H.B. NO. ¹⁴⁸³ H.D. 1 S.D. 1 C.D. 2

A BILL FOR AN ACT

RELATING TO FIREWORKS.

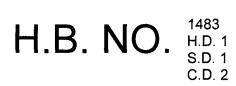
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 The legislature finds that the widespread use SECTION 1. 2 of illegal fireworks poses an extreme danger and lethal risk to public health and safety, resulting in fires, serious burn 3 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 fireworks. In addition, the potential for wildfires in this 7 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





suffer from post-traumatic stress disorder from being in combat.
 Pets and vulnerable species in their natural habitats also must
 suffer each holiday season when fireworks noise and
 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

2025-3515 HB1483 CD2 HMSO

Page 2





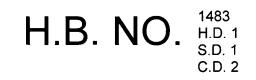
distress caused by the air pollution, and recurring trauma to
 afflicted persons due to loud explosions.

3 The legislature believes that a more robust continuum of 4 enforcement mechanisms must be established to promote compliance with the fireworks control laws. This includes implementing 5 6 graduated penalties for repeat or felony-level offenses, imposing enhanced penalties for offenses that result in injury 7 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 and the judiciary to guickly and efficiently process low-level 11 cases, while also allowing them to prioritize higher-level cases 12 as appropriate. 13

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





1	(3) Incorporate fireworks infractions into the existing
2	adjudication process for traffic and emergency period
3	infractions.
4	SECTION 2. Chapter 132D, Hawaii Revised Statutes, is
5	amended by adding seven new sections to be appropriately
6	designated and to read as follows:
7	"§132D-A General fireworks or articles pyrotechnic
8	prohibitions in the second degree. (a) A person commits the
9	offense of general fireworks or articles pyrotechnic
10	prohibitions in the second degree if, without a permit issued
11	pursuant to sections 132D-10 and 132D-16, the person
12	intentionally, knowingly, or recklessly:
13	(1) Sets off, ignites, discharges, or otherwise causes to
14	explode any aerial devices, articles pyrotechnic, or
15	display fireworks:
16	(A) Within one thousand feet of any operating
17	hospital, licensed convalescent home, licensed
18	home for the elderly, zoo, licensed animal
19	shelter, or licensed animal hospital;

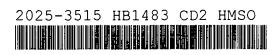


1		<u>(B)</u>	In any school building, or on any school grounds
2			or yards without first obtaining authorization
3			from appropriate school officials;
4		(C)	On any highway, alley, street, sidewalk, other
5			public way, or public beach;
6		<u>(D)</u>	In any park or officially designated forest or
7			wildlife preserve;
8		<u>(E)</u>	Within fifty feet of a canefield;
9		<u>(F)</u>	Within one thousand feet of any building used for
10			public worship during the periods when services
11			are held; or
12		<u>(G)</u>	Within five hundred feet of any dwelling; or
13	(2)	Thro	ws, catapults, or otherwise manually propels
14		igni	ted aerial devices, articles pyrotechnic, consumer
15		fire	works, or display fireworks.
16	(b)	The	state of mind requirement for the offense under
17	subsectio	n (a)	(1)(A), (E), (F), and (G) shall not be applicable
18	to whethe	<u>r the</u>	person was aware that the person was within the
19	designate	<u>d dis</u>	tance from an operating hospital, licensed
20	convalesc	ent h	ome, licensed home for the elderly, zoo, licensed
21	animal sh	elter	, or licensed animal hospital; canefield; building



H.B.	NO.	1483 H.D. 1 S.D. 1 C.D. 2

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



H.B.	NO.	1483 H.D. 1 S.D. 1 C.D. 2
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1	felony if any of the aerial devices, articles pyrotechnic, or
2	display fireworks set off, ignited, discharged, or otherwise
3	caused to explode in the commission of the offense cause serious
4	bodily injury or death to another person.
5	(g) The state of mind requirement for subsections (e) and
6	(f) shall not be applicable to whether the person was aware the
7	aerial devices, articles pyrotechnic, or display fireworks
8	caused or would cause the injury or death. A person shall be
9	strictly liable with respect to the result that the aerial
10	devices, articles pyrotechnic, or display fireworks caused the
11	injury or death.
12	<u>§132D-B</u> Sending or receiving fireworks or articles
13	pyrotechnic by air delivery; prohibited. (a) A person commits
14	the offense of sending or receiving fireworks or articles
15	pyrotechnic by air delivery if the person intentionally,
16	knowingly, or recklessly sends or receives any amount of aerial
17	devices, articles pyrotechnic, consumer fireworks, or display
18	fireworks via any form of air delivery, including but not
19	limited to any private courier, commercial carrier, or mail or
20	postal services; provided that a person possessing a current

21 explosives license issued by the federal Bureau of Alcohol,





1	Tobacco, Firearms and Explosives shall not be prosecuted under
2	this section if the person sends or receives the consumer
3	fireworks, aerial devices, display fireworks, or articles
4	pyrotechnic via any form of air delivery in compliance with
5	federal law.
6	(b) Except as provided in subsections (c) and (d), the
7	offense of sending or receiving fireworks or articles
8	pyrotechnic by air delivery shall be a class C felony.
9	(c) The offense of sending or receiving fireworks or
10	articles pyrotechnic by air delivery shall be a class B felony
11	<u>if:</u>
12	(1) The person has been convicted one or more times for
13	any offense under this chapter within ten years of the
14	current offense; or
15	(2) The total weight of the aerial devices, articles
16	pyrotechnic, consumer fireworks, and display fireworks
17	sent or received in the commission of the offense is
18	five pounds or more but less than twenty-five pounds.
19	(d) The offense of sending or receiving fireworks or
20	articles pyrotechnic by air delivery shall be a class A felony
21	if the total weight of the aerial devices, articles pyrotechnic.





