

JAN 20 2017

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The legislature finds that the use of illegal
2 aerial fireworks during New Year's celebrations on Oahu
3 continues to cause significant disruption and concern. In the
4 past two years alone, the Honolulu police department has
5 received several thousand complaints and made numerous arrests
6 relating to illegal fireworks usage during the months of
7 November and December. In addition, illegal fireworks have
8 caused injuries and damaged property, including a destructive
9 fire to a historical Ewa home in 2015 and the death of an Oahu
10 resident in 2016. The ease of importing illegal explosives into
11 the State is a public safety concern that impacts all Hawaii
12 residents and businesses.

13 The legislature further finds that the inspection of
14 shipping containers, whether by the State or counties, is a
15 major element in the fight against terrorism and illegal
16 fireworks. Particularly in light of the State's geographical
17 isolation and the numerous containers arriving by ship, it is



1 imperative that the State broaden its inspection of incoming
2 shipping containers. Over ninety per cent of the more than two
3 hundred thousand shipping cargo containers that arrive in Hawaii
4 each year are from the continental United States. Only a small
5 fraction of these containers, however, are inspected by
6 government agencies. The lack of sufficient cargo inspections
7 means that there is ample opportunity for illegal fireworks and
8 explosives to be smuggled into the State. The legislature also
9 finds that increased inspections need to be carefully crafted to
10 avoid delays and inefficiencies in harbor operations that could
11 impede commerce. One approach is to use explosive-sniffing
12 dogs, which the sheriff division of the department of public
13 safety currently have at their disposal, to inspect cargo after
14 arrival at the harbors.

15 The legislature further finds that the "Report of the
16 Illegal Fireworks Task Force to the Legislature for the Regular
17 Session of 2011", which was prepared in accordance with Act 170,
18 Session Laws of Hawaii 2010, made recommendations in an effort
19 to reduce illegal firework use and importation. These
20 recommendations include increased fireworks fees and fines,



1 increased random inspections of cargo containers, and promotion
2 of cooperation among stakeholders.

3 The purpose of this Act is to implement recommendations
4 from the "Report of the Illegal Fireworks Task Force to the
5 Legislature for the Regular Session of 2011" and establish a
6 shipping container inspection program using explosive-sniffing
7 dogs to inspect cargo shipments after arrival at the harbors.

8 SECTION 2. Chapter 266, Hawaii Revised Statutes, is
9 amended by adding three new sections to be appropriately
10 designated and to read as follows:

11 "§266-A Power to inspect shipping containers. (a) The
12 State shall have the authority to inspect cargo shipping
13 containers being shipped and transported through state harbors
14 and harbor facilities for contraband or other harmful items. In
15 addition to any other powers provided by law, the department of
16 public safety, sheriff division, may in its discretion inspect
17 any shipping container situated anywhere at any commercial
18 harbor, as defined in section 266-1, or work site to detect and
19 confiscate any material, including explosives but excluding
20 fireworks regulated under chapter 132D, constituting a direct or
21 indirect threat to the security of life or property in Hawaii.



1 (b) The department of public safety, sheriff division, may
2 collaborate with any federal, state, and county agency to
3 effectuate this section. The department of public safety shall
4 serve as the lead state agency to coordinate the inspection of
5 shipping containers pursuant to this section.

6 §266-B Shipping container inspection program. (a) The
7 department of public safety, in collaboration with the
8 departments of defense and transportation, and any federal
9 agencies, state agencies, shippers, and private organizations
10 involved with shipping cargo into the State, shall develop and
11 implement a program to randomly inspect shipping containers
12 arriving in Honolulu for illegal fireworks and explosives
13 smuggled into the State. The program may begin no sooner than
14 January 1, 2019.

