
A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

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

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

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



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

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

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

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



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

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

14 Accordingly, the purpose of this Act is to:

- 15 (1) Amend and establish various definitions and penalties
16 for fireworks offenses, including establishing
17 heightened penalties under certain circumstances;
18 (2) Establish various criminal offenses and penalties
19 related to fireworks or articles pyrotechnic;



(3) Add fireworks infractions to the existing adjudication of infractions process for traffic and emergency period infractions; and

(4) Appropriate funds.

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

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

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

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



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

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

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

8 (E) Within fifty feet of a canefield;

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

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

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

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



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

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

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

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

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



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 **§132D-B 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.



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

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

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

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

14 (d) The offense of sending or receiving fireworks or
15 articles pyrotechnic by air delivery shall be a class A felony
16 if the total weight of the aerial devices, articles pyrotechnic,
17 consumer fireworks, and display fireworks sent or received in
18 the commission of the offense is twenty-five pounds or more.

19 **§132D-C Distributing fireworks or articles pyrotechnic to**
20 **non-permit holder.** (a) A person commits the offense of
21 distributing fireworks or articles pyrotechnic to non-permit



1 holder when the person, who holds a valid license required
2 pursuant to section 132D-7, intentionally, knowingly, or
3 recklessly distributes aerial devices, articles pyrotechnic,
4 consumer fireworks, or display fireworks to another person who
5 does not have a valid permit required pursuant to sections
6 132D-10 and 132D-16.

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

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

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) Any of the aerial devices, articles pyrotechnic,
16 consumer fireworks, or display fireworks distributed
17 in the commission of the offense cause substantial
18 bodily injury to another person.

19 (d) The offense of distributing fireworks or articles
20 pyrotechnic to non-permit holder shall be a class A felony if
21 any of the aerial devices, articles pyrotechnic, consumer



1 fireworks, or display fireworks distributed in the commission of
2 the offense cause serious bodily injury or death to another
3 person.

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

11 **§132D-D Removal or extraction of pyrotechnic contents;**
12 **prohibited.** Any person who removes or extracts the pyrotechnic
13 contents from any aerial devices, articles pyrotechnic, consumer
14 fireworks, or display fireworks shall be guilty of a class C
15 felony.

16 **§132D-E Consumer fireworks prohibitions.** (a) It shall be
17 unlawful for any person to:

18 (1) Purchase, possess, set off, ignite, discharge, or
19 otherwise cause to explode any consumer fireworks
20 without a permit required pursuant to section 132D-10;
21 or



1 (2) Set off, ignite, discharge, or otherwise cause to
2 explode any consumer fireworks at any time not within
3 the periods for use prescribed in section 132D-3;
4 except that a person licensed pursuant to sections 132D-7 and
5 132D-8 may purchase and possess consumer fireworks in accordance
6 with the person's license.

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

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

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

16 (c) The state of mind requirement for the offense under
17 subsections (a)(2) and (b) shall not be applicable to whether
18 the person was aware of the date or time at the time of offense,
19 or whether the date and time of offense fell within the
20 prohibited periods. A person shall be strictly liable with
21 respect to the date and time of any act proven to have occurred,



1 and with respect to the attendant circumstance that the date and
2 time fell within the prohibited dates and times provided in
3 subsections (a)(2) and (b).

4 (d) Any person who violates:

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

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

7 (3) This section shall be subject to proceedings under
8 chapter 291D;

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

12 **\$132D-F Refusal to provide identification.** (a) Except as
13 provided in subsection (b), any person detained for violating
14 this chapter shall provide the person's name and current mailing
15 address, or any proof thereof, upon the lawful order or
16 direction of any law enforcement officer in the course and scope
17 of the officer's duties to enforce this chapter.

18 (b) If the law enforcement officer has reasonable grounds
19 to believe that the person is being deceptive or misleading in
20 providing the person's name or address, the person shall provide



1 proof thereof, upon the lawful order or direction of the law
2 enforcement officer.

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

5 **§132D-G Requirements of carrier.** (a) Any carrier or
6 person shipping aerial devices, articles pyrotechnic, consumer
7 fireworks, or display fireworks:

8 (1) Into the State shall notify the appropriate county
9 official and designated state law enforcement agencies
10 at the time the booking is made and, in any case, no
11 later than fourteen days before arrival into the
12 State; or

13 (2) Interisland within the State shall notify the
14 appropriate county official and designated state law
15 enforcement agencies at the time the booking is made
16 and, in any case, no later than five days before
17 departing from the island of origin;

18 provided that the notification shall include, when applicable,
19 the container identification number, manifest, bill of lading,
20 consignee, freight forwarder, sailing vessel name, route number,
21 date of departure, and estimated date of arrival.



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

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

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

12 (e) All violations of this section shall be subject to
13 proceedings under chapter . Nothing in this section shall be
14 construed to prohibit criminal prosecution under section
15 132D-8.6 or any other section of this chapter."

