

SB 2053

Measure Title:
RELATING TO FIREWORKS

Report Title:
Illegal Fireworks; Increased Fees and Fines

Description:
Increases fees and fines that can be used by county law enforcement agencies to combat illegal fireworks activity.

Linda Lingle
Governor



Darwin L.D. Ching
Director

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
State Fire Council
830 Punchbowl Street
Honolulu, Hawaii 96813

January 22, 2010

The Honorable J. Kalani English, Chair
Committee on Transportation, International and
Intergovernmental Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

The Honorable Will Espero, Chair
Committee on Public Safety and Military Affairs
The State Senate
State Capitol, Room 207
Honolulu, Hawaii 96813

Dear Chairs English and Espero:

Subject: S.B. 2053 Relating to Fireworks

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support the measures in S.B. 2053, which proposes to increase fees and fines that can be used by county law enforcement agencies to combat illegal fireworks activity.

Fireworks permit and import license fees and fireworks violations fines have not increased for ten years, even though the cost of services provided by fire, police, and emergency medical services personnel continues to increase.

Chapter 132D-17, Hawaii Revised Statutes states that no county may enact stricter laws or rules relating to the present fireworks law. The SFC believes each county should be allowed to determine the potential hazards that fireworks present and the benefit to their community by further restricting fireworks use based on each county's needs and resources.

The Honorable J. Kalani English, Chair
The Honorable Will Espero, Chair
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January 22, 2010

The SFC and the HFD request your committee's support on the passage of S.B. 2053.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA
Chair

KGS/SB:bh



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065 / TELEPHONE 547-7000

January 25, 2010

Joint Committee on Public Safety & Military Affairs, and
Transportation & Intergovernmental Affairs
The Senate
State of Hawaii

Testimony of
Honolulu City Councilmember Nestor Garcia
Senate Bill 2053
Regular Session 2010

Chair Espero, Chair English, and members of the Joint Committee:

Thank for you this opportunity to offer testimony in general support of SB 2053. I am grateful to the introducers of this measure for attempting to address this serious matter head on.

According to Major Dave Kajihira of Honolulu Police Department District 3, which covers the area from Foster Village to Village Park, since October 1st, the district's officers have responded to nearly 600 complaints through the New Year or approximately 6-7 calls per day.

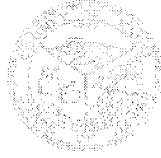
SB 2053 increases fees and fines that can be used by county law enforcement agencies to combat illegal fireworks activity.

While this bill is a step in the right direction, perhaps the better course of action is to allow each county the ability to enact ordinances that can be more restrictive than current State law. In this manner, each county will be able to take appropriate and effective actions for their residents. Those with a smaller population could choose to retain the current arrangements, while those counties with greater density could choose to ban it altogether.

Thank you for this opportunity to provide testimony.

Nestor R. Garcia, Member
Honolulu City Council
Council District 9 – Makakilo, Mililani, Waipahu

Bernard P. Carvalho, Jr.
Mayor



COUNTY OF KAUAI
Fire Department
Hale Pumehana Building
3083 Akahi St., Ste. 101
Lihu'e, Kaua'i, Hawaii 96766

Robert F. Westerman
Fire Chief

John T. Blalock
Deputy Fire Chief

January 22, 2010

The Honorable Will Espero, Chair
Committee on Public Safety and Military Affairs
The State Senate
State Capitol, Room 207
Honolulu, Hawaii 96813

The Honorable J. Kalani English, Chair
Committee on Transportation, International and
Intergovernmental Affairs
The State Senate
State Capitol, Room 205
Honolulu, Hawaii 96813

Dear Chairs Espero and English:

Subject: S.B. 2053 Relating to Fireworks

I am Robert F. Westerman, member of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support the measures in S.B. 2053, which proposes to increase fees and fines that can be used by county law enforcement agencies to combat illegal fireworks activity.

Fireworks permit and import license fees, as well as fireworks violations fines, have not increased for ten years, even though the cost of services provided by fire, police, and emergency medical personnel continues to increase.

Chapter 132D-17, HRS states that no county may enact stricter laws or rules relating to the present fireworks law. The SFC believes each county should be allowed to determine the potential hazards fireworks present and the benefit to their community by further restricting fireworks use based on each county's needs and resources.

The SFC and the KFD request your committee's support on the passage of S.B. 2053.

Should you have any questions, please call me at 241-4980.

Sincerely,

A handwritten signature in cursive script that reads "Robert Westerman".

