



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 1005, RELATING TO FIREWORKS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Thursday, February 6, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Tricia M. Nakamatsu, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill and offers the following comments. We also suggest an amendment, at the end of this testimony.

The purpose of this bill is to facilitate more effective enforcement of Hawaii's fireworks control laws, by: (1) amending definitions to reflect more common-sense standards; (2) strengthening and clarifying existing criminal offenses; (3) establishing new offenses; (4) establishing heightened penalties for repeat offenders and offenses that result in substantial or serious bodily injury or death; and (5) establishing non-criminal fireworks infractions for the lowest-level offenses.

Criminal statutes serve as a deterrent to illegal activity when they are effectively enforced and prosecuted. For many years, however, Hawaii's state laws regarding illicit fireworks have made it difficult for state and county agencies to enforce or prosecute these types of cases. When asked, prosecutors have repeatedly cited challenges posed by "gathering evidence and meeting the high burden of proof necessary for convictions",¹ as well as "stringent definitions [in statute, that] . . . routinely create

¹ See Legislative Reference Bureau of Hawaii, *Blast From the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011* at 13, 14 (December 2019) https://lrb.hawaii.gov/wp-content/uploads/2019_BlastFromThePast.pdf (last visited January 20, 2025).

roadblocks to effective prosecution."² Thus, only a small number of criminal fireworks cases have been initiated by law enforcement, and an even smaller number have been prosecuted, resulting in a largely "ineffective deterrent" to the distribution and use of illicit fireworks.³

This bill would largely address the concerns raised by prosecutors, and provide greater clarity and efficiency for law enforcement, prosecutors, and the courts that handle these cases.

DEFINITIONS

This bill's proposed amendments to definitions for "aerial device," "consumer fireworks," and "fireworks," under section 132D-2, Hawaii Revised Statutes (HRS) (page 37, line 16, to page 40, line 4, and page 40, line 21, to page 42, line 18), present a straightforward, common-sense standard that could arguably be established through laypeople's observations and testimony, in many cases, without requiring the presentation of any physical evidence or expert witnesses. In addition, the definitions of "import," "pyrotechnic composition," and "pyrotechnic contents" are amended to conform with the new definition of "fireworks." (page 41, line 19, to page 42, line 13). Definitions for "carrier," "dwelling" (based on the current definition under section 707-800, HRS), "serious bodily injury" (copies the current definition under section 707-700, HRS), and "substantial bodily injury" (copies the current definition under section 707-

² *Id.*, at 14.

³ *See, e.g., Id.*, at 14:

Between 2011 and 2019, Maui police referred twenty fireworks cases to Maui prosecutors, [of which] the Department of the Prosecuting Attorney for the County of [Maui] . . . charged seven cases and obtained four convictions.

* * *

During the same time period, Kauai police referred four cases to Kauai prosecutors, with Kauai prosecutors ultimately charging two cases and obtaining one conviction.

* * *

[Also] . . . prosecutors for the County of Hawaii commented that they "are unable to prosecute if the investigations are not referred to" the office [and] . . . they have not prosecuted any fireworks cases since 2005.

700, HRS) would also be added to section 132D-2, HRS, to support the expanded offenses and enhanced sentencing provisions proposed elsewhere in the bill. (See, page 36, line 16, to page 37, line 15).

Currently, proving beyond a reasonable doubt that an item meets the definition of an "aerial device," "consumer fireworks," or "fireworks," under section 132D-2, HRS, can be difficult, and may require expert testimony regarding the aeronautical design of the item, pyrotechnic design of the item, and comparison to federal definitions. Fireworks cases may also be difficult to prove when the illicit fireworks have already exploded and are unrecoverable. The proposed definition of aerial fireworks takes into account that virtually every adult in Hawaii already "knows" what aerial fireworks are and could positively identify one rising up into the sky, based on their own observations, without the assistance of forensic testing or expert witnesses.

STRENGTHENING AND CLARIFYING EXISTING CRIMINAL OFFENSES

This bill amends existing criminal fireworks offenses to include wording and standards that are more amenable to prosecution, and penalties that are more proportionate to the prohibited acts.

Currently, section 132D-5, HRS, groups a number of very dangerous acts, such as throwing ignited fireworks from or into a vehicle, together with much less serious acts, such as setting off consumer fireworks with a permit but outside of the permitted times, and classifies all of these offenses as a violation, with no possible jail time and only a potential fine of up to \$5,000. This bill would separate out the various acts based on the level of dangerousness and place them under standalone offenses (i.e., "Consumer fireworks prohibitions" on page 32, line 21, to page 34, line 9; "Removal or extraction of pyrotechnic contents; prohibited" on page 32, lines 16-20; "General fireworks or articles pyrotechnic prohibitions in the second degree" on page 27, line 4, to page 29, line 19; and "General fireworks or articles pyrotechnic prohibitions in the first degree" on page 42, line 21, to page 45, line 13). Penalties for these standalone offenses range from an infraction carrying only a \$200 fine, to class C felonies facing up to a \$5,000 fine and/or up to five years imprisonment.

To support effective prosecution, two of the standalone offenses proposed also provide strict liability for certain elements of the offense. These include strict liability for: (1) an offender's distance from sensitive areas, such as a hospital, when setting off an aerial device, display fireworks, or articles pyrotechnic, in violation of "General fireworks or articles pyrotechnic prohibitions in the second degree" (page 28, lines 4-13); and (2) an offender's knowledge of the date or time, when buying consumer fireworks outside of the permitted dates or times, in violation of "Consumer fireworks prohibitions" (page 33, lines 9-15). Requiring prosecutors to prove that an offender was aware of such a distance, or aware of the date and time, when committing these types of offenses, seems unreasonable and may provide an easy way for offenders to avoid prosecution. The Department believes it is reasonable to hold law-abiding citizens to a certain level of responsibility if they choose to participate in these types of activities.

In addition, transferring or selling controlled fireworks or articles pyrotechnic to a person who does not have a valid permit is not currently found anywhere under chapter 132D, HRS, as a standalone offense, but is merely listed within the penalties statute, section 132D-14(a)(3), HRS. To address this, a standalone offense is created on page 31, line 3, to page 32, line 15.

Section 132D-6 is also amended on page 45, line 16, to -page 46, line 20, to ensure that law enforcement agencies and other entities with lawful purposes for possessing, setting off, and/or dismantling controlled fireworks are allowed to do so.

ESTABLISHING NEW OFFENSES

Given heightened concerns over illicit fireworks or articles pyrotechnic being transported in airplanes, this bill establishes such activity as an entirely new standalone offense, as a class C felony ("Sending or receiving fireworks or articles pyrotechnic by air delivery; prohibited," on page 29, line 20, to page 31, line 2).