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

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



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

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

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

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

14 "Substantial bodily injury" means bodily injury that causes
15 a:

- 16 (1) Major avulsion, laceration, or penetration of the
17 skin;
18 (2) Burn of at least second degree severity;
19 (3) Bone fracture;
20 (4) Serious concussion; or



1 (5) Tearing, rupture, or corrosive damage to the
2 esophagus, viscera, or other internal organs."

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

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

14 Alternatively, "aerial device" may include but is not limited to
15 any device classified as fireworks under UN0336 and UN0337 by
16 the United States Department of Transportation as set forth in
17 ~~[Title]~~ title 49 Code of Federal Regulations ~~[include]~~ that
18 contains one hundred thirty milligrams or less of explosive
19 materials, including firework items commonly known as bottle
20 rockets, sky rockets, missile-type rockets, helicopters,
21 torpedoes, daygo bombs, roman candles, flying pigs, and jumping



1 jacks that move about the ground farther than a circle with a
2 radius of twelve feet as measured from the point where the item
3 was placed and ignited, aerial shells, and mines."

4 3. By amending the definition of "consumer fireworks" to
5 read:

6 ""Consumer fireworks" means any fireworks [~~designed~~
7 ~~primarily for retail sale to the public during authorized dates~~
8 ~~and times,~~] that [~~produces~~] upon ignition, discharge, or
9 otherwise being set off, produce visible or audible effects [~~by~~
10 ~~combustion,~~] and that [~~is designed to~~] remain on or near the
11 ground and, while stationary or spinning rapidly on or near the
12 ground, [~~emits~~] emit smoke, a shower of colored sparks,
13 whistling effects, flitter sparks, or balls of colored sparks,
14 and includes combination items that [~~contain~~] produce one or
15 more of these effects. [~~"Consumer~~] Alternatively, "consumer
16 fireworks" [shall comply] may include but is not limited to any
17 firework that complies with the construction, chemical
18 composition, and labeling regulations of the United States
19 Consumer Product Safety Commission as set forth in [~~Title~~] title
20 16 Code of Federal Regulations and fireworks classified as
21 UN0336 and UN0337 by the United States Department of



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

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

18 ""Display fireworks" means any fireworks designed primarily
19 for exhibition display by producing visible or audible effects
20 and classified as display fireworks or contained in the
21 regulations of the United States Department of Transportation



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

12 "Fireworks" means any combustible or explosive composition,
13 or any substance or combination of substances, ~~[or article~~
14 ~~prepared for the purpose of producing]~~ that produces a visible
15 or audible effect by combustion, explosion, deflagration, or
16 detonation ~~[and that meets the definition of aerial device or~~
17 ~~consumer or display fireworks as defined by this section and~~
18 ~~contained]~~, including but not limited to aerial devices,
19 consumer fireworks, or display fireworks as defined by this
20 section. "Fireworks" also includes but is not limited to aerial
21 devices, consumer fireworks, or display fireworks, as defined in



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

9 "Import" (and any nounal, verbal, adjectival, adverbial,
10 and other equivalent form of the term used interchangeably in
11 this chapter) means to bring or attempt to bring [~~fireworks~~]
12 into the State or to cause [~~fireworks~~] to be brought into the
13 State[~~7~~] any aerial devices, articles pyrotechnic, consumer
14 fireworks, or display fireworks, as defined in this section or
15 as defined by the United States Department of Transportation as
16 set forth in title 49 Code of Federal Regulations, and includes
17 [~~fireworks~~] any aerial devices, articles pyrotechnic, consumer
18 fireworks, or display fireworks labeled or designated as
19 samples, even if not intended for retail sale."

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



1 ""Pyrotechnic composition" or "pyrotechnic contents" means
2 the combustible or explosive component of aerial devices,
3 articles pyrotechnic, consumer fireworks, and display
4 fireworks."

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

7 ~~[""Law enforcement or fire officer" means any law~~
8 ~~enforcement officer having police power or county fire~~
9 ~~department officer, including firefighters."]~~

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

12 **"§132D-5 General fireworks or articles pyrotechnic**
13 **prohibitions[-] in the first degree.** (a) It shall be unlawful
14 for any person ~~[without a permit issued under section 132D-10 by~~
15 ~~a county fire department]~~ to:

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

18 ~~+(2)]~~ (1) Throw, catapult, or otherwise manually propel any
19 ignited aerial devices, articles pyrotechnic, consumer
20 fireworks, or display fireworks:

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



- 1 (B) At a person or an animal; [and] or
2 (C) From above the first floor of any building; or
3 ~~[(+3)]~~ (2) Set off, ignite, discharge, or otherwise cause to
4 explode any aerial devices, articles pyrotechnic,
5 consumer fireworks, or display fireworks:
6 (A) ~~[Above]~~ From above the first floor of any
7 building;
8 (B) In any vehicle;
9 ~~[(+C)]~~ ~~At any time not within the periods for use~~
10 ~~prescribed in section 132D-3;~~
11 ~~(D)~~ ~~Within one thousand feet of any operating~~
12 ~~hospital, licensed convalescent home, licensed~~
13 ~~home for the elderly, zoo, licensed animal~~
14 ~~shelter, or licensed animal hospital;~~
15 ~~(E)~~ ~~In any school building, or on any school grounds~~
16 ~~and yards without first obtaining authorization~~
17 ~~from appropriate school officials;~~
18 ~~(F)~~ ~~On any highway, alley, street, sidewalk, or other~~
19 ~~public way; in any park; on any public beach; in~~
20 ~~any officially designated forest or wildlife~~
21 ~~preserve; within fifty feet of a canefield; or~~



1 ~~within one thousand feet of any building used for~~
2 ~~public worship during the periods when services~~
3 ~~are held; and~~

4 ~~(C) Within five hundred feet of any hotel.~~

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

8 ~~(c) It shall be unlawful to sell consumer fireworks after~~
9 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~
10 ~~Day, and 8:00 p.m. on the Fourth of July.] or~~

11 (C) In any building; provided that firecrackers shall
12 be permitted if used in accordance with sections
13 132D-3 and 132D-10 and all other applicable state
14 and county laws, ordinances, and rules.

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

18 (c) If in the commission of the offense of general
19 fireworks or articles pyrotechnic prohibitions in the first
20 degree the person negligently causes substantial bodily injury



1 to another person, the person shall be guilty of a class B
2 felony.

3 (d) If in the commission of the offense of general
4 fireworks or articles pyrotechnic prohibitions in the first
5 degree the person negligently causes serious bodily injury or
6 death to another person, the person shall be guilty of a class A
7 felony."

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

10 **"§132D-6 Exceptions.** The prohibitions in ~~[section]~~
11 sections 132D-5 ~~[de]~~, 132D-A, and 132D-D shall not apply to:

12 (1) The use of flares, noisemakers, or signals for
13 warning~~[7]~~ or pest control, or illumination purposes
14 by police and fire departments, utility companies,
15 transportation agencies, and other governmental or
16 private agencies or persons, including agricultural
17 operations, in connection with emergencies, their
18 duties, or business;

19 (2) The sale or use of blank cartridges for a show or
20 theater, or for signal, commercial, or institutional
21 purposes in athletics or sports;



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

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

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

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

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

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

(1) Import, store, [~~offer to sell, or sell,~~] or distribute, including at wholesale or retail, any aerial devices, [display fireworks,] articles



1 pyrotechnic, ~~[or]~~ consumer fireworks, or display
2 fireworks unless the person has a valid license issued
3 ~~[by the county,]~~ pursuant to this chapter; or

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

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

13 1. By amending subsection (b) to read:

14 "(b) Each storage, wholesaling, and retailing site shall
15 be required to obtain a separate license. The license shall
16 specify the date of issuance or effect and the date of
17 expiration, which shall be March 31 of each year. The
18 application shall be made on a form setting forth the date upon
19 which the storage~~[, sale, or offers for sale]~~ or distribution
20 are to begin, the address of the location of the licensee, and
21 the name of the proprietor or, if a partnership, the name of the



1 partnership and the names of all partners or, if a corporation,
2 the name of the corporation and the names of its officers. Any
3 license issued pursuant to this chapter may be revoked by the
4 county if the licensee violates any provision of this chapter or
5 if the licensee stores or handles the fireworks in a manner that
6 presents an unreasonable safety hazard."

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

8 "(d) It shall be unlawful for any licensee, other than a
9 licensed wholesaler who is ~~[selling or transferring]~~
10 distributing fireworks or articles pyrotechnic to a licensed
11 retailer~~[r]~~ pursuant to the person's license, to ~~[sell or offer~~
12 ~~to sell, exchange for consideration, give, transfer, or donate]~~
13 distribute any fireworks or articles pyrotechnic at any time to
14 any person who does not present a permit duly issued as required
15 by ~~[section]~~ sections 132D-10 ~~[or]~~ and 132D-16. The permit
16 shall be signed by the seller or transferor at the time of ~~[sale~~
17 ~~or transfer]~~ distribution of the fireworks or articles
18 pyrotechnic, and the seller or transferor shall indicate on the
19 permit the amount and type of fireworks or articles pyrotechnic
20 ~~[sold or transferred.]~~ distributed. No person shall ~~[sell or~~
21 ~~deliver]~~ distribute fireworks to any permittee in any amount in



1 excess of the amount specified in the permit, less the amount
2 shown on the permit to have been previously purchased; provided
3 that no fireworks shall be sold to a permittee holding a permit
4 issued for purposes of section 132D-3, more than five calendar
5 days before the applicable time period under section 132D-3."