Robert F. Westerman
Fire Chief

RFW/crz

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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 Public Safety and Military Affairs
Senate Committee on Transportation, International and
Intergovernmental Affairs**

FOR: Hearing S cheduled for 1:45 pm, Monday, January 25, 2010

**RE: TESTIMONY IN SUPPORT OF THE INTENT OF SB 2053
RELATING TO FIREWORKS**

Chairs Espero and English, Vice Chairs Bunda and Gabbard, and
Committee Members:

The American Lung Association in Hawaii supports any measure to aimed at reducing fireworks activity. One night of the year, New Year's Eve compromises 175,000 children and adults in Hawaii who have lung disease – that's more than all those on Maui and Kauai combined. For those who struggle to breathe one night can be deadly – especially when the winds are low and vog is present as it was this year. We receive many calls from those who have endured fireworks over the years and some who have had to seek emergency medical treatment because of the exposure.

Because of the significant negative impact from exposure to the particulate smoke from fireworks, **we believe a ban on consumer fireworks would do far more to protect our collective health** than would increased fees as this bill proposes.

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.

With so many people experiencing breathing problems directly related to fireworks, the American Lung Association in Hawaii strongly supports any measure that will help clear the air. It is time to act responsibly and stop this willful disregard for the health or our fellow citizens, especially those who might be unable to speak for themselves – our children and the elderly. Specific action to ban fireworks is what is called.

Respectfully, submitted,

Jean Evans, MPH
Executive Director
American Lung Association in Hawaii



LEGISLATIVE INFORMATION SERVICES OF HAWAII

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www.lish.info Email: lishawaii@aol.com

January 25, 2010

Chairs & Committee Members:

Testimony to: Senate Committee on Public Safety and Military Affairs
Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

Senate Committee on Transportation, International & Intergovernmental Affairs
Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

By: Richard C. Botti
Lauren Zirbel
LISH Represents both retailers and wholesalers of fireworks in Hawaii

Re: SB 2052 RELATING TO FIREWORKS
SB 2053 RELATING TO FIREWORKS

Chairs & Committee Members:

We oppose the passage of both SB 2052 and SB 2053. With that said, we would like to proceed with the reasons why.

SB 2052 is essentially a total ban on fireworks. If the measure were to become law, the costs of what is now legal would be so high that no wholesaler or retailer could or would stay in the fireworks business. No consumer would pay the price that would have to be charged for fireworks under the fee schedule. Additionally, if enacted into law SB 2052 would encourage those who want to continue to celebrate with some kind of fireworks, to create their own fireworks and only pay for the supplies needed to construct their devices. We can go so far as to name them. Under federal law they would be: IED's or improvised explosive devices.

Current law already prohibits anything that can fly higher or wider than twelve feet from the ground, calling them aerial fireworks. The police complain that they can't enforce the law because they don't see the act being committed. If that be the case under existing law where they are already illegal, a new law essentially banning everything legal by pricing everything out of the market, is not going to reduce the challenge, but rather create chaos and an enforcement nightmare. Enforcement would really become impossible.

Further, the state would collect less revenues than they currently collect, which we estimate to be above \$2 million a year in license fees, permit fees, and the GET taxes at all levels.

SB 2053 as drafted, doubles the current fees collected for firecracker permits. This measure will dramatically reduce, if not entirely eliminate, the number of permits that will be obtained. Consumers are price conscious. When prices rise on any commodity, whether through government taxes or other means, or through other price pressures, consumer will do the following in this order:

- Seek ways to substitute legally one similar product for another if available; or

- Seek ways to get the product through other legal means without paying the higher price; or
- Seek to get that same product even if it has to be obtained illegally.

Since SB 2053, if enacted into law doubles the permit fee on firecrackers, it is a certainty that no retailer will invest in any firecracker inventory. None will be available for sale. So, SB 2053 guarantees that fewer permits or no permits will be purchased, revenue obtained from the sales will drop probably to zero, and less money or no money will be available for enforcement.

SECTIONS 1 and 2 of SB 2053 do not address the illegal aerial issue, but are attempts to generate more revenues from those that abide by the law to use for enforcement against those that violate the law by importing, selling, and/or using illegal aerial devices. We suggest that the following language that would be added under SECTION 3. Section 132D-11(a) stating that **“The fees shall also be used by the county law enforcement agencies for law enforcement purposes relating to this chapter.”** will accomplish the goal of supporting the police departments in their efforts to enforce what is already illegal.

Currently, the fees go into the county general fund. They are not dedicated for enforcement. We have supported dedicating those funds for enforcement for the past twelve years.

Selling illegal aerials, the black marketing of fireworks is very profitable. No laws to comply with, so long as you don't get caught, no taxes to pay, and you are selling excitement. Now, enforcement has been minimal with law enforcement saying they can't enforce the law because they can't catch the user in the act, or with the illegal product.