Also, given the creation of fireworks infractions, discussed further below, a new standalone offense for "Refusal to provide identification" is established on page 34, lines 10-22, based on similar wording found in section 291C-172, HRS. While it is hoped that law enforcement officers will not have to cite anyone for this type of offense,

it does provide law enforcement and courts with some level of assurance that offenders who are issued fireworks infractions are providing their actual name and mailing address for the citation. This information is necessary for courts to process the citations, particularly if the person fails to respond to the citation (i.e., pay the fine, write to the court, or request a hearing).

Finally, additional reporting requirements are established for any carrier or person shipping controlled fireworks or articles pyrotechnic into Hawaii, or interisland, on pages 35, line 1, to page 36, line 11.

ESTABLISHING HEIGHTENED PENALTIES UNDER CERTAIN CIRCUMSTANCES

In addition to the usual penalty for any given offense, certain offenses (i.e., "General fireworks or articles pyrotechnic prohibitions in the second degree" on page 27, line 4, to page 29, line 19; "Distributing fireworks and articles pyrotechnic to non-permit holder" on page 31, line 3, to page 32, line 15; "General fireworks or articles pyrotechnic prohibitions in the first degree" on page 42, line 21, to page 45, line 13; "Liability of parents or guardians" on page 51, line 1, to page 52, line 19; all offenses covered by section 132D-14, on page 53, line 1, to page 57, line 17; and "Liability of homeowner, renter, or person otherwise responsible for real property" on page 59, line 11, to page 61, line 20) could also be subject to enhanced penalties if the offender was previously convicted of a crime under chapter 132D, HRS, within ten years prior to the new offense, or if any of the illicit fireworks or articles pyrotechnic causes substantial bodily injury, serious bodily injury, or death to another person. Whatever the usual level of offense, this type of enhanced penalty could increase the level of offense by one or two grades. For example, distributing aerial devices without a permit would normally be a class C felony (i.e., up to five years imprisonment and/or up to a \$5,000 fine), but it becomes a class B felony (i.e., up to ten years imprisonment and/or up to a \$10,000 fine) if the offender had a prior fireworks-related conviction in the past ten years, or if the illicit fireworks caused substantial bodily injury to anyone; and it becomes a class A felony (i.e., up to twenty years imprisonment and/or up to a \$20,000 fine) if the illicit fireworks caused serious bodily injury or death.

For nearly all of these enhanced penalties, the offender would be held strictly liable with respect to any knowledge that the illicit fireworks would cause such injuries or death. In other words, it would not be a defense to prosecution if offenders claim they had no reason to know the illicit fireworks would cause such injuries or death. For "General fireworks or articles pyrotechnic prohibitions in the first degree" on page 42, line 2, to page 45, line 13, offenders would be held to a negligent state of mind for this type of enhanced sentencing, meaning prosecutors would basically have to show that offenders should have been aware that there was a substantial and unjustifiable risk their actions could cause such a result.

Aside from the offenses noted above, other offenses (i.e., "Sending or receiving fireworks or articles pyrotechnic by air delivery; prohibited" on page 29, line 20, to page 31, line 2; "Importing, storing, or distributing controlled fireworks or articles pyrotechnic without a license", on page 53, lines 1-13; and "Liability of homeowner, renter, or person otherwise responsible for real property", on page 59, line 11, to page 61, line 20) could be subject to enhanced penalties if the offender was convicted of a crime under chapter 132D, HRS, within ten years prior to the new offense, or if the illicit fireworks or articles pyrotechnic were over a certain weight.

The level of offense charged for purchasing, possessing, setting off, igniting, or discharging controlled fireworks or articles pyrotechnic without a permit would always be based on weight, as shown on page 54, lines 3-6, with fifty pounds or more of illicit fireworks being a class B felony. Enhanced sentencing for repeat offenders, or causing substantial or serious bodily injury or death, would apply on top of that.

ESTABLISHING NON-CRIMINAL FIREWORKS INFRACTIONS

While much of the bill addresses high-level offenses, such as importing or distributing large amounts of illicit fireworks, or incidents that result in serious injury or death, the bill also establishes penalties for fireworks infractions on page 53, lines 14-18, and page 54, lines 15-19, with non-criminal penalties for purchasing, possessing, or setting off small amounts of illicit aerial devices, display fireworks, or articles pyrotechnic. While it may seem counterintuitive to eliminate jail as a penalty for these

types of offenses, the Department believes this would allow law enforcement agencies and courts to hold a much higher number of individuals accountable for their use of illicit fireworks quickly and safely and thus make more efficient use of limited resources at certain critical times of the year.

Similar to the way non-criminal traffic citations are issued now, a single law enforcement officer could easily--when appropriate--issue multiple fireworks citations in a night or day without having to spend additional time interviewing witnesses, collecting evidence, or writing police reports, all of which may be necessary when trying to build a criminal case. Due to the lower standard of proof for fireworks infractions, these citations could be issued based solely on the officer's observations, and then the officer could move on to continue patrolling the community or addressing other calls. When applicable, fireworks infractions could also be based on the observations of other witnesses.

Once a fireworks citation is issued, the recipient may then pay their fine, mail-in an explanation to the court, or request a live hearing before a judge, similar to a traffic infraction. Details regarding the notices of infraction and the adjudications process are established in a new chapter that is very similar to chapter 291D, on page 2, line 4, to page 26, line 20. The bill establishes a \$300 fine for purchasing, possessing, or setting off less than five pounds of illicit aerial devices, display fireworks, or articles pyrotechnic (or if the weight is undeterminable, possibly because it exploded), on page 54, lines 15-19.

Consumer fireworks prohibitions are also designated as infractions, on page 32, line 21 to page 34, line 9.

RECOMMENDED REVISION

Although "General fireworks or articles pyrotechnic prohibitions in the first degree" prohibits "throw[ing], catapult[ing], or otherwise manually propel[ling] any ignited consumer fireworks, aerial devices, display fireworks, or articles pyrotechnic" under certain circumstances (page 42, line 21, to page 45, line 13), it does not prohibit throwing, catapulting, or otherwise manually propelling ignited fireworks or articles

pyrotechnic in and of itself. To clarify that this action is prohibited, the Department recommends the following amendments to the proposed section 132D-A(a) and (b) on page 27, line 4, to page 28, line 13 (underscoring removed from new material in bill, to Ramseyer additional changes):

- §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 intentionally, knowingly, or recklessly ~~[sets]~~:
- (1) Sets off, ignites, discharges, or otherwise causes to explode any aerial devices, display fireworks, or articles pyrotechnic:
 - ~~[(1)]~~ (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;
 - ~~[(2)]~~ (B) In any school building, or on any school grounds or yards without first obtaining authorization from appropriate school officials;
 - ~~[(3)]~~ (C) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; in any officially designated forest or wildlife preserve; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; or
 - ~~[(4)]~~ (D) Within five hundred feet of any dwelling~~[-]; or~~
 - (2) Throws, catapults, or otherwise manually propels ignited consumer fireworks, aerial devices, display fireworks, or articles pyrotechnic.
- (b) The state of mind requirement for the offense under subsection (a)(1)~~[-(3), and (4)]~~ (A), (C), and (D) shall not be applicable to whether the person was aware that the person was within the designated distance from an operating hospital, licensed convalescent home, licensed home for the elderly, zoo, licensed animal shelter, or licensed animal hospital, canefield, building used for public worship, or hotel. A person shall be strictly liable with respect to the attendant circumstance that the person was within the designated distance from a prohibited place, at the time of incident.