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

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

11 (1) Clearly designate the types of fireworks or articles
12 pyrotechnic in each shipment on the bill of lading or
13 shipping manifest with specificity;

14 (2) Declare on the bill of lading or shipping manifest the
15 gross weight of aerial devices, articles pyrotechnic,
16 consumer fireworks, and display fireworks[~~articles~~
17 ~~pyrotechnic, and aerial devices~~] to be imported in
18 each shipment and the location of the storage
19 facility, if applicable, in which the fireworks or
20 articles pyrotechnic are to be stored;



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

7 (A) Pier to pier;

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

9 (C) Pier to redistribution;

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

12 (A) Written documentation regarding the proposed
13 display event or events and related contact
14 information to allow the fire chief to validate
15 the importation of a three-month or six-month
16 inventory under section 132D-8.5; and

17 (B) An inventory breakdown for each proposed display;
18 and

19 (5) At the time shipping is booked, the importer or
20 consignee shall notify the [~~appropriate county~~
21 ~~official as determined by the county~~] state fire



1 marshal in writing of the expected shipment's landing
2 date[-]; provided that:

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

5 (B) If a licensee fails to notify the state fire
6 marshal two or more times within one year of the
7 issuance of a license, the license may be
8 revoked."

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

11 **"§132D-10 Permits.** (a) A permit shall be required for
12 the purchase and use of:

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

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

18 (3) Any consumer fireworks [~~for the purposes of section~~
19 ~~132D-5 or~~] for cultural uses that occur at any time
20 other than during the periods prescribed in section
21 132D-3(1) upon a payment of a fee of \$25.



1 (b) Each person may purchase a maximum of fifty permits
2 per year; provided that nothing in this section shall prohibit a
3 county from enacting ordinances more stringent than this
4 section."

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

7 **"§132D-12 ~~[Sale]~~ Distribution to minors; ~~[sale by minors,]~~**
8 **prohibited.** (a) It shall be unlawful for any person to ~~[offer~~
9 ~~for sale, sell, or give]~~ distribute any aerial devices, articles
10 pyrotechnic, consumer fireworks, or ~~[articles pyrotechnic]~~
11 display fireworks to minors, ~~[and for any minor to possess,~~
12 ~~purchase, sell, or set off, ignite, or otherwise cause to~~
13 ~~explode any fireworks or articles pyrotechnic,~~ except as
14 provided in section 132D-13.

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

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

19 **"§132D-13 Liability of parents or guardians.** ~~[The~~
20 ~~parents,~~] (a) Except as provided in subsection (b), it shall be
21 unlawful for a parent, guardian, ~~[and]~~ or other ~~[persons]~~ person



1 having the custody or control of any minor[~~, who~~] to knowingly
2 permit the minor to [~~possess,~~]:

3 (1) Possess or purchase[~~, or set~~] any aerial devices,
4 articles pyrotechnic, consumer fireworks, or display
5 fireworks; or

6 (2) Set off, ignite, discharge, or otherwise cause to
7 explode any aerial devices, articles pyrotechnic,
8 consumer fireworks, or display fireworks [~~or articles~~
9 pyrotechnic, shall be deemed to be in violation of
10 this chapter and shall be subject to the penalties
11 thereunder, except that the parents].

12 (b) The parent or guardian may allow the minor to use
13 consumer fireworks while under the immediate supervision and
14 control of the parent or guardian, or under the immediate
15 supervision and control of another adult.

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

20 (d) If any of the aerial devices, articles pyrotechnic,
21 consumer fireworks, or display fireworks set off, ignited,



1 discharged, or otherwise caused to explode in violation of
2 subsection (a)(2) cause substantial bodily injury to another
3 person, the violation of subsection (a) shall be a class C
4 felony.

5 (e) If any of the aerial devices, articles pyrotechnic,
6 consumer fireworks, or display fireworks set off, ignited,
7 discharged, or otherwise caused to explode in violation of
8 subsection (a)(2) cause serious bodily injury or death to
9 another person, the violation of subsection (a) shall be a class
10 B felony.

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

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

20 "**§132D-14 Penalty.** (a) ~~[Any]~~ Except as provided in
21 subsections (b) and (c), any person:



1 (1) Importing, storing, or distributing aerial devices,
2 [display fireworks, or] articles pyrotechnic, consumer
3 fireworks, or display fireworks without having a valid
4 license ~~[under]~~ as required pursuant to section 132D-7
5 [shall]:

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

7 (B) Notwithstanding subparagraph (A), if the total
8 weight of the aerial devices, articles
9 pyrotechnic, consumer fireworks, and display
10 fireworks is twenty-five pounds or more, shall be
11 guilty of a class B felony; and

12 (2) Purchasing, possessing, setting off, igniting, ~~[or]~~
13 discharging, or otherwise causing to explode aerial
14 devices, ~~[display fireworks, or] articles pyrotechnic,~~
15 or display fireworks without a valid permit ~~[under]~~
16 required pursuant to sections 132D-10 and 132D-16~~[, or~~
17 ~~storing, selling, or possessing aerial devices,~~
18 ~~display fireworks, or articles pyrotechnic without a~~
19 ~~valid license under section 132D-7, or allowing an~~
20 ~~individual to possess, set off, ignite, discharge, or~~



