



The Judiciary, State of Hawai‘i

**Testimony to the
Senate Committee on Judiciary**
Senator, Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran

Wednesday, April 3, 2019 10:00 AM
State Capitol, Conference Room 211

WRITTEN TESTIMONY ONLY

by
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Deputy Chief Court Administrator, First Circuit

Bill No. and Title: House Bill No. 89, HD2, SD1 Relating to Fireworks.

Purpose: Allows law enforcement agencies to safely dispose of confiscated fireworks except for a sample that is to be retained for evidentiary purposes. Authorizes the court to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the costs of safely disposing of confiscated fireworks. Establishes that each type of fireworks unlawfully imported, purchased, possessed, ignited, or discharged constitutes a separate offense. Appropriates funds as a grant to the Honolulu Police Department for a secure container in which to store confiscated fireworks.

Judiciary's Position:

The Judiciary takes no position, but submits the following comments:

The Judiciary believes that the provisions in subsection (b) of this bill that would authorize the courts to establish a step-up fine structure based on the amount of fireworks confiscated and to impose a disposal fine to reimburse the counties for the costs appears to be a policymaking determination as to particular sentences for unlawful conduct that would be inconsistent with the neutral adjudicative role of the courts to apply the law to the facts of individual cases.



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In addition, for the court to possibly impose a disposal fine to reimburse the counties may require the court to hold further hearings regarding the costs incurred by the counties. This may cause ambiguity in the process and may cause delays.

Finally, because subsection (b) authorizes the court to issue an order for payment of a fine and therefore collect the fine, subsection (c) may be simplified to read:

"Except for fines imposed pursuant to subsection (b)(2), twenty per cent of the fines collected under this section shall be paid to the State and eighty per cent of the fines collected under this section shall be paid to the county in which the fine was imposed. The county shall use the funds received under this subsection for law enforcement purposes."

Thank you for the opportunity to testify on this measure.