

Honolulu, Hawaii

MAR 22 2017

RE: H.B. No. 1172
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and Military Affairs, to which was referred H.B. No. 1172, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO FIREWORKS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish property owner liability for illegal aerial devices possessed or set off on their property by others;
- (2) Simplify the definition of aerial device; and
- (3) Allow probable cause for fireworks offenses to be established from statements from witnesses and photographs, video, and other recordings authenticated by witnesses.

Your Committee received testimony in support of this measure from the State Fire Council, Honolulu Fire Department, Maui Fire Department, Poi Dogs & Popoki, and twelve individuals. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney, City and County of Honolulu; and American Promotional Events, Inc.



Your Committee finds that the use of illegal aerial fireworks is a threat to the public's health, safety, and welfare. While the use of certain aerial fireworks has been prohibited for some time, enforcement of this prohibition has been difficult. There are steps that may be taken to increase enforcement of the prohibition, such as holding property owners liable for aerial fireworks that emanate from their properties and allowing law enforcement to establish probable cause for fireworks offenses through statements from witnesses and photographs, video, and other recordings authenticated by witnesses.

Your Committee finds that making it easier for law enforcement to establish probable cause for prosecuting cases against illegal aerial fireworks offenders would help combat this ongoing problem. However, your Committee recognizes the concerns raised by the Honolulu Department of the Prosecuting Attorney that this measure, as written, may inadvertently limit, rather than enhance, law enforcement's ability to establish probable cause for illegal aerial fireworks use. Therefore, your Committee suggests that if your Committee on Judiciary and Labor decides to hear this measure, that it consider working with the Honolulu Department of the Prosecuting Attorney to address this concern.

Your Committee also understands the concerns raised in testimony noting that this measure's simplified definition of aerial fireworks is overbroad and, as such, would prohibit certain commercial fireworks that are legal, instead of focusing specifically on recreational aerial fireworks, which are the target of this measure.

Accordingly, your Committee has amended this measure by:

- (1) Removing section 2, which would have amended the definition of "aerial device" under section 132D-2, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in



accord with the intent and purpose of H.B. No. 1172, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1172, H.D. 2, S.D. 1, and be referred to your Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,

Clarence K Nishihara

CLARENCE K. NISHIHARA, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

Bill / Resolution No.:* HB 1172, HD 2	Committee Referral: PSM, JDL	Date: 3/14/17
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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*Only one measure per Record of Votes