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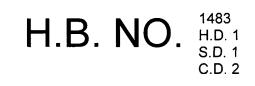
1	in the commission of the offense cause substantial
2	bodily injury to another person.
3	(d) The offense of distributing fireworks or articles
4	pyrotechnic to non-permit holder shall be a class A felony if
5	any of the aerial devices, articles pyrotechnic, consumer
6	fireworks, or display fireworks 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	<u>§132D-D</u> 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	<u>§132</u>	2D-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	<u>132D-8 ma</u>	y 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	distribut	e 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

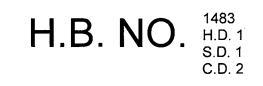




1	direction	of any law enforcement officer in the course and scope
2	of the of	ficer's duties to enforce this chapter.
3	<u>(b)</u>	If the law enforcement officer has reasonable grounds
4	to believ	e that the person is being deceptive or misleading in
5	providing	the person's name or address, the person shall provide
6	proof the	reof, upon the lawful order or direction of the law
7	enforceme	nt officer.
8	(C)	Refusal to provide identification pursuant to this
9	section s	hall be a petty misdemeanor.
10	<u>§132</u>	D-G Requirements of carrier. (a) Any carrier or
11	person sh	ipping 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

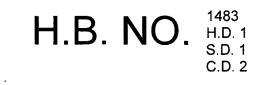
2025-3515 HB1483 CD2 HMSO

Page 14



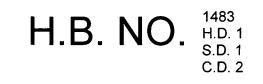
1	and, in any case, no later than five days before
2	departing from the island of origin;
3	provided that the notification shall include, when applicable,
4	the container identification number, manifest, bill of lading,
5	consignee, freight forwarder, sailing vessel name, route number,
6	date of departure,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





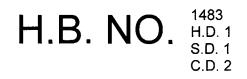
1	SECTION 3. Section 132D-2, Hawaii Revised Statutes, is			
2	amended as follows:			
3	1. By adding five new definitions to be appropriately			
4	inserted and to read:			
5	""Carrier" means any shipper or anyone who transports			
6	goods, merchandise, property, or people by rail car, aircraft,			
7	motor vehicle, or vessel.			
8	"Distribute" or "distribution" means to sell, transfer,			
9	deliver to another, give or deliver to another, or to leave,			
10	barter, or exchange with another, or to offer or agree to do the			
11	same.			
12	"Dwelling" means a building that is used or usually used by			
13	a person for lodging.			
14	"Serious bodily injury" means bodily injury that creates a			
15	substantial risk of death or which causes serious, permanent			
16	disfigurement, or protracted loss or impairment of the function			
17	of any bodily member or organ.			
18	"Substantial bodily injury" means bodily injury that causes			
19	<u>a:</u>			
20	(1) Major avulsion, laceration, or penetration of the			
21	skin;			





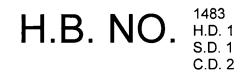
1	(2) Burn of at least second degree severity;				
2	(3) Bone fracture;				
3	(4) Serious concussion; or				
4	(5) Tearing, rupture, or corrosive damage to the				
5	esophagus, viscera, or other internal organs."				
6	2. By amending the definition of "aerial device" to read:				
7	""Aerial device" means 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. "Acrial 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] <u>title</u> 49 Code of Federal Regulations [include] <u>that</u>				
21	contains one hundred thirty milligrams or less of explosive				

2025-3515 HB1483 CD2 HMSO



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 By amending the definition of "consumer fireworks" to 3. 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, flitter 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





Consumer Product Safety Commission as set forth in [Title] title 1 16 Code of Federal Regulations and fireworks classified as 2 UN0336 and UN0337 by the United States Department of 3 Transportation as set forth in [Title] title 49 Code of Federal 4 Regulations. "Consumer fireworks" may include but need not be 5 limited to firework items commonly known as firecrackers that 6 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 of pyrotechnic composition], snakes, sparklers, fountains, and 10 cylindrical or cone fountains that emit effects up to a height 11 [not] no greater than twelve feet above the ground, illuminating 12 torches, bamboo cannons, whistles, toy smoke devices, wheels, 13 and ground spinners that when ignited remain within a circle 14 with a radius of twelve feet as measured from the point where 15 16 the item was placed and ignited, novelty or trick items, combination items, and other fireworks of like construction that 17 are designed to produce the same or similar effects." 18 19 4. By amending the definitions of "display fireworks",

20 "fireworks", and "import" to read:

2025-3515 HB1483 CD2 HMSO



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] <u>that</u> 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.] <u>powder.</u> 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



