A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

SECTION 1. The legislature finds that in the first three weeks of December 2019, the Honolulu police department reported more than five hundred complaints about fireworks. The legislature also finds that since 2011, fireworks-related complaints have increased in all counties. The legislature further finds that the proliferation of explosive contraband on Oahu underscores a long-standing reality that authorities largely have been unable to curtail the supply of aerials and other black-market fireworks, according to the Honolulu Star-Advertiser. Furthermore, only a handful of cases involving the illegal importation of fireworks or the unauthorized possession of display fireworks have been publicly reported in recent years.

To address the problem of illegal fireworks, Act 170, Session Laws of Hawaii 2010, established the illegal fireworks task force to develop strategies and make recommendations to the legislature to address the illegal importation and use of
fireworks in the State. Among other recommendations, the task
force recommended increasing random inspections for illegal
fireworks by expanding inspection authority and focusing cargo
inspections to make the inspections more manageable.

Subsequently, pursuant to Act 184, Session Laws of Hawaii
2019, the legislative reference bureau updated the findings and
recommendations of the Report of the Illegal Fireworks Task
Force to the Legislature for the Regular Session of 2011. The
2019 legislative reference bureau report, Blast From the Past:
An Update to the Report of the Illegal Fireworks Task Force to
the Legislature for the Regular Session of 2011, indicated that
the "majority of respondents to the [Legislative Reference]
Bureau's Survey appeared to agree that the issues and challenges
presented by the Task Force in its 2011 report remain relevant
today."

The purpose of this Act is to address the illegal
importation and use of fireworks in the State by:

(1) Authorizing the department of public safety sheriff
division to inspect shipping containers at commercial
harbors in the State or work sites;
(2) Establishing a shipping container inspection program to randomly inspect shipping containers arriving in the State, including the use of explosive-sniffing dogs to inspect the containers;

(3) Creating the shipping container inspection program special fund to collect shipping container import fees established under this Act and appropriating funds for the shipping container inspection program; and

(4) Increasing the maximum fine for certain violations of the fireworks law.

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 Inspection of shipping containers; department of public safety. (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 the State 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 carry out 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, 2020.

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

(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;
(6) Include random inspections of common carriers at the discretion of the department of public safety sheriff division; and

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

(c) Beginning July 1, 2020, the department of transportation shall assess a fee of $1 for each shipping container arriving in the State. Beginning July 1, 2021, 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.

(d) 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.

(e) 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[-r] shall be fined not more
than [$2,000] $5,000 for each violation. Notwithstanding any
provision to the contrary in this section, any person violating
section 132D-14.5 shall be fined at least $500 and no more than
$2,000."

SECTION 4. No later than twenty days prior to the
convening of the regular sessions of 2021 and 2022, the
department of public safety shall submit to the legislature
reports on the implementation of the shipping container
inspection program established pursuant to this Act. The
reports 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 $ 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 $
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, 2020.
Report Title:
Illegal Fireworks; PSD; DOT; Shipping Container Inspection Program; Special Fund; Fees; Fines; Appropriation

Description:
Authorizes the PSD sheriff division to inspect shipping containers at commercial harbors or work sites. Establishes the shipping container inspection program and shipping container inspection program special fund. Increases the maximum fine for each violation of the fireworks law. Requires PSD to submit reports to the legislature on implementation of the shipping container inspection program. Appropriates funds.

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