

JAN 15 2025

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# 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, despite criminal  
2 laws prohibiting the use of aerials and other fireworks, their  
3 use and popularity have grown significantly across the State,  
4 jeopardizing the safety and health of residents, veterans with  
5 post-traumatic stress disorder, and animals, among others. In  
6 order to support a conviction for illegal use of fireworks, the  
7 burden of proof of beyond a reasonable doubt must be met. As  
8 such, the legislature finds that, if any enforcement occurs,  
9 these cases are rarely prosecuted because the required evidence  
10 can be difficult to obtain.

11           The legislature further finds that by allowing for civil  
12 actions against those illegally operating fireworks, the burden  
13 of proof is lowered to a preponderance of the evidence, which is  
14 a threshold that can be met more readily. The legislature finds  
15 that this approach, while novel in the State, is not without  
16 precedent nationally. The approach of allowing citizen suits as  
17 a way to enforce laws is currently under consideration by the



1 state of California for assault weapons and is an approach that  
2 has been upheld by the United States Supreme Court as being  
3 constitutionally valid.

4 The purpose of this Act is to establish a civil cause of  
5 action that may be brought by any person, other than an officer  
6 or employee of the State or employee of a local governmental  
7 entity in the State, for certain violations or aiding or  
8 abetting certain violations of the Fireworks Control Law.

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

12 "§132D- Civil liability for violation or aiding or  
13 abetting violation. (a) Any person, other than an officer or  
14 employee of the State or an officer or employee of a local  
15 governmental entity in the State, may bring a civil action  
16 against:

17 (1) Any person who sets off, ignites, discharges, causes  
18 to explode, stores, or uses, or induces or allows to  
19 be set off, ignited, discharged, exploded, stored, or  
20 used, fireworks in violation of this chapter;



1        (2) Any person who knowingly engages in conduct that aids  
2        or abets the setting off, ignition, discharge,  
3        explosion, storage, or use of fireworks in violation  
4        of this chapter, including paying for or reimbursing  
5        the cost of the fireworks; provided that it shall not  
6        be a defense that the person did not know a violation  
7        of this chapter would occur;

8        (3) A shipper who violates a requirement of section  
9        132D-8.6(a);

10       (4) A homeowners' association that violates section  
11       132D-14.5; or

12       (5) Any person who intends to engage in the conduct  
13       prohibited by this chapter.

14       (b) A party prevailing in an action brought under this  
15       section shall be entitled to an award by the court for:

16       (1) Injunctive relief, if applicable;

17       (2) Statutory damages of not less than \$10,000 for each  
18       violation; and

19       (3) Reasonable costs and attorney's fees;

20       provided that a court shall not award relief under this  
21       subsection if a defendant demonstrates that the defendant has



1 paid in full the statutory damages, costs, and attorney's fees  
2 awarded against the defendant in a prior action arising from the  
3 same incident.

4 (c) Notwithstanding any other law to the contrary, an  
5 action under this section shall be commenced within six years  
6 after the cause of action accrued.

7 (d) The following shall not be a defense to an action  
8 brought under this section:

9 (1) Ignorance or mistake of the law;

10 (2) A defendant's belief that the requirements of this  
11 chapter are unconstitutional;

12 (3) A defendant's reliance on any court decision that has  
13 been overruled on appeal or by a subsequent court,  
14 even if that court decision had not been overruled at  
15 the time the defendant engaged in conduct that  
16 violates this chapter;

17 (4) A defendant's reliance on any state or federal court  
18 decision that is not binding on the court in which the  
19 action has been brought;



1       (5) The consent and knowledge of the property owner,  
2       landlord, property manager, co-tenants, or homeowners'  
3       association; or

4       (6) Any claim that the enforcement of this chapter or the  
5       imposition of civil liability against the defendant  
6       will violate the constitutional rights of third  
7       parties.

8       (e) Notwithstanding any other law to the contrary, the  
9       State, a state official, or a district or county attorney shall  
10      not intervene in an action brought under this section; provided  
11      that the State, a state official, or a district or county  
12      attorney may file an amicus curiae brief in the action upon  
13      leave granted by the court.

14      (f) A court shall not award costs or attorneys' fees to a  
15      defendant in an action brought under this section.

16      (g) The remedies in this section are cumulative and in  
17      addition to any other remedies allowed by law."

18      SECTION 3. This Act does not affect rights and duties that  
19      matured, penalties that were incurred, and proceedings that were  
20      begun before its effective date.

21      SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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# S.B. NO. 413

**Report Title:**

Fireworks Control Law; Civil Liability

**Description:**

Establishes a civil cause of action that may be brought by any person, other than an officer or employee of the State or employee of a local governmental entity in the State, for certain violations or aiding or abetting certain violations of the Fireworks Control Law.

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