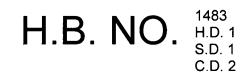


1	contained], including but not limited to aerial devices,			
2	consumer fireworks, or display fireworks as defined by this			
3	section. "Fireworks" also includes but is not limited to aerial			
4	devices, consumer fireworks, or display fireworks, as defined in			
5	the regulations of the United States Department of			
6	Transportation as set forth in [Title] <u>title</u> 49 Code of Federal			
7	Regulations. [The term "fireworks" shall] <u>"Fireworks" does</u> 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] <u>similar</u> 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 $[\tau]$ 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			



Page 21

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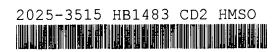


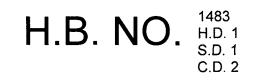
1	[fireworks] any aerial devices, articles pyrotechnic, consumer
2	fireworks, or display fireworks labeled or designated as
3	samples, even if not intended for retail sale."
4	5. By amending the definition of "pyrotechnic composition"
5	or "pyrotechnic contents" to read:
6	""Pyrotechnic composition" or "pyrotechnic contents" means
7	the combustible or explosive component of <u>aerial devices,</u>
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:



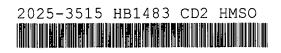


1	[(1)	Remo	ve or extract the pyrotechnic-contents from any
2		fire	works;
3	(2)]	(1)	Throw, catapult, or otherwise manually propel any
4		igni	ted <u>aerial devices, articles pyrotechnic, consumer</u>
5		fire	works, or display fireworks:
6		(A)	From, at, or into a vehicle;
7		(B)	At a person or an animal; [and] <u>or</u>
8		(C)	From above the first floor of any building; or
9	[(3)]	(2)	Set off, ignite, discharge, or otherwise cause to
10		expl	ode any <u>aerial devices, articles pyrotechnic,</u>
11		cons	umer fireworks, or display fireworks:
12		(A)	[Above] From above the first floor of any
13			building;
14		(B)	In any vehicle; <u>or</u>
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;





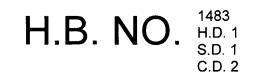
1	- (E) -	In any school building, or on any school grounds
2		and yards without first obtaining authorization
3		from-appropriate school officials;
4	(F)	On any highway, alley, street, sidewalk, or other
5		<pre>public way; in any park; on any public beach; in</pre>
6		any officially designated forest 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 s	hall be unlawful to purchase consumer fireworks
13	more than five	calendar days before the time periods for
14	permissible us	e under section 132D-3.
15	(c) It s	hall 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	<u>(C)</u>	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 [do], 132D-A, and 132D-D shall not apply to:
18	(1) The use of flares, noisemakers, or signals for
19	warning[$_{m au}$] 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 <u>aerial devices, articles</u>
8		pyrotechnic, consumer fireworks, [acrial 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] <u>any</u>
20		fireworks or articles pyrotechnic by an agency with
21		authority to enforce this chapter."

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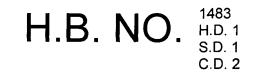
1	SECTION 6. Section 132D-7, Hawaii Revised Statutes, is					
2	amended to read as follows:					
3	"§132D-7 License or permit required. A person shall not:					
4	(1)	Import, store, [offer to sell, or sell,] <u>or</u>				
5		distribute, including at wholesale or retail, any				
6		aerial devices, [display fireworks,] articles				
7		pyrotechnic, [or] consumer fireworks <u>, or display</u>				
8		fireworks unless the person has a valid license issued				
9		[by the county;] pursuant to this chapter; or				
10	(2)	Possess <u>any</u> aerial devices, [display fireworks, or]				
11		articles pyrotechnic, or display fireworks without a				
12		valid license to import, store, or [sell] <u>distribute</u>				
13		aerial devices, [display fireworks, or] articles				
14		pyrotechnic, or display fireworks, or a valid display				
15		permit [as provided for in] <u>issued pursuant to</u> this				
16		chapter."				
17	SECT	ION 7. Section 132D-8, Hawaii Revised Statutes, is				
18	amended a	s follows:				
19	1.	By amending subsection (b) to read:				
20	"(b)	Each storage, wholesaling, and retailing site shall				
21	be require	ed 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 which the storage [, sale, or offers for sale] or distribution 4 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 $[\tau]$ 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 by [section] sections 132D-10 [or] and 132D-16. The permit 21





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 Any person who has obtained a license [under] "(a) 15 required pursuant to section 132D-7 and ships fireworks or 16 articles pyrotechnic into the State shall: 17 Clearly designate the types of fireworks or articles (1)18 pyrotechnic in each shipment on the bill of lading or 19 shipping manifest with specificity;

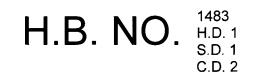
20 (2) Declare on the bill of lading or shipping manifest the
21 gross weight of <u>aerial devices</u>, <u>articles pyrotechnic</u>,





1		consumer fireworks, <u>and</u> 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] <u>Before</u> shipment and when booking each
7		shipment of fireworks[,-display fireworks,] <u>or</u>
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] <u>Before</u> 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-