1 ~~otherwise cause to explode any aerial device in~~
2 ~~violation of section 132D-14.5]:~~

3 (A) If the total weight of the aerial devices,
4 articles pyrotechnic, and display fireworks is
5 fifty pounds or more, shall be guilty of a class
6 B felony;

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

11 ~~+(B)]~~ (C) If the total weight of the aerial devices,
12 [~~display fireworks, or~~] articles pyrotechnic, and
13 display fireworks is [~~less than twenty-five~~
14 pounds,] five pounds or more, shall be guilty of
15 a misdemeanor; and

16 (D) If the total weight of the aerial devices,
17 articles pyrotechnic, and display fireworks is
18 less than five pounds and if the total weight
19 cannot be determined, shall be fined \$300 and
20 subject to proceedings under chapter 291D.



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

5 ~~-(4) Who removes or extracts the pyrotechnic contents from~~
6 ~~any fireworks or articles pyrotechnic and uses the~~
7 ~~contents to construct fireworks, articles pyrotechnic,~~
8 ~~or a fireworks or articles pyrotechnic related device~~
9 ~~shall be guilty of a misdemeanor.]~~

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

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

17 (2) Any of the aerial devices, articles pyrotechnic,
18 consumer fireworks, or display fireworks imported,
19 stored, distributed, purchased, possessed, set off,
20 ignited, discharged, or otherwise caused to explode in



1 the commission of the offense under subsection (a)
2 cause substantial bodily injury to another person.

3 (c) Any person who would otherwise be subject to
4 sentencing for a criminal offense under subsection (a) shall be
5 guilty of an offense two classes or grades higher, as the case
6 may be, than that provided in subsection (a) if any of the
7 aerial devices, articles pyrotechnic, consumer fireworks, or
8 display fireworks imported, stored, distributed, purchased,
9 possessed, set off, ignited, discharged, or otherwise caused to
10 explode in the commission of the offense under subsection (a)
11 cause serious bodily injury or death to another person; provided
12 that for an offense already classified as a class B felony, the
13 person shall be guilty of a class A felony.

14 (d) The state of mind requirement for subsections (b) and
15 (c) shall not be applicable to whether the person was aware that
16 any of the aerial devices, articles pyrotechnic, consumer
17 fireworks, or display fireworks caused or would cause the injury
18 or death. A person shall be strictly liable with respect to the
19 attendant circumstance that the aerial devices, articles
20 pyrotechnic, consumer fireworks, or display fireworks caused the
21 injury or death.



1 ~~[(b)]~~ (e) Except as provided in subsection (a), (b), or
2 (c), or as otherwise specifically provided for in this chapter,
3 any person violating any other provision of this chapter, shall
4 be guilty of a violation and fined no less than \$500 and no more
5 than \$5,000 for each violation. ~~[Notwithstanding any provision~~
6 ~~to the contrary in this section, any person violating section~~
7 ~~132D-14.5 shall be fined at least \$500 and no more than \$5,000.]~~

8 ~~[(e)]~~ (f) The court shall collect the fines imposed in
9 subsections (a) ~~[and]~~, (b), (c), and (e), for violating this
10 chapter and, of the fines collected, shall pay twenty per cent
11 to the State and eighty per cent to the county in which the fine
12 was imposed, which shall be expended by the county for law
13 enforcement purposes.

14 ~~[(d)]~~ (g) Notwithstanding any penalty set forth herein,
15 violations of subsection (a)(1) ~~[or (3)]~~ may be subject to
16 nuisance abatement proceedings provided in part V of chapter
17 712.

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

19 ~~(1) Each type of prohibited firework imported, purchased,~~
20 ~~sold, possessed, set off, ignited, or discharged shall~~



1 ~~constitute a separate violation for each unopened~~
2 ~~package; and~~

3 ~~(2) Each separate firework imported, purchased, sold,~~
4 ~~possessed, set off, ignited, or discharged shall be a~~
5 ~~separate violation if the package is opened or the~~
6 ~~firework is not in a package.~~

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

8 ~~(1) Means any aerial device, display firework, or article~~
9 ~~pyrotechnic:~~

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

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

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

15 ~~(A) Inner wrappings not intended to be individually~~
16 ~~sold to the customer;~~

17 ~~(B) Shipping containers or wrapping used solely for~~
18 ~~the transportation of any commodities in bulk or~~
19 ~~in quantity;~~

20 ~~(C) Auxiliary containers or outer wrappings used to~~
21 ~~deliver commodities if the containers or~~



1 ~~wrappings bear no printed matter pertaining to~~
2 ~~any particular aerial device, display firework,~~
3 ~~or article pyrotechnic;~~