Thank you for the opportunity to testify on this bill.

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HB1005: RELATING TO FIREWORKS

Chair Tarnas, Vice Chair Poepoe and Members of the Committee on Judiciary & Hawaiian Affairs

The Office of the Public Defender (OPD) **strongly opposes HB1005.**

The OPD acknowledges that the recent fireworks-caused incident in Aliamanu has brought to the forefront the issue of the State's enforcement of its fireworks control laws. However, rather than enacting new offenses, increasing penalties and creating new and likely unconstitutional court processes, the Legislature should focus on actions which facilitate the enforcement of existing laws and regulations related to the import, sale and use of fireworks which are more than sufficient to serve as a deterrent and punish persons or businesses that violate the laws.

Currently, Hawai'i Revised Statutes (HRS) Chapter 132D, the "Fireworks Control Law," contains provisions which regulate the permissible use of consumer fireworks, display fireworks, articles of pyrotechnics and aerial devices. The current Fireworks Control Law also contains:

- license and permit provisions
- importation requirements
- prohibitions against the sale of fireworks to minors
- liability for parents and guardians who permit minors to possess, purchase, set off, or ignite fireworks
- liability for homeowners, renters or persons responsible for real property who allow persons to possess, set off or ignite fireworks on their properties
- enforcement provisions
- civil and criminal penalties for violations

Thus, under current law, there are ample provisions for law enforcement authorities and other government agencies to use to regulate and control use of fireworks. It is the lack of enforcement, not the lack or severity of penalties, that has not deterred persons and businesses from ceasing illegal fireworks activities.¹ It is not necessary to increase penalties for offenses and regulations that are not regularly prosecuted and enforced.

The OPD also notes the following concerns with the bill.

Concurrent trial provision

Under the bill petty misdemeanor fireworks violations and civil fireworks infractions that occur “in the same course of conduct” are litigated in a “concurrent trial” in the district or family court on the same date and time. In other words, the bill authorizes a joint trial on a civil traffic violation and a criminal offense.² This provision raises significant constitutional concerns and is likely illegal.

¹ In fact, there is currently legislation pending which will assist law enforcement and regulatory agencies in enforcing fireworks regulations and offenses. SB1226 addresses the importation of illegal fireworks into the State by establishing a shipping container inspection program and appropriating funds for the Department of Law Enforcement (DLE) for the effective detection, safe storage and disposal of illegal fireworks. SB222 appropriates funds for the Illegal Fireworks Task Force for FY205-26 and 2026-27 and extends the sunset date of the act creating the task force to 2030. SB227 creates an Illegal Fireworks Enforcement Division within the DLE and appropriates funding for personnel for that unit. The OPD did not comment on any of the aforementioned legislation which deals strictly with enforcement. SB302 bans the use of consumer fireworks for non-cultural purposes. The OPD submitted comment in opposition on SB302 but only as to concerns regarding the ambiguity of the definition of “cultural.”

² Pursuant to HRS § 701-107, grades and classes of offenses:

(1) An offense defined by this Code or any other statute of this State for which a sentence of imprisonment is authorized constitutes a crime. Crimes are of three grades: felonies, misdemeanors, and petty misdemeanors.

...
* * * *

(5) An offense defined by this Code or by any other statute of this State constitutes a violation if it is so designated in this Code or in the law defining the offense or if no other sentence than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction or if it is defined by a statute other than this Code which provides that the offense shall not constitute a crime. A violation does not constitute a crime, and conviction of

The only other “concurrent trial” provisions which this writer is aware of are in Chapter 291D. Under Chapter 291D which appears to have been used as the model for the concurrent trial provisions in the bill, a traffic infraction, emergency period infraction and related criminal case committed in the same course of conduct as the traffic infraction or emergency period infraction may be tried in a concurrent trial. There are no Hawai‘i cases which have yet raised the issue of the legality or constitutionality of the concurrent trial provision of Chapter 291D – this does not mean that the provisions are legal or would withstand constitutional scrutiny.

Under the bill, the first issue arises in the civil infraction process. On the civil fireworks infraction section, the bill basically tracks the process followed in civil traffic infractions by the issuance of a notice of infraction followed by the requirement that the defendant submit an answer to the infraction. The defendant has three options in the answer – (1) admit, (2) deny and request a hearing, or (3) admit and request a hearing to explain mitigating circumstances. The problem caused by requiring such an answer is that this becomes a signed statement which can be used against the defendant in the concurrent trial on the criminal charge. While the bill precludes any statement made at a separate fireworks infraction trial to be used against the defendant in a subsequent trial on the related criminal charge, it does not address the issue of the admissibility of the written answer to the citation. Further, although the bill holds that any oral or written statement made by the defendant in a separate civil infraction trial and any testimony given by the defendant in that trial are not to be deemed as a waiver of the defendant’s privilege against self-incrimination in connection with the criminal offense, these statements are still admissible “as expressly provided by the Hawaii rules of evidence.” Under Rule 613 of the Hawai‘i Rules of Evidence (HRE) both prior consistent and inconsistent statements are admissible subject to certain requirements. Thus, a defendant who chose to admit and explain mitigating circumstances on the civil infraction could have that statement used against them in the criminal trial if they chose to testify. This could have a chilling effect on the defendant’s assertion of their right to testify in their own defense and constitute a violation of their constitutional rights under the sixth and fourteenth amendments to the U.S. Constitution and article I, section 14 of the Hawai‘i Constitution.

The second issue in the bill arises in the conduct of a concurrent civil and criminal trial. The different procedural rules that apply to civil and criminal trials will definitely create issues. The Hawai‘i Rules of Penal Procedure (HRPP) do not apply to traffic infractions as they are not “penal” in nature, i.e. carry the possibility of the penalty of

a violation shall not give rise to any civil disability based on conviction of a criminal offense.

incarceration.³ With different procedural rules applying to the civil and criminal trials a concurrent trial becomes a procedural nightmare.

