RELATING TO CARGO INSPECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that despite the city and county of Honolulu's ban on most consumer fireworks in 2010, the problems associated with illegal aerial fireworks have not been solved. During the 2019 New Year's celebrations, Oahu communities reported seeing scores of illegal aerial fireworks. The legislature further finds that the 2016 New Year's celebration on Oahu saw a significant increase in the use of illegal aerial fireworks. From November through December of 2015, more than three thousand complaints were made to the Honolulu police department regarding fireworks usage. The number of arrests for fireworks violations also increased over this time and a historical home in Ewa caught fire and sustained thousands of dollars of damage as a result of an illegal aerial firework. The ease of importing illegal explosives into the State is a public safety concern that impacts all Hawaii residents and businesses.
The legislature further finds that the inspection of shipping containers, whether by the State or counties, is a major element in the fight against terrorism and illegal fireworks. Particularly in light of the State's geographical isolation and the numerous containers arriving by ship, it is imperative that the State broaden its inspection of incoming shipping containers. Over ninety per cent of more than two hundred thousand shipping cargo containers that arrive in Hawaii each year are from the continental United States. Only a small fraction of these containers, however, are inspected by government agencies. The lack of sufficient cargo inspections means that there is ample opportunity for illegal fireworks and explosives to be smuggled into the State. The legislature also finds that increased inspections need to be carefully crafted to avoid delays and inefficiencies in harbor operations that could impede commerce. One approach is to use explosive-sniffing dogs, which the sheriff division of the department of public safety currently has at its disposal, to inspect cargo after arrival at the harbors.

The legislature further finds that the report of the illegal fireworks task force to the legislature for the regular
session of 2011, which was prepared in accordance with Act 170, Session Laws of Hawaii 2010, made recommendations in an effort to reduce illegal firework use and importation. These recommendations include increased fireworks fees and fines, increased random inspections of cargo containers, and promotion of cooperation among stakeholders.

The purpose of this Act is to implement recommendations from the report of the illegal fireworks task force to the legislature for the regular session of 2011 and establish a shipping container inspection program using explosive-sniffing dogs to inspect cargo shipments after arrival at the harbors.

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

"§266-A Power to inspect shipping containers. (a) In addition to any other powers provided by law, the department of public safety, sheriff division, may in its discretion inspect any shipping container situated anywhere at any commercial harbor, as defined in section 266-1, or work site to detect and confiscate any material constituting a threat directly or indirectly to the security of life or property in Hawaii,
including explosives, but excluding fireworks regulated under chapter 132D.

(b) The department of public safety, sheriff division, may collaborate with any federal agency, including any of the United States armed services, and state and county agencies to effectuate this section. The department of public safety shall serve as the lead state agency to coordinate the inspection of shipping containers pursuant to this section.

(c) This section shall supersede any labor work rules or contracts that are contrary to the intent of this section.

§266-B Shipping container inspection program. (a) The department of public safety, in collaboration with the departments of defense and transportation, and any federal agencies, including any of the United States armed services, state agencies, and private organizations involved with shipping cargo into the State, shall develop and implement a program to randomly inspect shipping containers arriving in Honolulu for illegal fireworks and explosives smuggled into the State. The program shall begin no later than October 1, 2019.

(b) The shipping container inspection program shall:
(1) Include the use of explosive-sniffing dogs to inspect incoming shipping containers to the greatest reasonable extent;

(2) Prioritize resources toward high risk containers over low risk containers; for purposes of this paragraph, "low risk container" includes shipping containers containing goods to be delivered to the military, state or county agencies, established businesses, and major retailers;

(3) Conduct the majority of inspections away from ports, to allow timely removal of shipping containers and avoid off-loading delays;

(4) Inspect all shipping containers containing legal fireworks using personnel who are able to distinguish commercial fireworks from illegal fireworks;

(5) Include random inspections of freight forwarder warehouses and other facilities where consolidated cargo transported from any state harbor to the final destination is segregated and prepared for delivery;
Include random inspections of common carriers, at the discretion of the department of public safety, sheriff division; and

Balance safety concerns with commercial interests to avoid increases in consumer costs.

Beginning July 1, 2019, the department of transportation shall assess a fee of $1 for each shipping container arriving in the State. Beginning July 1, 2020, the department of transportation shall assess a fee of $2 for each shipping container arriving in the State. All fees received by the department of transportation pursuant to this subsection shall be deposited into the shipping container inspection program special fund established under section 266-C.

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

The department of public safety may request funding from the federal government for homeland security and port
security measures and work with the military to secure other
funding sources for the purposes of the program.

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

§266-C Shipping container inspection program special fund.

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

(1) Appropriations by the legislature to the special fund;

(2) Gifts, donations, and grants from public agencies and
private persons; and

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

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

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

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

SECTION 4. No later than twenty days prior to the convening of the 2020 and 2021 regular sessions, the department of public safety shall submit to the legislature a report on the implementation of the shipping container inspection program established pursuant to this Act. The report shall include findings and recommendations, including costs expended to date, the estimated cost of operating the program, and any proposed legislation.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of $250,000 or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 to be deposited into the shipping container inspection program special fund established pursuant to this Act.

SECTION 6. There is appropriated out of the shipping container inspection program special fund the sum of $250,000 or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for costs to establish and administer the
shipping container inspection program, including the purchase, care, and handling of at least two explosive-sniffing dogs. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

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

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

SECTION 9. This Act shall take effect upon its approval; provided that sections 5 and 6 of this Act shall take effect on July 1, 2019.

INTRODUCED BY: [Signature]

JAN 2 2 2019

HB HMS 2019-1040
Report Title:
Illegal Fireworks; Inspections; Fees; Penalties; Appropriation

Description:
Authorizes Department of Public Safety to inspect shipping containers for illegal fireworks and explosives. Establishes a shipping container inspection program using explosive-sniffing dogs and associated special fund. Authorizes Department of Transportation to impose shipping container import fees. Increases fine for fireworks violations.

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