

HB2271

HD1 SD1



**COMMENTS OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 2271, H.D. 1, S.D. 1, RELATING TO EXPLOSIVES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Tuesday, March 23, 2010 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
Lance M. Goto, Deputy Attorney General, at 586-1160.

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

The purpose of this bill is to prohibit the manufacture, sale, transfer, possession, or transportation of dry ice bombs.

We are concerned about the definition of "dry ice bomb," as set out on page 2, lines 8-13, of the bill (emphasis added):

As used in this section, "dry ice bomb" means any sealed device containing dry ice or other substances assembled for the purpose of causing an explosion.

The definition is overly broad and ambiguous as it extends beyond explosives using dry ice, and includes "other substances assembled for the purpose of causing an explosion." This additional language could encompass many types of bombs and explosive devices that are already covered by the prohibition in section 134-8(a), Hawaii Revised Statutes:

The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any of the following is prohibited: . . . hand grenades, dynamite, blasting caps, bombs, or bombshells, or other explosives

The proposed offense under this bill is a misdemeanor, but the current offense under section 134-8(a) is a class C felony. The overlap of the two offenses could be interpreted to require

prosecutors to charge the misdemeanor offense, instead of the felony, when dealing with explosives involving "other substances." This bill is intended to address the problem of dry ice bombs, and should be limited to that matter.

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Improving Life

One Breath at a Time

Founded in 1904, the
American Lung Association
includes affiliated associations
throughout the U.S.



TO: Senate Committee on Judiciary and Government Operations

FOR: Hearing S cheduled for 9:30 a.m. Tuesday March 23, 2010

**RE: TESTIMONY IN SUPPORT OF THE INTENT OF HB 2271, HD1, SD1
RELATING TO EXPLOSIVES**

Chair Taniguchi, Vice Chair Takamine and Committee Members:

The American Lung Association in Hawaii supports any that measure seeks to reduce the impact of fireworks. However with over 175,000 people in Hawaii, or nearly 13 percent of our population, suffering from some type of lung disease that is made worse by exposure to the particulate smoke from fireworks, **we believe a ban on consumer fireworks including novelty items would do far more to protect our collective health** than would this measure aimed at halting the making of and use of dry ice bombs. Assuring the cleanest air for everyone in Hawaii is important, especially with the recent increase in volcanic activity that compounds the danger of fireworks.

Hawaii has the second highest rate in the nation for childhood asthma and many adults, especially the elderly, suffer from chronic lung disease including emphysema and COPD (Chronic Obstructive Pulmonary Disease). Even people who do not have lung problems often report eye, throat and lung irritation on New Year's Eve.

It is time to act responsibly and stop this willful disregard for the health of our fellow citizens, especially those who might be unable to speak for themselves – our children and the elderly. Specific action to ban all fireworks with an exemption for religious and cultural use is what is called for. **We support a statewide ban or, as an alternative, we strongly recommend adding language that allows counties to have the authority to regulate fireworks.**

Respectfully, submitted,

Jean Evans, MPH
Executive Director
American Lung Association in Hawaii