Another concurrent trial issues arises in the area of representation. The OPD represents “indigent” persons who are charged with offenses punishable by jail or prison. The OPD (or a court-appointed attorney) would be assigned to represent a defendant on a criminal fireworks charge that is a petty misdemeanor or above. The OPD does not represent defendants in civil matters (with the exception of civil commitment or involuntary medication proceedings). Therefore an indigent defendant in a concurrent fireworks infraction/fireworks offense trial would represent themselves on the civil infraction while the OPD would represent them only on the criminal fireworks charge.⁴ This would require the OPD to coordinate with the *pro se* civil defendant to present a combined defense.⁵

The rules and caselaw regarding the admissibility of evidence also differ between civil and criminal trials. Evidence and statements may be admissible in the civil proceeding where, generally, the constitutional rights of the defendant are not at issue. By contrast, a defendant in a criminal trial has not only different procedural and statutory protections but the full panoply of constitutional rights which are afforded to criminal defendants. While the bill addresses the admissibility of oral or written statements made by the defendant in the civil infraction trial when held prior to the criminal trial, the bill does not address the admissibility of such statements in a concurrent trial. Realistically, it would be impossible for the judge to limit their consideration of statements or evidence admissible only in the civil proceeding and not be influenced or affected by those statements or evidence in the criminal proceeding.

Constitutional issues are also presented by a concurrent trial. As previously mentioned, criminal defendants have a constitutional right to effective assistance of counsel under the sixth amendment to the U.S. Constitution and article I, section 14 of the Hawai‘i Constitution. If the defendant’s attorney’s representation in the criminal case is

³ For example, in State v. Lau, 78 Hawai‘i 54, 890 P.2d 291 (1995), the Hawai‘i Supreme Court confirmed that Rule 48 of the HRPP did not apply to traffic infractions that are not punishable by imprisonment. See also HRPP Rule 48(b).

⁴ A similar issue would arise if a defendant hired separate attorneys for the criminal charge and civil infraction or if the defendant hired an attorney who represented them on only either the criminal charge or civil infraction.

⁵ If the attorney from the OPD could not coordinate the combined defense with the *pro se* defendant, they would have an ethical duty to withdraw or if they proceeded could be subject to a claim of ineffective assistance of counsel.

adversely or materially affected because of considerations related to the civil infraction, the defendant's constitutional right to effective assistance of counsel will be violated. The defendant's constitutional right to present a complete defense under the sixth amendment to the U.S. Constitution and article I, section 14 of the Hawai'i Constitution⁶ may also be violated by the concurrent trial. If a defendant cannot present a complete defense in the criminal trial due to procedural rules, differing rules of evidence or admissibility or strategic consideration related to the civil infraction, their constitutional right to present a complete defense would be violated. Another constitutional right that it affected by a concurrent trial is the defendant's constitutional rights to testify or not to testify.⁷ If the defendant chooses to testify regarding the civil infraction, it should not be considered a waiver of their right not to testify on the criminal offense. While the bill addresses this issue when the civil infraction trial precedes the criminal offense trial, it does not address this issue in a concurrent trial.⁸

Unnecessary creation of new offenses

Without going line by line through the bill as to each of the new offenses created and amendments made to existing laws, the OPD believes that existing laws are sufficient to address the issue of illegal fireworks. In 2010, the Illegal Fireworks Task Force was created by the Legislature to "develop strategies and make recommendations to the Legislature to address the illegal importation and use of fireworks in the State."⁹ These recommendations

⁶ See e.g. State v. Abion, 148 Hawai'i 445, 458, 478 P.3d 270, 283 (2020) (confirming that under the U.S. and Hawai'i constitutions, a defendant has a constitutional due process right to be accorded a meaningful opportunity to present a complete defense, including the right to present any and all competent evidence in their defense).

⁷ See e.g. State v. Monteil, 134 Hawai'i 361, 341 P.3d 567 (2014) (confirming that under the Hawai'i Constitution the defendant has the right to testify and not to testify).

⁸ The issue of combining two separate proceedings and the implications on the defendant's rights to testify and not to testify are presented even in a single criminal case where there is a hearing on a motion to suppress prior to trial. In State v. Chang, 144 Hawai'i 535, 445 P.3d 116 (2019), the Hawai'i Supreme Court held that the defendant had to be advised that he could testifying at the hearing on the motion to suppress without that testimony being used against him at the subsequent trial. Id. at 545, 445 P.3d at 126. The Supreme Court also held that the trial court was also required to accurately advise the defendant of the implications of testifying in the unique context of a consolidated proceeding and its failure to do so constituted reversible error. Id. at 544, 445 P.3d at 125.

⁹ Blast From the Past: An Update to the Report of the Illegal Fireworks Task Force to the Legislature for the Regular Session of 2011.

were: (1) increase fireworks fees and fines; (2) decriminalize fireworks offenses in favor of civil fines; (3) increase random inspections; (4) consider alternatives such as education and training; (5) promote cooperation between stakeholders.¹⁰ The problem is not the lack of laws to address the issue of illegal fireworks, it is the lack of enforcement of existing laws. Between 2018 and 2022, 94% of the citations for fireworks related violations on Oahu ended in dismissal or dropped prosecutions.¹¹ In 2023 and 2024, twelve fireworks related charges were dismissed without prejudice.¹² In the recent Aliamanu case, ten people have already been arrested for fireworks offenses (using the Fireworks Control Law), reckless endangering in the first degree and endangering the welfare of a minor in the first degree – clearly charges can be brought under existing laws. In December 2023, two Oahu men were charged with felony offenses under the Fireworks Control Law.¹³ In the first six months of 2024, DLE officers seized approximately 1,000 pounds of illegal fireworks from various sources. The foregoing confirm that charges and convictions can be obtained under current laws. Increased enforcement of these laws will serve as an adequate deterrent effect, no new laws and penalties are needed.

Final Comments

The most problematic section of this bill is the concurrent trial provision. This attempt to streamline the adjudication process will inevitably lead to legal challenges and hinder, not help enforcement of existing laws.

The OPD emphasizes that enforcement is the key. Deterrence will be achieved when people see that current laws are being enforced. Penalties under the current laws run from fines for civil infractions up to Class A felonies. Additional statutory provisions such as the reckless endangering and endangering the welfare of a minor statutes can also be used

¹⁰ The Task Force made additional suggestions: (1) consider the impact of increased cargo inspection on commerce and shipping; (2) impose jail time as a penalty for fireworks offenses; (3) fund seasonal, specialized fireworks enforcement units; and (4) reestablish statewide consumer fireworks standards.

¹¹ Leonard, M., Valera, M., “Hawai‘i’s Illegal Fireworks Laws Aren’t Working. Is that About To Change?,” Jan. 14, 2025, Honolulu Civil Beat (<https://www.civilbeat.org/2025/01/hawai-is-illegal-fireworks-laws-arent-working/>)

¹² Id.

