

JAN 17 2024

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. Act 67, Session laws of Hawaii 2023, created
2 the illegal fireworks task force to plan, coordinate, and engage
3 in law enforcement operations to prohibit illegal fireworks.
4 The legislature finds that additional provisions are needed for
5 the ability of county and state agencies to address the illegal
6 use of fireworks in Hawaii.

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

10 "§132D- Entry for examination; obstructing law
11 enforcement or fire department operations; penalty. Every
12 officer having police power and every county fire department
13 officer may, at all reasonable times, and at any time whatsoever
14 if there is any reasonable ground for suspicion that the
15 conditions of any license or permit are being violated, without
16 warrant enter into and upon any licensee or permittee premises
17 and inspect the same and every part thereof, and any books or



1 records therein, to ascertain whether or not all conditions of
2 the license or permit and all provisions of this chapter are
3 being complied with by the licensee or permittee.

4 If any officer, or any person called by the officer to the
5 officer's aid, is threatened with the use of violence, force, or
6 physical interference or obstacle, or is hindered, obstructed,
7 or prevented by any licensee, permittee, the licensee's or
8 permittee's employees, or any other person from entering into
9 the license's or permittee's premises, or whenever any officer
10 is by any licensee or permittee, the licensee's or permittee's
11 employees, or any other person opposed, obstructed, or molested
12 in the performance of the officer's duty in any respect, the
13 licensee, permittee, the licensee's or permittee's employee, or
14 any other person shall be guilty of a misdemeanor.

15 Whenever any officer, having demanded admittance into any
16 licensee's or permittee's premises and declared the officer's
17 name and office, is not admitted by the licensee, or permittee,
18 or the person in charge of the premises, it shall be lawful for
19 the officer to forcibly and in any manner to break into and
20 enter the premises.



1 §132D- Administrative inspections. (a) The director of
2 law enforcement or any of the director's designees may make
3 administrative inspections of controlled premises upon
4 presenting appropriate credentials to the registrant or persons
5 subject to this section or their agents in accordance with the
6 following provisions:

7 (1) Inspections shall be at reasonable times and within
8 reasonable limits and in a reasonable manner of
9 controlled premises and vehicles in which persons
10 licensed or permitted under this chapter are permitted
11 to hold, store, transport, sell, possess, or otherwise
12 dispose of any fireworks and articles pyrotechnic to
13 determine if this chapter is being violated;

14 (2) The director of law enforcement or any of the
15 directors designees shall have access to and may copy
16 any and all records, books, logs, or documents
17 pertaining to the holding, storing, transporting,
18 selling, processing, or selling of fireworks or
19 articles pyrotechnic designated under this chapter
20 without a warrant; and



1 (3) The director of law enforcement or any of the
2 director's agents may inventory any stock of any
3 fireworks or articles pyrotechnic designated under
4 this chapter and secure samples or specimens of any
5 fireworks, or any articles pyrotechnic not seized as
6 evidence by paying or offering to pay for the sample.
7 The administrator shall make or cause to be made
8 examinations of samples secured under this section to
9 determine whether this chapter is being violated.

10 (b) For purposes of this section, "controlled premises"
11 means:

12 (1) Places where persons licensed or permitted under this
13 chapter are required to keep records; and

14 (2) Places, including factories, warehouses,
15 establishments, businesses, storefronts, and
16 conveyances in which persons licensed under this
17 chapter are permitted to hold, store, transport, sell,
18 possess, or otherwise dispose or any fireworks and
19 articles pyrotechnic.

20 §132D- Records of licensees and permittees. (a)
21 Persons licensed or permitted to hold, store, transport, sell,



1 possess, or otherwise dispose of any fireworks and articles
2 pyrotechnic shall keep records and maintain inventories in
3 conformance with the recordkeeping and inventory requirements of
4 this chapter.

5 (b) Every licensee and permittee shall keep a record of
6 all fireworks and articles pyrotechnic received, imported, held,
7 distributed, sold, possessed, or disposed of, showing the
8 amounts received, imported, held, distributed, sold, possessed,
9 or disposed of for a period of five years.