2025-3515 HB1483 CD2 HMSO



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 t	he time shipping is booked, the importer or
6		cons	ignee shall notify the [appropriate county
7		offic	cial as determined by the county] state fire
8		mars	hal in writing of the expected shipment's landing
9		date	[+]; provided that:
10		<u>(A)</u>	Notifications shall be made through a system
11			designated by the state fire marshal; and
12		<u>(B)</u>	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	SECT	ION 9	. Section 132D-10, Hawaii Revised Statutes, is
17	amended t	o read	d as follows:
18	"§13	2D-10	Permits. (a) A permit shall be required for
19	the purch	ase ai	nd use of:
20	(1)	Any o	consumer fireworks commonly known as firecrackers
21		upon	payment of a fee of \$25;





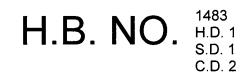
1	(2)	Any aerial devices, [display fireworks, or] articles
2		pyrotechnic, or display fireworks for the purposes of
3		section 132D-16 upon payment of a fee of \$110; and
4	(3)	Any consumer fireworks [for the purposes of section
5		132D-5 or] for cultural uses that occur at any time
6		other than during the periods prescribed in section
7		132D-3(1) upon a payment of a fee of \$25.
8	(b)	Each person may purchase a maximum of fifty permits
9	per year;	provided that this limit shall not apply to permits
10	issued un	der subsection (a)(2); provided further that nothing in
11	this sect	ion shall prohibit a county from enacting ordinances
12	more stri	ngent than this section for permits issued under
13	subsection	n (a)(1) or (3)."
14	SECT	ION 10. Section 132D-12, Hawaii Revised Statutes, is
15	amended to	o read as follows:
16	"§13:	2D-12 [Sale] <u>Distribution</u> to minors; [sale by minors;]
17	prohibite	d. <u>(a)</u> It shall be unlawful for any person to [offer
18	for sale,	sell, or give] distribute any aerial devices, articles
19	pyrotechn	ic, consumer fireworks, or [articles pyrotechnic]
20	<u>display f</u>	ireworks to minors, [and for any minor to possess,
21	purchase,	-sell, or set off, ignite, or otherwise cause to





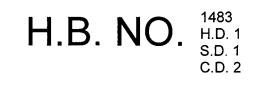
1	explode-a	my fireworks or articles pyrotechnic,] except as	
2	provided in section 132D-13.		
3	(b) Any person who violates this section shall be guilty		
4	of a class C felony."		
5	SECTION 11. Section 132D-13, Hawaii Revised Statutes, is		
6	amended to read as follows:		
7	"§132D-13 Liability of parents or guardians. [The		
8	parents,]	(a) Except as provided in subsection (b), it shall be	
9	<u>unlawful for a parent,</u> guardian, [and] <u>or</u> other [persons] <u>person</u>		
10	having the custody or control of any minor[, who] <u>to</u> knowingly		
11	permit the minor to [possess,] <u>:</u>		
12	(1)	Possess or purchase[, or set] any aerial devices,	
13		articles pyrotechnic, consumer fireworks, or display	
14		fireworks; or	
15	(2)	<u>Set</u> off, ignite, <u>discharge</u> , 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].	

2025-3515 HB1483 CD2 HMSO



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	<u>B</u> 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] <u>Except as provided in</u>			
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] <u>as required pursuant to</u> section 132D-7			
16	[shall] <u>:</u>			
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) P	urchasing, possessing, setting off, igniting, [or]
4	d	ischarging, or otherwise causing to explode aerial
5	d	evices, [display fireworks, or] articles pyrotechnic <u>,</u>
6	<u>o</u>	r display fireworks without a valid permit [under]
7	<u>r</u>	equired pursuant to sections 132D-10 and 132D-16[$_{\tau}$ or
8	S	toring, selling, or possessing aerial devices,
9	đ	isplay fireworks, or articles pyrotechnic without a
10	v	alid license under section 132D-7, or allowing an
11	÷	ndividual to possess, set off, ignite, discharge, or
12	Ð	therwise cause to explode any aerial device in
13	v	iolation of section 132D-14.5]:
14	<u>()</u>	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		<u>B</u> felony;
18	[.(A	+] (B) If the total weight of the aerial devices,
19		[display fireworks, or] articles pyrotechnic <u>, and</u>
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		<u>(D)</u>	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)	₩ho∹	cransfers or sells aerial devices, display
12		fire	works, 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		cont	ents to construct fireworks, articles pyrotechnic,
18		or-a	fireworks-or articles pyrotechnic-related device
19		shal	be guilty of a misdemeanor.]
20	(b)	Any p	person who would otherwise be subject to
21	sentencin	a for	a criminal offense under subsection (a) shall be



Page 37



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	sentencin	g 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, t	han that provided in subsection (a) if any of the
16	<u>aerial de</u>	vices, articles pyrotechnic, consumer fireworks, or
17	<u>display f</u>	ireworks imported, stored, distributed, purchased,
18	possessed	, set off, ignited, discharged, or otherwise caused to
19	explode i	n the commission of the offense under subsection (a)
20	cause ser	ious 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)] <u>(e)</u> 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	[(c)] (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)] <u>(g)</u> 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

2025-3515 HB1483 CD2 HMSO

H.B. NO. ¹⁴⁸³ H.D. 1 S.D. 1 C.D. 2

1		(B)	With a weight or measure determined in advance of
2			wholesale or retail sale; and
3	(2)	Đoes	-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 acrial devices, display fireworks,
21			or articles pyrotechnic.]"