15 (b) The shipping container inspection program shall:
16 (1) Include the use of explosive-sniffing dogs to inspect
17 incoming shipping containers to the greatest
18 reasonable extent;
19 (2) Prioritize resources toward high risk containers over
20 low risk containers. For purposes of this paragraph,
21 "low risk container" includes shipping containers



- 1 containing goods to be delivered to the military,
2 state or county agencies, established businesses, and
3 major retailers;
- 4 (3) Conduct all inspections away from ports, where
5 practicable, to allow timely removal of shipping
6 containers and avoid off-loading delays;
- 7 (4) Inspect all shipping containers containing legal
8 fireworks using personnel who are able to distinguish
9 commercial fireworks from illegal fireworks;
- 10 (5) Include random inspections of freight forwarder
11 warehouses and other facilities where consolidated
12 cargo transported from any state harbor to the final
13 destination is segregated and prepared for delivery;
- 14 (6) Include random inspections of common carriers, at the
15 discretion of the department of public safety, sheriff
16 division; and
- 17 (7) Balance safety concerns with commercial interests to
18 avoid increases in consumer costs.
- 19 (c) Beginning January 1, 2018, the department of
20 transportation shall assess a fee of \$1 for each shipping
21 container arriving in the State. Beginning July 1, 2019, the



1 department of transportation shall assess a fee of \$2 for each
2 shipping container arriving in the State. All fees received by
3 the department of transportation pursuant to this subsection
4 shall be deposited into the shipping container inspection
5 program special fund established under section 266-C.

6 (d) The department of public safety shall coordinate and
7 conduct the random inspection of shipping containers pursuant to
8 this section, as authorized under section 266-A. The Hawaii
9 national guard may be utilized to assist in the random
10 inspection of shipping containers.

11 (e) The department of public safety shall adopt rules in
12 accordance with chapter 91 for the purposes of this section.

13 **§266-C Shipping container inspection program special fund.**

14 (a) There is established in the state treasury the shipping
15 container inspection program special fund, into which shall be
16 deposited:

- 17 (1) Appropriations by the legislature to the special fund;
18 (2) Gifts, donations, and grants from public agencies and
19 private persons; and



1 (3) All proceeds collected by the department of
2 transportation from shipping container fees under
3 section 266-B(c).

4 (b) All moneys in the special fund shall be used for
5 support and administration of the shipping container inspection
6 program established under section 266-B."

7 SECTION 3. Section 132D-14, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Except as provided in subsection (a) or as otherwise
10 specifically provided for in this chapter, any person violating
11 any other provision of this chapter[7] shall be fined not more
12 than [~~\$2,000~~] \$5,000 for each violation."

13 SECTION 4. No later than twenty days prior to the
14 convening of the 2018 and 2019 regular sessions, the department
15 of public safety shall submit to the legislature a report on the
16 implementation of the shipping container inspection program
17 established pursuant to this Act. The report shall include
18 findings and recommendations, including costs expended to date,
19 the estimated cost of operating the program, and any proposed
20 legislation.



1 SECTION 5. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$50,000 or so much
3 thereof as may be necessary for fiscal year 2017-2018 and the
4 same sum or so much thereof as may be necessary for fiscal year
5 2018-2019 to be deposited into the shipping container inspection
6 program special fund established pursuant to this Act.

7 SECTION 6. There is appropriated out of the shipping
8 container inspection program special fund the sum of \$50,000 or
9 so much thereof as may be necessary for fiscal year 2017-2018
10 and the same sum or so much thereof as may be necessary for
11 fiscal year 2018-2019 for costs to establish and administer the
12 shipping container inspection program, including the purchase,
13 care, and handling of at least two explosive-sniffing dogs.

14 The sums appropriated shall be expended by the department
15 of public safety for the purposes of this Act.

16 SECTION 7. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval;
2 provided that sections 5 and 6 of this Act shall take effect on
3 July 1, 2017.

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INTRODUCED BY: Will Zygo
Clarence W. Michikawa
Randy H. Bick
Wesley J. ...
Michelle R. Sidani



S.B. NO. 598

Report Title:

Department of Public Safety; Sheriff Division; Department of Transportation; Shipping Container Inspection Program; Illegal Fireworks; Explosives; Fees; Penalties; Appropriation

Description:

Increases maximum fines for violations of the fireworks control law. Appropriates funds for the Department of Public Safety, Sheriff Division, in collaboration with the Department of Defense, Department of Transportation, and other federal and state agencies, to establish a shipping container inspection program to randomly inspect shipping containers for illegal fireworks and explosives using explosive-sniffing dogs and establishes requirements for the inspection program. Requires the Department of Transportation to assess a fee on all shipping containers to fund the program.

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