In summation, excluding those individuals that want to ban everything, the issue is not the legal fireworks that are causing the problem, but rather illegal aerials. They are already banned. Eliminating what is currently legal for a maximum time period of twelve hours a year will not stop what is already illegal, but will create a situation that:

- Will promote the sale of all fireworks underground, where:
 - Government will have no control, receive no fees or taxes;
 - Current jobs that are related to fireworks sales will be eliminated creating unemployment;
 - Create a legal issue of banning freedom of religion and/or culture events;
 - Increase costs of law enforcement; and
 - Consumers will build their own IED's (Improvised Explosive Devices).

How can we predict the above? Look at what is happening with illegal drugs, liquor and tobacco use by minors.

So, what's the solution?

- Enforce the laws that we have; and
- Enhance existence laws with better enforcement tools.

How?

- Amend forfeiture laws to include the forfeiture of personal property involved in the importation, storage, and/or sale of illegal fireworks;
- Create a method for anonymous calls to government of violations where the person reporting will receive a reward; and
- Provide a means for law enforcement to issue citations to violators of any of the fireworks laws.

The law is not broken. It is enforcement of the law that is broke. A ban will create another set of problems that are sure to be far worse. Let's fix what's broken.

FROM: MAILINGLIST@CAPITOL.HAWAII.GOV [MAILTO:MAILINGLIST@CAPITOL.HAWAII.GOV]
SENT: FRIDAY, JANUARY 22, 2010 12:16 PM
TO: PSM TESTIMONY
CC: REIZISS@HAWAIIANTEL.NET
SUBJECT: TESTIMONY FOR SB2053 ON 1/25/2010 1:45:00 PM

TESTIMONY FOR PSM/TIA 1/25/2010 1:45:00 PM SB2053

CONFERENCE ROOM: 224
TESTIFIER POSITION: SUPPORT
TESTIFIER WILL BE PRESENT: NO
SUBMITTED BY: STANN W. REIZISS, PH.D.
ORGANIZATION: INDIVIDUAL
ADDRESS: OAHU, HAWAII
PHONE: 230-8199
E-MAIL: REIZISS@HAWAIIANTEL.NET
SUBMITTED ON: 1/22/2010

COMMENTS:

PLEASE SUPPORT SB 2053
CONFERENCE ROOM 224

HEARING ON JANUARY 25, 2010 @1:45

JUSTIFICATION FOR SUPPORTING SB 2053:

- BETWEEN DECEMBER 31 THROUGH JANUARY 2, 2010, ONE HUNDRED AND TWELVE PERSONS WERE INJURED BY FIREWORKS; SEVEN ADMITTED A HOSPITAL. THESE NUMBERS ONLY ACCOUNT FOR REPORTED INJURIES.
- THE AGES OF THOSE INJURED BY FIREWORKS RANGED FROM TWO YEARS OLD TO EIGHTY TWO.
- MORE CHILDREN UNDER SIXTEEN YEARS OLD WERE HURT FROM FIREWORKS DURING THIS TIME FRAME THAN THE ENTIRE MONTH OF INJURIES FROM AUTO ACCIDENTS, POISONINGS, AND ASSAULTS COMBINED.
- NO ACCURATE ACCOUNT WAS EVEN ATTEMPTED TO ACCOUNT FOR PETS AND WILDLIFE EMOTIONALLY TRAUMATIZED OR INJURED AS A RESULT OF FIREWORKS.
- FORTY MILLION, TWO HUNDRED FIFTY THOUSAND (8050 PERMITS X 5000 FIRECRACKERS) WERE DISCHARGED. THIS NUMBER ONLY ACCOUNTS FOR FIREWORKS REQUIRING A PERMIT. IT OBVIOUSLY EXCLUDES ALL ILLEGAL DISCHARGES.
- ACCORDING TO THE AMERICAN LUNG ASSOCIATION, THERE ARE AT LEAST 175,000 PEOPLE IN HAWAII WITH SOME TYPE OF LUNG DISEASE.
- ON A TYPICAL DAY IN HONOLULU, PARTICULATE MATTER RANGES FROM 4 TO 15 MICROGRAMS PER CUBIC METER.
- ON JANUARY 1ST, 2010 THE PARTICULATE MATTER FROM THE FIREWORKS EXPLOSIONS WAS MEASURED BY THE HEALTH DEPARTMENT AS HIGH AS 632 MICROGRAMS PER CUBIC METER. FAR IN EXCESS OF FEDERAL STANDARDS.
- SURELY EVEN THOSE LIVING BEINGS WITH HEALTHY LUNGS WERE IN JEOPARDY.

- ADD TO ALL THIS, THE PROPERTY DAMAGE FROM FIREWORKS CAUSED FIRES, THE COMPRESSION IMPACT DAMAGE TO PROPERTY, AND HEARING DAMAGE CAUSED BY THE NUMEROUS BOTTLE BOMB DEVICES THAT PUNCTUATED THE NIGHT.