1	SECT	'ION 13. Section 132D-14.5, Hawaii Revised Statutes, is		
2	amended to read as follows:			
3	"[+]	<pre>\$132D-14.5[+] Liability of homeowner, renter, or</pre>		
4	person ot	therwise responsible for real property. [A] (a) Except		
5	as provid	led in subsections (b) and (c), a homeowner, renter, or		
6	person ot	herwise responsible for [the] real property who		
7	intention	ally, knowingly, [or] recklessly [allows] <u>, or</u>		
8	negligent	<u>ly:</u>		
9	(1)	Allows an individual, while on the real property, to		
10		possess, set off, ignite, <u>discharge,</u> or otherwise		
11		cause to explode any aerial [device] devices, articles		
12		pyrotechnic, or display fireworks without a permit		
13		issued pursuant to this chapter shall be [deemed to be		
14		in violation of this chapter and shall be subject to		
15		the penalties specified in section 132D-14(a)(2) and		
16		(b).] guilty of a petty misdemeanor;		
17	(2)	Allows any aerial devices, articles pyrotechnic,		
18		display fireworks, or pyrotechnic composition to be		
19		stored in the real property without a license issued		
20		pursuant to this chapter shall be guilty of a		
21		misdemeanor; and		

2025-3515 HB1483 CD2 HMSO

Page 42



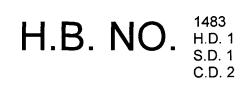
1	(3)	Notwithstanding paragraph (2), allows any aerial
2		devices, articles pyrotechnic, display fireworks, or
3		pyrotechnic composition to be stored in the real
4		property, if the total weight of the aerial devices,
5		articles pyrotechnic, display fireworks, and
6		pyrotechnic composition is twenty-five 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	sentencin	g 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.





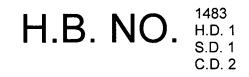
1	(c) Any person who would otherwise be subject to
2	sentencing under subsection (a) shall be guilty of an offense
3	two classes or grades higher, as the case may be, than that
4	provided in subsection (a) if any of the aerial devices,
5	articles pyrotechnic, display fireworks, or pyrotechnic
6	composition 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." SECTION 15. Section 132D-17.5, Hawaii Revised Statutes, is 3 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 prohibition of aerial devices, articles pyrotechnic, consumer 13 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 articles pyrotechnic incidents. (a) Health care facilities in 18 this State shall report all incidents of serious injuries and 19 fatalities caused by legal and illegal aerial devices, articles 20 21 pyrotechnic, consumer fireworks, or display fireworks [or

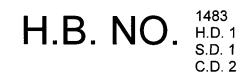




articles pyrotechnic] to the department of health and the police
 department of the county in which the person was attended or
 treated. All reports shall be in writing or in the manner
 specified by the department of health.

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





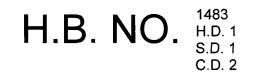
1 SECTION 17. Section 132D-22, Hawaii Revised Statutes, is 2 amended to read as follows: 3 "[+] \$132D-22[+] Entry onto premises; inspection of 4 premises, books, and records; obstructing [law enforcement or 5 fire department] inspector operations; penalty. (a) Any [law 6 enforcement or fire officer] 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

21 issuing department shall suspend or revoke the license or permit

conditions of the license or permit. After a hearing, the



20



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 permittee with a written notice and order describing the basis 5 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 or16 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

2025-3515 HB1483 CD2 HMSO



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,] <u>inspector</u>
10	having demanded admittance onto the premises of a licensee or
11	permittee and declared the [officer's] <u>inspector's</u> name and
12	office, is not admitted by the licensee, permittee, or person in
13	charge of the premises, the [officer] <u>inspector</u> may use force to
14	enter the premises.
15	(f) For purposes of this section[, "premises] <u>:</u>
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,] <u>dwelling</u> , including a

2025-3515 HB1483 CD2 HMSO



1 [single_family] single-family house, apartment unit, 2 condominium, townhouse, or cooperative unit." 3 SECTION 18. Section 291D-1, Hawaii Revised Statutes, is amended to read as follows: 4 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 proposed penalty is questioned. The legislature finds that 13 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: (1) Eliminate the long and tedious arraignment proceeding 19

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.





The legislature further finds that this chapter will not require
 expansion of the current traffic division of the district
 courts, but will achieve greater efficiency through more
 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.

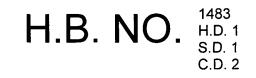
18 (c) The legislature further finds that the illegal use of
19 fireworks poses a serious public health and safety hazard. Due
20 to the high number of fireworks being set off throughout the
21 State, an expeditious adjudication system for fireworks





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."

By amending the definition of "hearing" to read: 3 3. ""Hearing" means a proceeding conducted by the district 4 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 admits to the infraction, contests the notice of traffic 8 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 criminal15 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, <u>or fireworks</u> 19 infraction, for which the defendant is arrested or charged."