¹³ “Department of Law Enforcement Illegal Fireworks Task Force details recent enforcement actions,” July 5, 2024, Maui News (<https://mauinow.com/2024/07/05/departement-of-law-enforcement-illegal-fireworks-task-force-details-recent-enforcement-actions/>)

in charging all aspects of illegal fireworks violations. The most impact that can be made immediately is increased enforcement of current laws and prosecution under current laws. There is no utility in creating new offenses if they are not investigated and enforced. Any recommendations as to new legislation should come from the Illegal Fireworks Task Force as it was created specifically for this purpose.

Thank you for the opportunity to comment on this measure.

JOSH GREEN, M.D.
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TESTIMONY ON HOUSE BILL 1005
RELATING TO FIREWORKS
Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS
Thursday, February 6, 2025, 2:00 p.m.
State Capitol Conference Room 325 & Videoconference
Testifiers: Mike Lambert

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The Department of Law Enforcement (DLE) strongly supports House Bill 1005. This bill significantly strengthens Hawaii's fireworks control laws by establishing comprehensive definitions and enhanced penalties for fireworks offenses, mainly when such offenses result in substantial bodily injury, serious bodily injury, or death. Creating new criminal offense categories for fireworks and articles pyrotechnic violations, including first and second-degree prohibitions, addresses critical gaps in current enforcement capabilities.

Building upon the work of the Illegal Fireworks Task Force established by Act 67, Session Laws of Hawai'i 2023, this bill introduces crucial new provisions that will enhance enforcement efforts. The establishment of specific offenses related to air delivery of fireworks, distribution to non-permit holders, and the removal or extraction of pyrotechnic contents provides law enforcement with clear authority to address increasingly sophisticated methods of illegal fireworks trafficking and use.

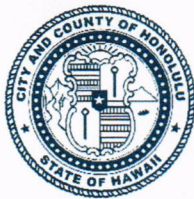
The bill's creation of an adjudication system and procedures to process fireworks infractions will streamline enforcement efforts and ensure more effective prosecution of violations. This systematic approach, coupled with the appropriation, will provide necessary resources to implement these enhanced enforcement measures effectively.

The heightened penalties proposed in this bill, especially in cases resulting in injury or death, send a strong message about the serious consequences of illegal fireworks use and will serve as a deterrent to potential violators. These measures directly support the DLE's ongoing efforts to protect public safety and reduce the prevalence of illegal fireworks in our communities.

Thank you for the opportunity to testify in support of this bill.

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: www.honolulu.hpd.org



RICK BLANGIARDI
MAYOR
MEI'A

ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE JP-HR

February 6, 2025

The Honorable David A. Tarnas, Chair
and Members
Committee on Judiciary and Hawaiian Affairs
House of Representatives
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 1005, Relating to Fireworks

I am Jerome Pacarro, Captain of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1005, Relating to Fireworks.

The HPD supports all legislation that aims to reduce the use of illegal fireworks by strengthening current fireworks laws.

The HPD urges you to support House Bill No. 1005, Relating to Fireworks.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature of Arthur J. Logan, consisting of a stylized 'A' and 'L'.

~~For~~ Arthur J. Logan
Chief of Police

Sincerely,

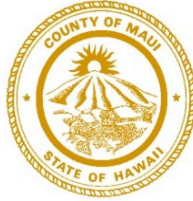
A handwritten signature of Jerome Pacarro, featuring a large, stylized 'J' and 'P'.

Jerome Pacarro, Captain
Narcotics/Vice Division

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY ON
H.B. 1005
RELATING TO FIREWORKS

February 5, 2025

The Honorable David A. Tarnas
Chair
The Honorable Mahina Poepoe
Vice Chair
and Members of the Committee on Judiciary and Hawaiian Affairs

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of H.B. 1005, Relating to Fireworks**. This bill amends multiple definitions and penalties for fireworks offenses, as well as create a fireworks infraction adjudication system and new fireworks offenses.

The Department of the Prosecuting Attorney, County of Maui supports this bill because it would help protect our community from the yearly effects of illegal fireworks, such as fire- and explosion-related property damage and injuries, respiratory distress stemming from fireworks smoke and annual trauma to humans and animals stemming from loud fireworks explosions. We would note that videos depicting staggering amounts of illegal fireworks being set off every New Year's Eve are readily viewable online and illustrate the inadequacy of our current laws. In our view, H.B.1005's increased penalties and proposed fireworks infraction adjudication process would go a long way to deterring the sale, purchase and use of illegal fireworks, as well as ensuring that people who willfully disobey the law are held accountable to an appropriate degree for their actions.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports H.B. 1005**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

HB-1005

Submitted on: 2/3/2025 1:30:59 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cathy Goeggel	Animal Rights Hawai'i	Support	Written Testimony Only

Comments:

We are in strong support of HB1005. This year, fireworks have passed beyond the noise, polluted air and annoyance level and have proven deadly. Blatant disregard for our laws and lax enforcement of existing law, demonstrate very clearly that those charged with our protection are not receiving the legislature's support for the health and safety of our citizens. If people cannot be trusted to obey the law, then ban fireworks altogether for the good of all. Mahalo!



Testimony in Support of HB1005 Relating to Fireworks

February 3, 2025

Lisa Dau, RN, Injury Prevention Coordinator

Keiki Injury Prevention Coalition (KIPC)

Rep David Tarnas, Chair, Rep Mahina Poepoe, Vice Chair, and Members of the Committee on Judiciary & Hawaiian Affairs

KIPC strongly **supports HB1005**, which strengthens fireworks regulations by increasing penalties for injuries or fatalities, establishing new criminal offenses, and improving enforcement.

Fireworks pose serious safety risks, causing injuries, fires, and community disturbances. This bill enhances accountability, closes enforcement gaps, and provides resources to uphold the law effectively.

KIPC urges the committee to pass this measure to protect our communities and reduce illegal fireworks activity. Thank you for your time and consideration.

Sincerely,

Lisa Dau, RN

KIPC, Injury Prevention Coordinator

The Keiki Injury Prevention Coalition's (KIPC) mission is to prevent and reduce injuries to children in Hawaii. <https://kipchawaii.org/>



Hawaiian Humane Society

People for animals. Animals for people.