10 (c) Records shall be maintained separately in a file,
11 logbook, or electronic data that is readily accessible by the
12 licensee or permittee.

13 (d) All records pertaining to the receipt, importation,
14 storage, distribution, sale, possession, and disposal of
15 fireworks and articles pyrotechnic shall be produced and made
16 available upon request by the director of law enforcement or the
17 county fire chiefs, or their designees.

18 §132D- Mandatory reporting. (a) Notwithstanding any
19 other law concerning confidentiality to the contrary, the holder
20 of a license or permit issued under this chapter who, in the
21 holder's professional or official capacity, has reason to



1 believe that fireworks or articles pyrotechnic in the holder's
2 inventory have been stolen, embezzled, or otherwise obtained by
3 fraud or diversion, shall immediately report the matter verbally
4 to the director of law enforcement and the county fire chief.

5 (b) The holder of a license or permit under this chapter
6 shall submit a written report to the director of law enforcement
7 and the county fire chief of the county in which the holder of
8 the license or permit resides or conducts business as soon as
9 practicable following the verbal report. The written report
10 shall contain:

11 (1) The name and address of the suspected perpetrator, if
12 known;

13 (2) The nature and extent of the theft, embezzlement,
14 fraud, or diversion; and

15 (3) Any other information that the reporter believes might
16 be helpful or relevant to the investigation of the
17 theft, embezzlement, fraud, or diversion.

18 (c) Any person subject to subsection (a), upon demand of
19 the director of law enforcement or the country fire chief of the
20 county in which the holder of the license or permit resides or
21 conducts business, shall provide all information related to the



1 alleged incident of theft, embezzlement, fraud, or diversion,
2 including but not limited to records, reports, and any image,
3 film, video, or other electronic medium, that was not included
4 in the written report submitted pursuant to subsection (b).

5 (d) This section shall not be construed to provide a basis
6 for a cause of action against the director of law enforcement or
7 the county fire chief or their departments.

8 (e) Any person subject to this section who knowingly
9 prevents another person from reporting as required by this
10 section, or who knowingly fails to provide information as
11 required by this section, shall be guilty of a misdemeanor.

12 §132D- Disposal of confiscated fireworks. A county fire
13 department or law enforcement agency that confiscates prohibited
14 fireworks pursuant to enforcement of this chapter may safely
15 destroy or dispose of the confiscated fireworks; provided that
16 the law enforcement agency shall retain a sample of each type of
17 confiscated fireworks for evidentiary purposes.

18 §132D- Storage and disposal fine. In any
19 administrative, civil, or criminal action, following notice and
20 an opportunity for hearing, the agency or court shall hold
21 liable any party in violation of this chapter and from whom



1 fireworks were confiscated, seized, or otherwise taken into
2 custody by the state or county agency or agencies for the total
3 amount of the costs incurred by the agency or agencies for the
4 storage and disposal of the confiscated or seized fireworks. An
5 administrative, civil, or criminal order to pay a storage and
6 disposal fine may be collected in the same manner as a civil
7 action. An agency or agencies may collect the full amount of
8 the storage and disposal fine together with any costs, interest,
9 and attorney's fees incurred in any action to enforce the order
10 to pay a storage and disposal fine."

11 SECTION 3. Section 132D-8.6, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The department of law enforcement or the fire
14 department of a county, in which a shipment of fireworks or
15 articles pyrotechnic has landed and becomes subject to the
16 jurisdiction of the department of law enforcement or the fire
17 department, shall be allowed to inspect, if it chooses, any
18 shipment declared on the shipping manifest as fireworks or
19 articles pyrotechnic[-] or any facility in which fireworks or
20 articles pyrotechnic are to be stored."



1 SECTION 4. Section 132D-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§132D-14 Penalty. (a) Any person:

4 (1) Importing aerial devices, display fireworks, or
5 articles pyrotechnic without having a valid license
6 under section 132D-7 shall be guilty of a class C
7 felony;

8 (2) Purchasing, possessing, setting off, igniting, or
9 discharging aerial devices, display fireworks, or
10 articles pyrotechnic without a valid permit under
11 sections 132D-10 and 132D-16, or storing, selling, or
12 possessing aerial devices, display fireworks, or
13 articles pyrotechnic without a valid license under
14 section 132D-7, or allowing an individual to possess,
15 set off, ignite, discharge, or otherwise cause to
16 explode any aerial device in violation of section
17 132D-14.5:

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



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

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

9 (4) Who removes or extracts the pyrotechnic contents from
10 any fireworks or articles pyrotechnic and uses the
11 contents to construct fireworks, articles pyrotechnic,
12 or a fireworks or articles pyrotechnic related device
13 shall be guilty of a misdemeanor.