2025-3515 HB1483 CD2 HMSO

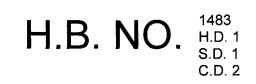
H.B. NO. ¹⁴⁸³ H.D. 1 S.D. 1 C.D. 2

SECTION 20. Section 291D-3, Hawaii Revised Statutes, is
 amended by amending subsections (a) through (e) to read as
 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 period infraction, or fireworks infraction shall be classified 15 as a criminal offense. 16

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



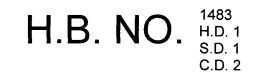


infraction, or fireworks infraction shall be adjudicated
pursuant to this chapter; provided that the court may schedule
any initial appearance, hearing, or trial on the traffic
infraction [or], emergency period infraction, or fireworks
infraction at the same date, time, and place as the arraignment,
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 trial on the traffic infraction [or], emergency period 9 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.

(c) If the defendant requests a trial pursuant to section 291D-13, the trial shall be held in the district court of the circuit in which the traffic infraction [or], emergency period infraction, or fireworks infraction was committed. If the court schedules a concurrent trial pursuant to paragraph (1), the concurrent trial shall be held in the appropriate district or 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 The district or family court, for the purpose of (1)6 trial, may schedule a civil trial on the traffic infraction [or], emergency period infraction, or 7 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

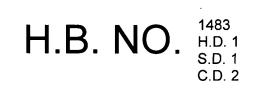
16 (2) If trial on the traffic infraction [or], emergency
17 period infraction, or fireworks infraction is held
18 separately from and before trial on any related
19 criminal offense, the following shall be inadmissible
20 in the prosecution or trial of the related criminal





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] <u>These</u> 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

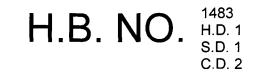




1		fireworks infraction has not yet been adjudicated
2		pursuant to section 291D-8, the court shall enter a
3		judgment by default in favor of the State for the
4		traffic infraction [or], emergency period infraction,
5		or fireworks infraction unless the court determines
6		that good cause or excusable 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	SECT	ION 21. Section 291D-4, Hawaii Revised Statutes, is
16	amended t	o 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

2025-3515 HB1483 CD2 HMSO



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

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

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

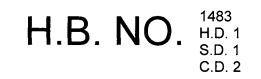
13 "(a) The notice of traffic infraction for moving 14 violations, [and] the notice of emergency period infraction, and 15 the notice of fireworks infraction shall include the summons for 16 the purposes of this chapter. Whenever a notice of traffic 17 infraction [or], notice of emergency period infraction, 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

2025-3515 HB1483 CD2 HMSO



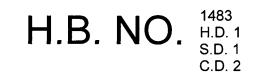
of traffic infraction [or], notice of emergency period 1 2 infraction, or notice of fireworks infraction, the officer shall 3 record this refusal on the notice and issue the notice to the 4 person. Anyone to whom a notice of traffic infraction [or], 5 notice of emergency period infraction, or notice 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 $[\frac{\partial r}{\partial r}]$, notice of emergency period infraction $[\frac{1}{2}]$, 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.

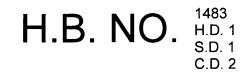


1	(d)	The notice of traffic infraction [or] <u>,</u> notice of
2	emergency	period infraction, or notice of fireworks infraction
3	shall inc.	lude the following:
4	(1)	A statement of the specific infraction for which the
5		notice was issued;
6	(2)	Except in the case of parking-related traffic
7		infractions, 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



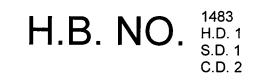
(10) The date, time, and place at which the person to whom
 the notice was issued shall appear in court, if the
 person is required by the notice to appear in person
 at the hearing."

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

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

(b) Provided that the notice of traffic infraction [or],
notice of emergency period infraction, or notice of fireworks
<u>infraction</u> does not require an appearance in person at a hearing
as set forth in section 291D-5(d)(10), in answering a notice of
traffic infraction [or], notice of emergency period infraction,

2025-3515 HB1483 CD2 HMSO



1	<u>or notice</u>	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] <u>,</u> notice of emergency	
13		period infraction $[-,]$ or notice of fireworks	
14		infraction. Payment by mail shall be in the form	l
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] <u>,</u> notice of emergency	



H.B. NO. ¹⁴⁸³ H.D. 1 S.D. 1 C.D. 2

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 $[\frac{\partial r}{d}]_{, t}$
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

infraction by completing the appropriate portion of

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2025-3515 HB1483 CD2 HMSO



the notice of traffic infraction, notice of emergency 1 2 period infraction, notice of fireworks infraction, or preaddressed envelope and submitting it, either by 3 4 mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, 5 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).