4 ~~(D) Containers used for retail tray pack displays~~
5 ~~when the container itself is not intended to be~~
6 ~~sold; or~~

7 ~~(E) Open carriers and transparent wrappers or~~
8 ~~carriers for containers when the wrappers or~~
9 ~~carriers do not bear printed matter pertaining to~~
10 ~~any particular aerial devices, display fireworks,~~
11 ~~or articles pyrotechnic.] "~~

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

14 " ~~[§]§132D-14.5[§]~~ **Liability of homeowner, renter, or**
15 **person otherwise responsible for real property.** (a) A
16 homeowner, renter, or person otherwise responsible for ~~[the]~~
17 real property who intentionally, knowingly, ~~[or]~~ recklessly
18 ~~[allows]~~, or negligently:

19 (1) Allows an individual, while on the real property, to
20 possess, set off, ignite, discharge, or otherwise
21 cause to explode any aerial ~~[device]~~ devices, articles



1 pyrotechnic, or display fireworks without a permit
2 issued pursuant to this chapter shall be ~~[deemed to be~~
3 ~~in violation of this chapter and shall be subject to~~
4 ~~the penalties specified in section 132D-14(a)(2) and~~
5 ~~(b).]~~ guilty of a petty misdemeanor;

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

11 (3) Notwithstanding paragraph (2), allows any aerial
12 devices, articles pyrotechnic, display fireworks, or
13 pyrotechnic composition to be stored in the real
14 property, if the total weight of the aerial devices,
15 articles pyrotechnic, display fireworks, and
16 pyrotechnic composition is twenty-five pounds or more
17 without a license issued pursuant to this chapter,
18 shall be guilty of a class C felony.

19 (b) Any person who would otherwise be subject to
20 sentencing under subsection (a) shall be guilty of an offense



1 one class or grade higher, as the case may be, than that
2 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 display fireworks, or pyrotechnic composition
8 possessed, set off, ignited, discharged, otherwise
9 caused to explode, or stored in violation of
10 subsection (a) cause substantial bodily injury to
11 another person.

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

20 (d) The state of mind requirement for subsections (b) and
21 (c) shall not be applicable to whether the person was aware that



1 any of the aerial devices, articles pyrotechnic, display
2 fireworks, or pyrotechnic composition caused or would cause the
3 injury or death. A person shall be strictly liable with respect
4 to the attendant circumstance that the aerial devices, articles
5 pyrotechnic, display fireworks, or pyrotechnic composition
6 caused the injury or death."

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

9 "[~~§~~§132D-15[~~§~~] **Notice requirements.** Each licensed retail
10 outlet shall post adequate notice that clearly cautions each
11 person purchasing consumer fireworks of the prohibitions,
12 liabilities, and penalties incorporated in sections 132D-12,
13 132D-13, [~~and~~] 132D-14[~~-~~], and 132D-E."

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

16 "[~~§~~§132D-17.5[~~§~~] **County ordinances.** (a) Nothing in this
17 chapter shall be construed to supersede or in any manner affect
18 a county fireworks ordinance; provided that the ordinance is at
19 least as stringent in the control or prohibition of aerial
20 devices, articles pyrotechnic, consumer fireworks, and display
21 fireworks as the law under this chapter.



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

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

"§132D-21 Health care facilities; report of fireworks and articles pyrotechnic incidents. (a) Health care facilities in this State shall report all incidents of serious injuries and fatalities caused by legal and illegal aerial devices, articles 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" includes any outpatient clinic, emergency room, or physician's office, private or public, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. [~~The term~~] "Health care facilities" includes



1 but is not limited to health care facilities that are commonly
2 referred to as hospitals, extended care and rehabilitation
3 centers, nursing homes, skilled nursing facilities, intermediate
4 care facilities, hospices for the terminally ill that require
5 licensure or certification by the department of health, kidney
6 disease treatment centers, including freestanding hemodialysis
7 units, outpatient clinics, organized ambulatory health care
8 facilities, emergency care facilities and centers, home health
9 agencies, health maintenance organizations, and others providing
10 similarly organized services regardless of nomenclature."

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

13 "[~~§~~132D-22~~§~~] **Entry onto premises; inspection of**
14 **premises, books, and records; obstructing [~~law enforcement or~~**
15 **~~fire department~~] inspector operations; penalty.** (a) Any [~~law~~
16 ~~enforcement or fire officer~~] inspector may, at reasonable hours,
17 enter and inspect the premises of a licensee or permittee and
18 any relevant books or records therein to verify compliance with
19 this chapter and the conditions of the license or permit.

20 (b) Upon a request by any [~~law enforcement or fire~~
21 ~~officer~~] inspector to enter and inspect the premises of a



1 licensee or permittee at reasonable hours, the licensee, the
2 permittee, or an employee of the licensee or permittee shall
3 make available for immediate inspection and examination the
4 premises and all relevant books and records therein.