Date: Feb. 3, 2025

To: Chair Rep. David Tarnas
Vice Chair Rep. Mahina Poepoe
and Members of the Committee on Judiciary and Hawaiian Affairs

Submitted By: Stephanie Kendrick, Director of Community Engagement
Hawaiian Humane Society, 808-356-2217

RE: Testimony in support of HB 1005: Relating to Fireworks
Thursday, Feb. 6, 2025, 2 p.m., Room 325 & Videoconference

On behalf of the Hawaiian Humane Society, thank you for considering our support for House Bill 1005, which 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 criminal offenses of general fireworks or articles pyrotechnic prohibitions in the first and second degree; sending or receiving fireworks or articles pyrotechnic by air delivery; distributing fireworks or articles pyrotechnic to non-permit holder; removal or extraction of pyrotechnic contents; consumer fireworks prohibitions; refusal to provide identification; and violating requirements of carrier; establishes an adjudication system and procedures to process fireworks infractions; and makes an appropriation.

Hawaiian Humane supports any attempt to restrict fireworks from residential neighborhoods. Despite tragic deaths and injuries spanning many years - and reaching a new level of horror on O'ahu this year - the crime of using illegal fireworks is rarely punished. This measure attempts to remedy that failure of our legal system by increasing penalties and accountability for violators.

These bombs increasingly go off without regard to date and terrorize pets and people alike. The unpredictable barrage makes it impossible to prepare and creates sustained stress, which can do lasting damage to emotional, mental and physical health.

Please pass HB1005 and hold the perpetrators of these crimes accountable. Mahalo for your consideration.

HB-1005

Submitted on: 2/4/2025 8:45:55 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marian Hussenbux	Animal Interfaith Alliance in Britain	Support	Written Testimony Only

Comments:

HB1005 Relating to Fireworks is the House companion to SB1324 that is being heard tomorrow. It aims to increase penalties for firework violations and accountability for violators.

Animal Interfaith Alliance is very concerned about misuse of fireworks everywhere, including in Britain, so we beg to support this important Bill.

Hawaii Explosives & Pyrotechnics, Inc.

P.O. Box 1244
Keaau, HI 96749-1244
hepinc@hipyro.com
(808) 968-0600



February 3, 2024

Messrs. Brandon J. C. Elefante and Chris Lee, Chairpersons
PSM/TCA Committees
Hawaii State Senate
State Capitol, Conference Room 225
Honolulu, HI 96813

Re: Senate Bill 1324, Relating to Fireworks

Dear Chairs Elefante, Lee, and members of the committee,

As a licensed professional fireworks display company, we are in support of legislation that seeks to improve enforcement of fireworks control laws and protects the community from the unpermitted and inappropriate use of fireworks designed for professional use within the community. However, we are concerned with a number of proposed revisions to the HRS§132D that are suggested in the current version of Senate Bill 1324, Relating to Fireworks.

Section 3 through 5 of Senate Bill 1324 suggests new sections added and revisions made to the existing statute. We would respectfully request several revisions to the bill that would exempt the permitted commercial display of fireworks. Such displays are subject to review under the existing permit process specified in HRS 132§D-16, and the permitting authority already has wide latitude to regulate and limit the use of fireworks based upon safety and nuisance criteria.

Many of the additions and revisions proposed would actually eliminate most commercial displays permitted under 132D-16 by licensed commercial fireworks companies. Since the main objective of the bill is to further restrict the unauthorized, unlicensed, unpermitted use of fireworks by the general public, we would suggest an exemption be added to §132D-6 to exempt companies in good standing that are otherwise in compliance with the statute.

Thank you for your careful consideration of these amendments. As a duly licensed, commercial fireworks display company we are supportive of measures that promote the safe use of fireworks designed for professionals by properly trained personnel under a comprehensive permit process, and the use of fireworks by consumers in a safe and responsible manner. We are always happy to answer any questions you may have related to this issue.

Sincerely,

Hawaii Explosives & Pyrotechnics, Inc.
(808)968-0600
hepinc@hipyro.com

Hawaii Explosives & Pyrotechnics, Inc.

P.O. Box 1244
Keaau, HI 96749-1244
hepinc@hipyro.com
(808) 968-0600



February 5, 2024

Mr. David Tarnas, Chair
Judiciary and Hawaiian Affairs Committee
Hawaii State House of Representatives
State Capitol, Conference Room 325
Honolulu, HI 96813

Re: House Bill 1005, Relating to Fireworks

Dear Chair Tarnas and members of the committee,

As a licensed professional fireworks display company, we are in support of legislation that seeks to improve enforcement of fireworks control laws and protects the community from the unpermitted and inappropriate use of fireworks designed for professional use within the community. However, we are concerned with a number of proposed revisions to the HRS§132D that are suggested in the current version of House Bill 1005, Relating to Fireworks.

Section 3 through 5 of House Bill 1005 suggests new sections added and revisions made to the existing statute. We would respectfully request several revisions to the bill that would exempt the permitted commercial display of fireworks. Such displays are subject to review under the existing permit process specified in HRS 132§D-16, and the permitting authority already has wide latitude to regulate and limit the use of fireworks based upon safety and nuisance criteria.

Many of the additions and revisions proposed would eliminate commercial displays permitted under 132D-16 by licensed commercial fireworks companies. Since the main objective of the bill is to further restrict the unauthorized, unlicensed, unpermitted use of fireworks by the general public, we would suggest an exemption be added to §132D-6 to exempt companies in good standing that are otherwise in compliance with the statute.

Alternatively, some of the specific areas to address in HB 1005 are as follows:

On pages 27, line 4 through page 29, line 19, HB 1005 adds section 132D-A, "General fireworks or articles pyrotechnic prohibitions in the second degree." Page 27, line 11 through page 28, line 3 list numerous areas where the use of fireworks would be prohibited. As written, these prohibitions would prohibit most commercial public displays. An example would be p. 27, line 19, "...on any public beach...." This would prohibit the Friday Night Fireworks display held every week. Likewise, p. 28 line 3 "...within five hundred feet of any dwelling..." would eliminate the use of articles pyrotechnic at any hotel or resort under the bill's proposed definition of "dwelling." Our suggestion would be to add language to the end of p. 27, line 10 that states "...without an approved permit pursuant to 132D-16."

On pages 29, line 20 through page 31, line 2, HB 1005 adds section 132D-B, "Sending or receiving fireworks or articles pyrotechnic by air delivery; prohibited." Pyrotechnics that are classified under the USDOT 49 CFR as Articles Pyrotechnic, UN0431 and UN0432 can be shipped via air as long as they are properly packaged, labeled and declared on the shipping papers. Indeed, most theatrical pyrotechnic effects used for concerts, plays, sporting events, movie and television productions, and similar performances throughout the United States are shipped via air transport. Since the transportation of hazardous materials is already regulated by the USDOT, and substantial penalties are imposed for the improper declaration or packaging of these items, our suggestion would be to eliminate 132D-B from the bill as it is redundant, and the requirement is already established in 132D-8.6.