(c) When answering the notice of traffic infraction [or],
notice of emergency period infraction, or notice of fireworks
<u>infraction</u>, the person shall affix the person's signature to the
answer and shall state the address at which the person will
accept future mailings from the court. No other response shall
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





the notice of traffic infraction [or], notice of emergency 1 period infraction [-], or notice of fireworks infraction. 2 3 When a denying answer is received, the court shall (b) proceed as follows: 4 In the case of a traffic infraction [or], emergency 5 (1)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 notice of fireworks infraction. The 13 notice of hearing shall be mailed to the address 14 stated in the denying answer $[\tau]$ 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 notice of fireworks infraction. An electronic copy of the notice of hearing may be sent 18 19 to the electronic mail address stated on the notice of 20 infraction. The notification also shall advise the person that, if the person fails to appear at the 21





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 entry of default judgment; and 5 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 $[\tau]$ or, if none is given, to the address given when the notice of traffic infraction [or], notice of 17 emergency period infraction, or notice of fireworks 18 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,



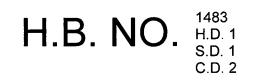


1 the court shall notify the person in writing of the 2 date, time, and place of hearing to explain mitigating 3 circumstances. The notice of hearing shall be mailed 4 to the address stated in the answer $[\tau]$ or, if none is 5 given, to the address stated on the notice of traffic 6 infraction [or], 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

of the monetary assessments, fees, surcharges, or

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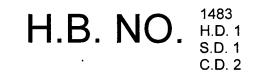
2025-3515 HB1483 CD2 HMSO



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

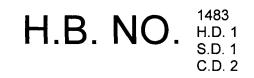
If the person fails to answer within twenty-one days 9 (d) of issuance of the notice of traffic infraction [or], notice of 10 emergency period infraction, or notice of fireworks infraction, 11 the court shall take action as provided in subsection (e). 12 Whenever judgment by default is entered in favor of 13 (e) the State [is entered], the court shall mail a notice of entry 14 of default judgment to the address provided by the person when 15 the notice of traffic infraction $[\frac{\partial r}{\partial r}]$, notice of emergency 16 period infraction, or notice of fireworks infraction was issued 17 18 or, in the case of parking infractions, to the address stated in the answer, if any, or the address at which the vehicle is 19 registered. An electronic copy of the notice of entry of 20 default judgment may be sent to the electronic mail address 21





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, and the notice of traffic infraction [or], notice of emergency 4 5 period infraction, or notice of fireworks infraction shall be 6 finally disposed. In either case, the court shall determine the existence of good cause or excusable neglect and notify the 7 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:

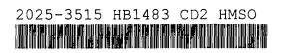
11 "§291D-8 Hearings. (a) In proceedings to contest a
12 notice of traffic infraction [or], notice of emergency period
13 infraction, or notice of fireworks infraction where the person
14 to whom the notice was issued has timely requested a hearing and
15 appears at [such] the hearing:

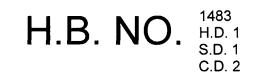
16 (1) In lieu of the personal appearance by the officer who
17 issued the notice of traffic infraction [or], notice
18 of emergency period infraction, or notice of fireworks
19 infraction, the court shall consider the notice of
20 traffic infraction [or], notice of emergency period
21 infraction, or 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, <u>or notice</u>
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 $[\frac{\Theta r}{}]_{}$
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 $[\frac{\partial r}{\ell}]_{\ell}$ emergency period
20		infraction, or fireworks infraction has been
21		established. Where the commission of the traffic

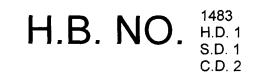




1 infraction [or], emergency period infraction, or 2 fireworks infraction has not been established, 3 judgment in favor of the defendant, dismissing the 4 notice of traffic infraction [or], notice of emergency period infraction, or notice of fireworks infraction 5 6 or any count therein with prejudice, 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, together with any fees, surcharges, or costs. The 12 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.

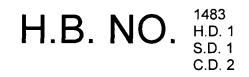
18 (b) In proceedings to explain mitigating circumstances
19 where the person to whom the notice of traffic infraction [or],
20 notice of emergency period infraction, or notice of fireworks

2025-3515 HB1483 CD2 HMSO



1	infraction	n 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 $[\frac{\partial r}{l}]_{l}$ 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.





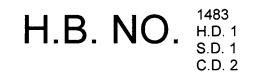
1 (c) If a person for whom a hearing has been scheduled, to 2 contest the notice of traffic infraction [or], notice of emergency period infraction, or notice of fireworks infraction, 3 4 or to explain mitigating circumstances, fails to appear at the 5 hearing, the court shall enter judgment by default for the State 6 and take action as provided in section 291D-7(e)." SECTION 26. Section 291D-9, Hawaii Revised Statutes, is 7 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 Notwithstanding section 291C-161 or any other law to (b) 18 the contrary, the district court of each circuit shall prescribe 19 a schedule of monetary assessments for all traffic infractions

21 and any additional assessments to be imposed pursuant to

[and], emergency period infractions, and fireworks infractions,



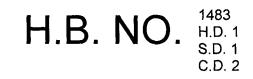
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subsection (c). The particular assessment to be entered on the 1 2 notice of traffic infraction [or], notice of emergency period infraction, or notice of fireworks infraction pursuant to 3 section 291D-5 shall correspond to the schedule prescribed by 4 the district court. Except after proceedings conducted pursuant 5 6 to section 291D-8 or a trial conducted pursuant to section 291D-13, monetary assessments assessed pursuant to this chapter shall 7 not vary from the schedule prescribed by the district court 8 9 having jurisdiction over the traffic infraction [or], emergency 10 period infraction [-], or fireworks infraction. 11 (c) In addition to any monetary assessment imposed for a traffic infraction [or], an emergency period infraction, or a 12 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 (2) The cost of service of a penal summons issued pursuant 17 18 to this chapter. (d) In addition to any monetary assessment imposed for a 19 20 fireworks infraction, the court shall impose an administrative

