

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO CARGO INSPECTIONS.

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

1           SECTION 1. The legislature finds that despite the city and  
2 county of Honolulu's ban on most consumer fireworks in 2010, the  
3 problems associated with illegal aerial fireworks have not been  
4 solved. During the 2019 New Year's celebrations, Oahu  
5 communities reported seeing scores of illegal aerial fireworks.

6           The legislature further finds that the 2016 New Year's  
7 celebration on Oahu saw a significant increase in the use of  
8 illegal aerial fireworks. From November through December of  
9 2015, more than three thousand complaints were made to the  
10 Honolulu police department regarding fireworks usage. The  
11 number of arrests for fireworks violations also increased over  
12 this time and a historical home in Ewa caught fire and sustained  
13 thousands of dollars of damage as a result of an illegal aerial  
14 firework. The ease of importing illegal explosives into the  
15 State is a public safety concern that impacts all Hawaii  
16 residents and businesses.



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

20           The legislature further finds that the report of the  
21 illegal fireworks task force to the legislature for the regular



1 session of 2011, which was prepared in accordance with Act 170,  
2 Session Laws of Hawaii 2010, made recommendations in an effort  
3 to reduce illegal firework use and importation. These  
4 recommendations include increased fireworks fees and fines,  
5 increased random inspections of cargo containers, and promotion  
6 of cooperation among stakeholders.

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

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

15 "§266-A Power to inspect shipping containers. (a) In  
16 addition to any other powers provided by law, the department of  
17 public safety, sheriff division, may in its discretion inspect  
18 any shipping container situated anywhere at any commercial  
19 harbor, as defined in section 266-1, or work site to detect and  
20 confiscate any material constituting a threat directly or  
21 indirectly to the security of life or property in Hawaii,



1 including explosives, but excluding fireworks regulated under  
2 chapter 132D.

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

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

11 **§266-B Shipping container inspection program.** (a) The  
12 department of public safety, in collaboration with the  
13 departments of defense and transportation, and any federal  
14 agencies, including any of the United States armed services,  
15 state agencies, and private organizations involved with shipping  
16 cargo into the State, shall develop and implement a program to  
17 randomly inspect shipping containers arriving in Honolulu for  
18 illegal fireworks and explosives smuggled into the State. The  
19 program shall begin no later than October 1, 2019.

20 (b) The shipping container inspection program shall:



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- 1        (1) Include the use of explosive-sniffing dogs to inspect  
2        incoming shipping containers to the greatest  
3        reasonable extent;
- 4        (2) Prioritize resources toward high risk containers over  
5        low risk containers; for purposes of this paragraph,  
6        "low risk container" includes shipping containers  
7        containing goods to be delivered to the military,  
8        state or county agencies, established businesses, and  
9        major retailers;
- 10       (3) Conduct the majority of inspections away from ports,  
11       to allow timely removal of shipping containers and  
12       avoid off-loading delays;
- 13       (4) Inspect all shipping containers containing legal  
14       fireworks using personnel who are able to distinguish  
15       commercial fireworks from illegal fireworks;
- 16       (5) Include random inspections of freight forwarder  
17       warehouses and other facilities where consolidated  
18       cargo transported from any state harbor to the final  
19       destination is segregated and prepared for delivery;



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

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

6       (c) Beginning July 1, 2019, the department of  
7       transportation shall assess a fee of \$1 for each shipping  
8       container arriving in the State. Beginning July 1, 2020, the  
9       department of transportation shall assess a fee of \$2 for each  
10       shipping container arriving in the State. All fees received by  
11       the department of transportation pursuant to this subsection  
12       shall be deposited into the shipping container inspection  
13       program special fund established under section 266-C.

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

19       (e) The department of public safety may request funding  
20       from the federal government for homeland security and port



1 security measures and work with the military to secure other  
2 funding sources for the purposes of the program.

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

5 **§266-C Shipping container inspection program special fund.**

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

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

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

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

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

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

20 "(b) Except as provided in subsection (a) or as otherwise  
21 specifically provided for in this chapter, any person violating



1 any other provision of this chapter, shall be fined not more  
2 than [~~\$2,000~~] \$5,000 for each violation."

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

11 SECTION 5. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$250,000 or so much  
13 thereof as may be necessary for fiscal year 2019-2020 and the  
14 same sum or so much thereof as may be necessary for fiscal year  
15 2020-2021 to be deposited into the shipping container inspection  
16 program special fund established pursuant to this Act.

17 SECTION 6. There is appropriated out of the shipping  
18 container inspection program special fund the sum of \$250,000 or  
19 so much thereof as may be necessary for fiscal year 2019-2020  
20 and the same sum or so much thereof as may be necessary for  
21 fiscal year 2020-2021 for costs to establish and administer the



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1 shipping container inspection program, including the purchase,  
2 care, and handling of at least two explosive-sniffing dogs.

3 The sum appropriated shall be expended by the department of  
4 public safety for the purposes of this Act.

5 SECTION 7. In codifying the new sections added by section  
6 2 of this Act, the revisor of statutes shall substitute  
7 appropriate section numbers for the letters used in designating  
8 the new sections in this Act.

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

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

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**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.*