On pages 35, line 1 through page 36, line 2, HB 1005 adds section 132D-G, "Requirements of Carrier." This section adds requirements for the carrier to notify the "appropriate county official and designated state law enforcement agencies" when shipping pyrotechnic devices. It is our opinion that it should be the responsibility of the shipper to send notification to the relevant State authorities as they are the entity tasked with initiating the transport. In cases where the shipper is an entity who resides outside the State of Hawaii, and jurisdiction is limited, the responsibility should fall to the recipient and/or consignee to carry out notification. As stated earlier, it is the responsibility of the Shipper under federal law to properly package, label and document any shipment of hazardous material. It is the responsibility of the Carrier to reject any hazardous material that is not properly packaged, labeled and documented. Since, in our opinion, most of the illicit fireworks found on the street are arriving into the State undeclared, this section does little to address the problem. It is our suggestion that section 132-G be eliminated.

In section 4 of the bill, pages 36, line 12 through page 42, line 18, five new definitions are suggested for the statute. Page 37, line 1, defines "Dwelling" as a "...building that is used or usually used by a person for lodging." Under this definition, a dwelling would include any hotel, resort, or other building that would be used by visitors. As stated above, the broad definition would eliminate most pyrotechnic displays that are currently permitted under 132D-16. We would suggest removing this definition.

In section 5 of the bill, pages 42, line 21 through page 45, line 13, several amendments are suggested for section 5 of the statute. Page 43, line 14, prohibits the use of fireworks above the first floor of any building. This eliminates properly permitted displays under 132D-16 that are fired from rooftops, parking structures, or other buildings that would otherwise be safe for this type of display. We would suggest eliminating this item as the intent is already prohibited by other sections of the statute. Similarly, on page 44, line 18, should be amended to state "In and on any building; provided that ~~firecrackers~~ fireworks shall be permitted...."

Thank you for your careful consideration of these amendments. As a duly licensed, commercial fireworks display company we are supportive of measures that promote the safe use of fireworks designed for professionals by properly trained personnel under a comprehensive permit process, and the use of fireworks by consumers in a safe and responsible manner. We are always happy to answer any questions you may have related to this issue.

Sincerely,

Hawaii Explosives & Pyrotechnics, Inc.
(808)968-0600
hepinc@hipyro.com



Hawaii Representatives & Senators:

On behalf of the Libertarian Party of Hawaii, I am writing to express our strong opposition to any prohibitions and enforcement measures targeting fireworks. We believe Hawaiians have the right to pursue and engage in any activities that bring them joy and fulfillment.

Fireworks prohibitions and regulations infringe upon the freedom of our citizens to partake in this time-honored custom, diminishing the spirit of celebration and unity that fireworks bring.

Implementing strict enforcement measures to crack down on fireworks usage would only serve to burden law enforcement resources, and divert needed attention away from more pressing issues. Prohibitions and heavy enforcement will lead to unnecessary conflict between police and citizens, eroding trust and creating an atmosphere of fear and animosity. Causing harm against another person is already illegal, and crimes can already be prosecuted without these new tyrannical enforcement measures.

The Libertarian Party of Hawaii stands firm in our support of individual freedom and opposes any measures that encroach upon our citizens' rights.

In Freedom,

Abbra Green

Executive Secretary, Libertarian Party of Hawaii

lphisecretary@gmail.com

HB-1005

Submitted on: 2/3/2025 10:39:03 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gordon B. Lindsey	Individual	Support	Written Testimony Only

Comments:

I am in support of HB1005

HB-1005

Submitted on: 2/4/2025 8:30:04 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I strontly oppose

HB-1005

Submitted on: 2/4/2025 8:33:37 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoe Willis	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose

HB-1005

Submitted on: 2/4/2025 11:12:22 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marianne R Bickett	Individual	Support	Written Testimony Only

Comments:

I strongly support HB 1005 because we need tougher laws and the ability to enforce those laws for those citizens who willingly ignore the laws regarding fireworks. Illegal fireworks have become extremely dangerous and cause a great deal of pollution for our island and ocean around us. Please pass this law and send a clear message to those who feel they are above the law. Thank you for finally addressing this horrible problem on our beautiful island.

HB-1005

Submitted on: 2/4/2025 11:37:10 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full support of every bill which will work to stop the lawlessness of illegal fireworks. We need to take a holistic approach to the problem, to make the community safe from the horrific noise, injuries, death of what clearly is not cultural behavior, to save those with PTSD from more trauma, and to spare our pets from this terror. Please support all fireworks bills, throw the book at those using illegal fireworks and increase enforcement.

HB-1005

Submitted on: 2/4/2025 11:47:30 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brian Belet	Individual	Support	Written Testimony Only

Comments:

I write to support HB 1005, HB 1483, and HB 550. I live in Mililani Mauka, and New Year's Eve is a literal battle zone here. Our immediate neighbors are such egregious offenders that my wife and I had to leave our house this past January 31 to stay with our son and his family. Upon our return the next morning we found a massive debris field in our street and in our front yard. More than a month later we are still cleaning up residual trash from the onslaught. This is unbearable, and unacceptable. Not only is this explosive activity illegal, it is dangerous on many levels (including starting fires). Many of our veterans are seriously affected by the noise, as are animals, both domestic and wildlife. Our quality of life, which normally is a plus here in Hawai'i, drops to zero every New Year's. Please, please, please put a stop to this outrageous illegal activity. More enforcement of our laws, both existing and currently under consideration, is most important. Thank you for your time and consideration of my view.

HB-1005

Submitted on: 2/4/2025 4:05:10 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and Committee Members,

I STRONGLY SUPPORT HB1005.

After a slight decrease in illegal fireworks in 2023, thanks to the Illegal Fireworks Task Force making several large seizures at the docks, there was a significant increase in 2024. It has been noted that current laws are weak, does not provide deterrence, are difficult to enforce and virtually almost impossible to prosecute. Having individuals take videos, risking retaliation, assaults, and getting injured from fireworks, have proved useless because once fireworks explodes there is no evidence, and many are not willing to testify. It was mentioned that one of the main roadblocks to enforce and prosecute illegal fireworks was the way definitions for fireworks are defined.

HB1005 provides an excellent solution by providing clear definitions and implementing a dedicated adjudication system for fireworks infractions similar to traffic infractions. This will make it easier for officers to increase enforcement of end-use violators and make it easier and faster to adjudicate cases in a district or family court. An exorbitant amount is spent on fireworks, so hopefully fines will be hefty enough and escalate as needed until a point of deterrence is achieved.