5 (c) Any licensee or permittee who refuses the [law
6 ~~enforcement or fire officer~~] inspector entry or access to the
7 premises, books, or records shall be in violation of the
8 conditions of the license or permit. After a hearing, the
9 issuing department shall suspend or revoke the license or permit
10 for refusing entry or access or for violations of any other
11 requirement or condition of the license or permit or any
12 provision of this chapter or rule adopted pursuant to this
13 chapter. The issuing department shall provide the licensee or
14 permittee with a written notice and order describing the basis
15 for the suspension or revocation. Any person aggrieved by the
16 suspension or revocation determination may request a contested
17 case hearing pursuant to chapter 91. To request a contested
18 case hearing, the person shall submit a written request to the
19 issuing department within thirty calendar days of the date of
20 the notice and order of the suspension or revocation. Appeal to
21 the circuit court under section 91-14, or any other applicable



1 statute, shall only be taken from the issuing department's final
2 order pursuant to a contested case.

3 (d) Any licensee, permittee, employee of a licensee or
4 permittee, or other person who:

5 (1) Threatens with the use of violence, force, or physical
6 interference or obstacle, or hinders, obstructs, or
7 prevents any [~~law enforcement or fire officer,~~
8 inspector, or any person assisting [~~a law enforcement~~
9 ~~or fire officer,~~ an inspector, from entering into the
10 premises of the licensee or permittee; or

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

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

17 (e) If any [~~law enforcement or fire officer,~~ inspector
18 having demanded admittance onto the premises of a licensee or
19 permittee and declared the [~~officer's~~ inspector's name and
20 office, is not admitted by the licensee, permittee, or person in



1 charge of the premises, the [~~officer~~] inspector may use force to
2 enter the premises.

3 (f) For purposes of this section[~~,—"premises"~~]:

4 "Inspector" means any county fire department officer,
5 including firefighters.

6 "Premises of a licensee or permittee" does not include the
7 licensee's or permittee's private residence or a dwelling that
8 is considered to be the person's [~~home,~~] dwelling, including a
9 [~~single-family~~] single-family house, apartment unit,
10 condominium, townhouse, or cooperative unit."

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

13 **"§291D-1 Purpose.** (a) Act 222, Session Laws of Hawaii
14 1978, began the process of decriminalizing certain traffic
15 offenses, not of a serious nature, to the status of violations.
16 In response to a request by the legislature, the judiciary
17 prepared a report in 1987 that recommended, among other things,
18 further decriminalization of traffic offenses, elimination of
19 most traffic arraignments, disposition of uncontested violations
20 by mail, and informal hearings where the violation or the
21 proposed penalty is questioned. The legislature finds that



1 further decriminalization of certain traffic offenses and
2 streamlining of the handling of those traffic cases will achieve
3 a more expeditious system for the judicial processing of traffic
4 infractions. The system of processing traffic infractions
5 established by this chapter will:

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

8 (2) Facilitate and encourage the resolution of many
9 traffic infractions through the payment of a monetary
10 assessment;

11 (3) Speed the disposition of contested cases through a
12 hearing, similar to small claims proceedings, in which
13 the rules of evidence will not apply and the court
14 will consider as evidence the notice of traffic
15 infraction, applicable police reports, or other
16 written statements by the police officer who issued
17 the notice, any other relevant written material, and
18 any evidence or statements by the person contesting
19 the notice of traffic infraction;



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

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

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

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

14 (b) The legislature finds that the pandemic related to the
15 coronavirus disease 2019 necessitated the imposition of
16 emergency period rules in an attempt to control the spread of
17 the disease in the State. The thousands of violations of the
18 emergency period rules caused an examination of the ability to
19 impose infractions for lesser offenses as an alternative to
20 using the Penal Code and to allow for more efficient use of the
21 judicial system. The system of processing traffic infractions



1 under this chapter was enacted in 1993 and has provided a useful
2 mechanism for handling offenses deemed as infractions and is
3 well-suited to certain types of violations of emergency period
4 rules that are designated infractions by the governor or mayor
5 under the state's emergency management laws.

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

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

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

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



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

3 2. By amending the definition of "concurrent trial" to
4 read:

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

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

13 ""Hearing" means a proceeding conducted by the district
14 court pursuant to section 291D-8 at which the person to whom a
15 notice of traffic infraction [~~or~~], notice of emergency period
16 infraction, or notice of fireworks infraction was issued either
17 admits to the infraction, contests the notice of traffic
18 infraction [~~or~~], notice of emergency period infraction, or
19 notice of fireworks infraction, or admits to the traffic
20 infraction [~~or~~], emergency period infraction, or fireworks



1 infraction but offers an explanation to mitigate the monetary
2 assessment imposed."

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

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

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

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



1 under this chapter. No traffic infraction [~~or~~], emergency
2 period infraction, or fireworks infraction shall be classified
3 as a criminal offense.

