Every
18 building, premises, or place used for the purpose of violating:

19 (1) Those laws pertaining to offenses against public
20 health and morals contained in this chapter, except
21 offenses under part IV that do not involve the



1 manufacture or distribution of drugs and activities
2 under part III that involve only social gambling as
3 defined in section 712-1231(a);

4 (2) Section 132D-14(a)(1) [~~or (3)~~]; or

5 (3) Any offense under part II of chapter 708 that involves
6 a person unlawfully residing on or otherwise occupying
7 real property to which the person has no title, lease,
8 or other legal claim,

9 and every building, premises, or place in or upon which
10 violations of any of the laws set forth in paragraph (1), (2),
11 or (3) are held or occur, is a nuisance that shall be enjoined,
12 abated, and prevented, regardless of whether it is a public or
13 private nuisance."

14 SECTION 33. Section 712-1270.3, Hawaii Revised Statutes,
15 is amended to read as follows:

16 **"§712-1270.3 Citizen's rights.** Any citizen who brings a
17 nuisance abatement suit against a place used for the purpose of
18 committing:

19 (1) [~~Fireworks-related~~] Fireworks-related offenses

20 contained in section 132D-14(a)(1) [~~or (3)~~]; or



1 (2) Drug offenses under part IV of this chapter or who
2 files a complaint with the local police or drug
3 nuisance abatement unit of the department of the
4 attorney general,
5 shall be entitled to the same rights and protections of victims
6 and witnesses in criminal proceedings in accordance with chapter
7 801D."

8 SECTION 34. Section 712-1281, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[§]~~**§712-1281 Forfeiture; fireworks.**~~[§]~~ In addition to
11 any other penalty that may be imposed for violation of section
12 132D-14(a)(1) ~~[or (3)]~~, any property used or intended for use in
13 the commission of, attempt to commit, or conspiracy to commit an
14 offense under section 132D-14(a)(1) ~~[or (3)]~~, or that
15 facilitated or assisted such activity, and any proceeds or other
16 property acquired or maintained with the proceeds from violation
17 of section 132D-14(a)(1) ~~[or (3)]~~ may be subject to forfeiture
18 pursuant to chapter 712A."

19 SECTION 35. Sections 286-109, 286-245, 287-3, 291C-225,
20 and 431:10C-117, Hawaii Revised Statutes, are amended by
21 substituting the phrase "traffic, emergency period, and



1 fireworks violations bureau", or similar phrase, wherever the
2 phrase "traffic and emergency period violations bureau", or
3 similar phrase, appears, as the context requires.

4 SECTION 36. In codifying the new sections added by
5 section 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 37. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date.

11 SECTION 38. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 39. This Act shall take effect upon its approval.



Report Title:

Fireworks; Criminal Offenses; Penalties; Infractions;
Adjudication

Description:

Establishes various criminal offenses and penalties related to fireworks or articles pyrotechnic. Amends multiple definitions and penalties for fireworks offenses, including heightened penalties if another person suffers substantial bodily injury, serious bodily injury, or death as a result of the fireworks offenses. Adds fireworks infractions to the existing adjudication of infractions process for traffic and emergency period infractions. (CD2)

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