21 fee of \$20 for each fireworks infraction in which judgment is





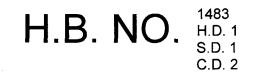
1	entered in favor of the State. The clerk of the district court
2	shall deposit the administrative fees collected into the
3	judiciary computer system special fund pursuant to section
4	601-3.7.
5	[(d)] <u>(e)</u> Upon request of a person claiming inability to
6	pay a monetary assessment, the court 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	[(c)] <u>(f)</u> 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 $[and]_{\prime}$ emergency period, and fireworks division.
17	(a) A district court judge sitting in the traffic $[and]_{\underline{\prime}}$
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] <u>Conduct</u> traffic infraction [and],
2		emergency period infraction, and fireworks infraction
3		hearings and [to] impose monetary assessments;
4	(2)	[To permit] <u>Permit</u> deferral of monetary assessment or
5		impose community service in lieu thereof;
6	(3)	[To dismiss] <u>Dismiss</u> a notice of traffic infraction
7		[or], notice of emergency period infraction, <u>or notice</u>
8		of fireworks infraction, with or without prejudice, or
9		[to] set aside a judgment for the State;
10	(4)	[To order] <u>Order</u> temporary driver's license suspension
11		or driver's license reinstatement;
12	(5)	[To approve] <u>Approve</u> the issuance or renewal of a
13		driver's license or instruction permit pursuant to
14		section 286-109(c);
15	(6)	[To issue] <u>Issue</u> 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] <u>Issue</u> 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





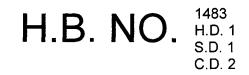
(8) [To-exercise] Exercise other powers the court finds
 necessary and appropriate to carry out the purposes of
 this chapter.

A district court judge sitting in the traffic [and], 4 (b) 5 emergency period, and fireworks division and hearing cases pursuant to this chapter shall not order the director of finance 6 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.

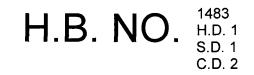
13 (b) At the time of trial, the State shall be represented 14 by a prosecuting attorney of the county in which the infraction 15 occurred. The prosecuting attorney shall orally recite the 16 charged civil traffic infraction [or], emergency period 17 infraction, or fireworks infraction in court before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





1	(C)	If trial on the traffic infraction $[rac{f or}{r}]_{\tau}$ emergency
2	period in:	fraction, or fireworks infraction is held before trial
3	on any re	lated criminal offense, the following shall be
4	inadmissi	ble 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 stater	ment or testimony, or both, shall not be deemed a
13	waiver of	the defendant's privilege against self-incrimination
14	in connect	tion with any related criminal offense."
15	SECT	ION 29. Section 291D-14, Hawaii Revised Statutes, is
16	amended by	y amending subsections (c) and (d) to read as follows:
17	"(C)	Notwithstanding section 604-17, while the court is
18	sitting in	n any matter pursuant to this chapter, the court shall
19	not be rea	quired to preserve the testimony or proceedings, except
20	proceeding	gs conducted pursuant to section 291D-13 and
21	proceeding	gs in which the traffic infraction [or], emergency





period infraction, or fireworks infraction is heard on the same
 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 <u>fireworks infraction</u> 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."



H.B. NO. ¹⁴⁸³ H.D. 1 S.D. 1 C.D. 2

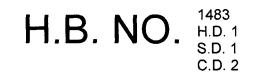
1	SECT	ION 31. Section 601-3.7, Hawaii Revised Statutes, is
2	amended b	y amending subsection (a) to read as follows:
3	"(a)	There [is] <u>shall be</u> established in the state treasury
4	a special	fund to be known as the judiciary computer system
5	special f	und, which shall contain the following:
6	(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	SECT	ION 32. Section 712-1270, Hawaii Revised Statutes, is
15	amended t	o read as follows:
16	"§71	2-1270 Places used to commit offenses against public
17	health an	d 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	violation	s of any of the laws set forth in paragraph (1), (2),
11	or (3) ar	e held or occur, is a nuisance that shall be enjoined,
12	abated, a	nd prevented, regardless of whether it is a public or
13	private nuisance."	
14	SECT	ION 33. Section 712-1270.3, Hawaii Revised Statutes,
15	is amende	d to read as follows:
16	"§71	2-1270.3 Citizen's rights. Any citizen who brings a
17	nuisance	abatement suit against a place used for the purpose of
18	committin	g:
19	(1)	[Fireworks related] <u>Fireworks-related</u> offenses
20		contained in section 132D-14(a)(l) [or (3)]; or





(2) Drug offenses under part IV of this chapter or who
 files a complaint with the local police or drug
 nuisance abatement unit of the department of the
 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, is9 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 132D-14(a)(1) [or-(3)], any property used or intended for use in 12 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."

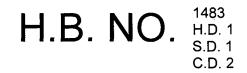
19 SECTION 35. Sections 286-109, 286-245, 287-3, 291C-225,
20 and 431:10C-117, Hawaii Revised Statutes, are amended by
21 substituting the phrase "traffic, emergency period, and





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.