- THE SECRET SERVICE WAS PUT ON ALERT IN ORDER TO PROTECT OUR VACATIONING PRESIDENT OBAMA AND HIS FAMILY IN CASE THEY WERE IN DANGER OF HARM FROM FIREWORKS, INTENTIONALLY OR INADVERTENTLY .

* IF THIS ISN'T TERRORISM, A CLEAR STATE SECURITY RISK, PLEASE EXPLAIN TO ME WHAT IS. PLAINLY, ALL THE INGREDIENTS AND OPPORTUNITIES ARE OMNIPRESENT UNDER THE GUISE OF "CELEBRATING" THE NEW YEAR AND SCARING AWAY "EVIL" SPIRITS THROUGH FIREWORKS.

WHAT COULD BE MORE "EVIL" THAN THE DEVASTATING EFFECTS OF FIREWORKS AS OUTLINED ABOVE?

- • IN MY OPINION, AND IN THE OPINION OF THE MAJORITY OF THE HAWAIIAN ISLAND RESIDENTS, FIREWORKS MUST BE BANNED FOR USE BY AMATEURS, AND STRINGENT LAWS OF ENFORCEMENT MUST BE IMPLEMENTED.

- • • I IMPLORE YOU TO IMMEDIATELY TAKE EVERY ACTION YOU ARE EMPOWERED TO USE IN ORDER TO MITIGATE, AND PREFERABLY ERADICATE THIS CLEAR, PRESENT, AND CONTINUING DANGEROUS PROBLEM.

PLEASE SUPPORT SB 2053, AND ADDITIONAL LEGISLATION DESIGNED TO KEEP FIREWORKS OUT OF THE HANDS OF AMATEURS, AND PROVIDE ENFORCEMENT

RESPECTFULLY SUBMITTED BY,

STANN W. REIZISS, PHD AND JEAN STROMBERG
P.O. Box 1517
KAILUA-OAHU, HAWAII 96734
808-230-8199 (H)
REIZISS@HAWAIIANTEL.NET

From: Jeannine Johnson [mailto:jeannine@hawaii.rr.com]
Sent: Thursday, January 21, 2010 6:41 PM
To: PSM Testimony
Cc: Rep. Lyla B. Berg; Sen. Sam Slom
Subject: SB 2053 - RELATING TO FIREWORKS

Aloha mai kākou,

I support a total ban on non-professional fireworks. However, because the legislature does not have the mettle to pass a total ban, I support increasing the fees and fines so that county law enforcement agencies can combat illegal fireworks activity.

Mahalo,

Jeannine

Jeannine Johnson

5648 Pia Street

Honolulu, Hawai'i 96821

Ph: 373-2874 / 537-7261 (work)

Email: jeannine@hawaii.rr.com

"PUPUKAHI I HOLOMUA"

(Unite in Order to Progress)

From: Barnes, Mark [mailto:Mark.Barnes@marriott.com]
Sent: Sunday, January 24, 2010 8:53 PM
To: PSM Testimony
Cc: Sen. Will Espero; espero2 - Brandon
Subject: SB 2052 and SB 2053 testimony

Since I cannot personally attend the hearings for SB 2052 and SB 2053 I am submitting testimony in support of both. (Monday Jan. 25th 1:45pm).

Simply put, it does not take much to realize that the use of fireworks, both legal and illegal have spun out of control in Hawaii. Rather than a one day/evening celebration on July 4th or New Years Eve, we are now forced to live with fireworks beginning in early October though December each year. Both the legal and illegal fireworks (aerials and explosions) cause the following:

- **Disrespects of the Christmas Holiday. How can this be a "cultural" activity when explosions are going off for months and on Christmas eve and Christmas day?**
- **Intrudes on the "quiet enjoyment" of our neighborhoods**
- **Terrorizes our pets**
- **increases lung hazards and other health risks**
- **is a danger to our homes as a fire hazard.**
- **Forces us to become prisoners in our own homes.**

It's one thing to allow fireworks for the holidays, but size and type of fireworks that are now entering our islands are a clear and present danger to us all. No one can argue this.

Enforcement is difficult but increasingly necessary. Neighbors won't call the police on their neighbors for fear of reprisals.

We have called the police numerous times during these periods only to be told that there is not much that can be done. The police are as frustrated as we are! Much stiffer penalties are needed, and resources dedicated to enforcement. Without those resources, the passage of new laws are meaningless.

Further, a complete investigation as to how these explosives are reaching our islands is needed. If these materials can get into the islands, what is to stop even worse explosives from coming into Hawaii?

On behalf of many neighborhoods (I live in Waikele) , we ask that you please address this issue.

Mark Barnes
mark.barnes@marriott.com
mhbarnes@Hawaii.rr.com
808-216-3557 cell