In the area where I live, aerals were most prominent this past New Year's Eve. These aerals come not from a nearby neighbor, but from a street or two over. What I found most disturbing is the use of more plastics. When these tubes explode parts of it shatters, scattering small sharp pieces of plastic in the grass. The goal is to reduce plastics but aerals that have no useful purpose scatter it everywhere. Restaurants and consumers, diligently purchase reusable bags, environmentally friendly containers and utensils while aerals are allowed to continue polluting the environment. It takes patience each year cleaning up debris that we had nothing to do with. It's troubling for people who have to pay for damages caused by illegal fireworks because there is no evidence and proof who did it. A post this past New Year's Eve showed a gaping hole in a Waipahu roof where debris landed on furniture and the floor. We cringe when we hear an aerial hit our roof. My neighbor has a nice garden and plants vegetables to eat. This past New Year's Eve she actually covered what she could of her garden so firework chemicals and debris would not contaminate her plants and soil.

You would think the Aliamanu incident would make people think twice, but I still hear illegal fireworks every now and then, not to mention another recent incident on 1/28/25 where a 27 year-old woman sustained serious multiple shrapnel injuries after igniting fireworks.

Please pass **HB1005** to prevent another Aliamanu tragedy.

Thank you for the opportunity to testify.

HB-1005

Submitted on: 2/4/2025 6:07:19 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
JOANNE PARKER	Individual	Support	Written Testimony Only

Comments:

I am one who loved New Year's Eve and the fire crackers that came with it and my father served with the HFD. We did it carefully.

For the past many years, however, the continuous use of these aerals & bombs have gone too far. It must be stopped. When innocent children are hurt or killed because of irresponsible adults, these adults must be caught and pay for their lack of intelligence.

Please make this bill work, please.

Mahalo

HB-1005

Submitted on: 2/4/2025 7:12:16 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Serena Stefanic-Phillip	Individual	Support	Written Testimony Only

Comments:

I am in support of Bill HB1005.

HB-1005

Submitted on: 2/4/2025 8:05:47 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Zehr	Individual	Oppose	Written Testimony Only

Comments:

Honorable Chair, Vice Chair, and Members of the Committee,

I write in strong opposition to HB1005, which further criminalizes the use, possession, and transportation of fireworks while expanding government enforcement and penalties. This bill represents a continued overreach of state power, infringing upon individual liberties, and burdening law-abiding citizens with excessive regulations and punishments.

1. Personal Freedom and Property Rights

A core principle of liberty is the right of individuals to make their own choices so long as they do not infringe upon the rights of others. Fireworks, when used responsibly, pose no inherent harm to others and should not be preemptively banned or severely restricted. Property owners should have the right to celebrate, whether for cultural, religious, or personal reasons, without undue government interference. By criminalizing even minor offenses related to fireworks, this bill disproportionately punishes individuals engaging in peaceful, voluntary activities.

2. Excessive Criminalization and Expansion of Government Power

HB1005 creates new criminal offenses and adjudication procedures, further expanding the state's legal system to target individuals for victimless activities. Heightened penalties based on broad classifications such as "substantial bodily injury" create a slippery slope where the government can arbitrarily increase punishment. Instead of focusing law enforcement resources on crimes with actual victims, this bill diverts attention toward minor infractions, potentially leading to over-policing and unnecessary encounters with the criminal justice system.

3. Punishing Lawful Use Instead of Targeting Bad Actors

This bill punishes all individuals by placing strict prohibitions on fireworks rather than targeting reckless behavior. Laws already exist to hold individuals accountable for harm caused by negligence or reckless endangerment. There is no need to impose sweeping bans and criminalize possession, transportation, or sale of fireworks to non-permit holders when responsible adults can safely enjoy them.

4. Economic and Cultural Consequences

Hawai‘i has a long-standing cultural tradition of celebrating with fireworks, particularly during holidays such as Chinese New Year and New Year's Eve. HB1005 disproportionately impacts these cultural practices and local businesses that legally sell fireworks. Furthermore, the creation of additional regulations and enforcement mechanisms will increase government spending, likely requiring additional taxpayer funding to sustain enforcement efforts.

The government’s role should be to protect life, liberty, and property—not to impose broad prohibitions and excessive penalties on individuals for consensual activities. Rather than enacting sweeping bans and new criminal classifications, the legislature should focus on enforcing existing laws against reckless endangerment and property damage while respecting the rights of responsible individuals to celebrate as they choose.

For these reasons, I urge the committee to reject HB1005. Mahalo for your time and consideration.

Sincerely,
Nicholas Zehr

HB-1005

Submitted on: 2/4/2025 9:13:18 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stephanie McLaughlin	Individual	Support	Written Testimony Only

Comments:

Please pass this important bill that will help Hawaii's animals.

HB-1005

Submitted on: 2/5/2025 12:53:47 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Taurie Kinoshita	Individual	Support	Written Testimony Only

Comments:

To the Honorable Committee,

I am writing in support of HB1005.

There need to be stronger penalties for fireworks violations.

We have all seen and know the horror and damage fireworks can cause....

A stronger penalty for violators will unquestionably help curb the misuse and illegal use of fireworks.

Thank you for your cosnideration.

Sincerely,

Taurie Kinoshita

lifelong voter and resident!

HB-1005

Submitted on: 2/5/2025 12:56:57 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Chiwa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Representative Tarnas, Vice Chair Representative Poepoe and Members of the Committee on Judiciary and Hawaiian Affairs.

Please vote for HB 1005, which I strongly support, to increase penalties for fireworks violations and accountability for violations.

Mahalo.

Jennifer Chiwa

Makiki and life long resident of Oahu

HB-1005

Submitted on: 2/5/2025 11:22:29 AM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bill Dixon	Individual	Support	Written Testimony Only

Comments:

My name is Bill Dixon, and I live with my wife in Kaneohe. We believe it's time to demilitarize our neighborhoods, eliminate deadly impacts on children and families, and protect our islands from fires by banning most fireworks and increasing penalties for the use of illegal fireworks.

HB 1005 Relating to Fireworks will clamp down on illegal fireworks in multiple ways, including:

Increasing penalties for those whose illegal fireworks injure or kill others.

By making it a crime to send fireworks on airplanes and to remove the explosive materials from fireworks.

This bill makes it possible to appropriately punish those who flout the law and put the people and environment of our community at risk. I urge the committees to endorse and advance the bill.

HB-1005

Submitted on: 2/5/2025 12:03:03 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Natalie Graham-Wood	Individual	Support	Written Testimony Only

Comments:

I support HB1005. My name is Natalie Graham-Wood and I reside at Sunset Beach, Oahu.

HB-1005

Submitted on: 2/5/2025 8:06:19 PM

Testimony for JHA on 2/6/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB 1005 "Relating to Fireworks" bill. The bill clarifies the definitions and penalties for fireworks offenses. Long term disability and death of our residents are not acceptable for using illegal fireworks without bearing the consequences of those actions.

Thank you for the opportunity to provide written testimony in strong support of HB 1005.