14 (b) Except as provided in subsection (a) or as otherwise
15 specifically provided for in this chapter, any person violating
16 any other provision of this chapter, shall be fined ~~no~~ not
17 more than \$5,000 for each violation. Notwithstanding any
18 provision to the contrary in this section, any person violating
19 section 132D-14.5 shall be fined at least \$500 and ~~no~~ not more
20 than \$5,000.

1 (c) The court shall collect the fines imposed in
2 subsections (a) and (b) for violating this chapter and, of the
3 fines collected, shall pay twenty per cent to the State and
4 eighty per cent to the county in which the fine was imposed
5 which shall be expended by the county for law enforcement
6 purposes.

7 (d) Notwithstanding any penalty set forth herein,
8 violations of subsection (a)(1) or (3) may be subject to
9 nuisance abatement proceedings provided in part V of chapter
10 712.

11 (e) For the purposes of this section, each type of
12 prohibited fireworks imported, purchased, possessed, ignited, or
13 discharged shall constitute a separate violation for each
14 unopened case and a separate violation for each separate
15 firework that is not part of an unopened case."

16 SECTION 5. Section 132D-20, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) This chapter shall be enforced by each county[-] or
19 the department of law enforcement. The counties, the department
20 of law enforcement, or both are authorized to enforce and
21 administer the provisions of this chapter."



1 SECTION 6. In accordance with section 9 of article VII of
2 the Hawaii State Constitution and sections 37-91 and 37-93,
3 Hawaii Revised Statutes, the legislature has determined that the
4 appropriations contained in Act 164, Regular Session of 2023,
5 and this Act will cause the state general fund expenditure
6 ceiling for fiscal year 2024-2025 to be exceeded by
7 \$ or per cent. This current declaration takes
8 into account general fund appropriations authorized for fiscal
9 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
10 only. The reasons for exceeding the general fund expenditure
11 ceiling are that:

- 12 (1) The appropriation made in this Act is necessary to
13 serve the public interest; and
- 14 (2) The appropriation made in this Act meets the needs
15 addressed by this Act.

16 SECTION 7. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$1,200,000 or so much
18 thereof as may be necessary for fiscal year 2024-2025 to carry
19 out the purposes of this Act, including continued operation of
20 the illegal fireworks task force established by Act 67, Session
21 Laws of Hawaii 2023, and reimbursement of funds to law



1 enforcement agencies for task-force related law enforcement
2 operations, including law enforcement personnel, overtime and
3 other salary-related payments, charges for fuel, equipment, and
4 storage and disposal of confiscated fireworks.

5 The sum appropriated shall be expended by the department of
6 law enforcement for the purposes of this Act.

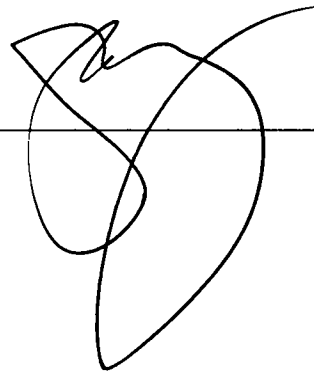
7 SECTION 8. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 9. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect on July 1, 2024.

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INTRODUCED BY: _____

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S.B. NO. 2093

Report Title:

DLE; Illegal Fireworks; Task Force; Expenditure Ceiling;
Appropriation

Description:

Establishes jurisdiction for the Department of Law Enforcement over enforcement of chapter 132D, HRS, relating to illegal fireworks. Establishes provisions for police and fire officers to enter premises and for the Director of Law Enforcement to inspect premises. Requires license and permit holders to maintain records and report instances of illegality in relation to fireworks. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

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