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

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



1 or is a misdemeanor for which the defendant has demanded a jury
2 trial.

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

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



1 judgment of conviction or acquittal as to the related
2 criminal offense following such concurrent trial; and

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

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

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

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

20 (d) In no event shall section 701-109 preclude prosecution
21 for a related criminal offense where a traffic infraction [~~or~~],



1 an emergency period infraction, or a fireworks infraction
2 committed in the same course of conduct has been adjudicated
3 pursuant to this chapter.

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

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

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



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

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

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



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

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



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

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

9 (1) A statement of the specific infraction for which the
10 notice was issued;

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

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



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



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

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

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

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

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



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

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

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



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

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



1 court as a statement given in court pursuant to
2 section 291D-8(a); or

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

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



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

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

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

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

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



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

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



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

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



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



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

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

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



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



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

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

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



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



1 emergency period infraction, or fireworks infraction

2 was committed; and

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

(d) In addition to any monetary assessment imposed for a fireworks infraction, the court shall impose an administrative fee of \$20 for each fireworks infraction in which judgment is entered in favor of the State. The clerk of the district court shall deposit the administrative fees collected into the judiciary computer system special fund pursuant to section 601-3.7.

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

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

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

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



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

5 (1) To conduct traffic infraction [~~and~~], emergency period
6 infraction, and fireworks infraction hearings and to
7 impose monetary assessments;

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

10 (3) To dismiss a notice of traffic infraction [~~or~~], notice
11 of emergency period infraction, or notice of fireworks
12 infraction, with or without prejudice, or to set aside
13 a judgment for the State;

14 (4) To order temporary driver's license suspension or
15 driver's license reinstatement;

16 (5) To approve the issuance or renewal of a driver's
17 license or instruction permit pursuant to section 286-
18 109(c);

19 (6) To issue penal summonses and bench warrants and
20 initiate contempt of court proceedings in proceedings
21 conducted pursuant to section 291D-13;



1 (7) To issue penal summonses and bench warrants and
2 initiate failure to appear proceedings in proceedings
3 conducted pursuant to section 291D-5(d)(10); and

4 (8) To exercise other powers the court finds necessary and
5 appropriate to carry out the purposes of this chapter.

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

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

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



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

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



1 fireworks infraction shall be by a preponderance of the
2 evidence.

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

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

10 and

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

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

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

19 "(c) Notwithstanding section 604-17, while the court is
20 sitting in any matter pursuant to this chapter, the court shall
21 not be required to preserve the testimony or proceedings, except



1 proceedings conducted pursuant to section 291D-13 and
2 proceedings in which the traffic infraction [~~or~~], emergency
3 period infraction, or fireworks infraction is heard on the same
4 date and time as any related criminal offense.

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

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

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



1 in the same manner as though the matter had been adjudicated and
2 disposed of by a family court."

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

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

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

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

14 (3) Fees pursuant to sections 291D-9(c), 607-4(b)(10), and
15 607-5(c)(32)."

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

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



1 (1) Those laws pertaining to offenses against public
2 health and morals contained in this chapter, except
3 offenses under part IV that do not involve the
4 manufacture or distribution of drugs and activities
5 under part III that involve only social gambling as
6 defined in section 712-1231(a);
7 (2) Section 132D-14(a)(1) [~~or (3)~~]; or
8 (3) Any offense under part II of chapter 708 that involves
9 a person unlawfully residing on or otherwise occupying
10 real property to which the person has no title, lease,
11 or other legal claim,
12 and every building, premises, or place in or upon which
13 violations of any of the laws set forth in paragraph (1), (2),
14 or (3) are held or occur, is a nuisance that shall be enjoined,
15 abated, and prevented, regardless of whether it is a public or
16 private nuisance."

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

19 "**§712-1270.3 Citizen's rights.** Any citizen who brings a
20 nuisance abatement suit against a place used for the purpose of
21 committing:



1 (1) Fireworks related offenses contained in section 132D-
2 14(a)(1) [~~or (3)~~]; or
3 (2) Drug offenses under part IV of this chapter or who
4 files a complaint with the local police or drug
5 nuisance abatement unit of the department of the
6 attorney general,
7 shall be entitled to the same rights and protections of victims
8 and witnesses in criminal proceedings in accordance with chapter
9 801D."

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

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



1 SECTION 35. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2025-2026 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2026-2027 to carry out the purposes of this Act.

6 The sums appropriated shall be expended by the judiciary
7 for the purposes of this Act.

8 SECTION 36. In codifying the new sections added by
9 section 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 37. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 38. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 39. This Act shall take effect upon approval.



Report Title:

Fireworks; Adjudication; Criminal Offenses; Penalties;
Infractions; Appropriations

Description:

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. Establishes various criminal offenses and penalties related to fireworks or articles pyrotechnics. Adds fireworks infractions to the existing adjudications of infractions process for traffic and emergency period infractions. Appropriates funds. (SD1)

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

