

**BILL007(25)**  
**Testimony**

**MISC. COMM. 46**

COUNCIL

## **COUNCIL Meeting**

Meeting Date: Jan 29, 2025 @ 10:00 AM

Support: 2

Oppose: 0

I wish to comment: 1

Name: lynne matusow	Email: lynnehi@aol.com	Zip: 96817
Representing: Self	Position: Support	Submitted: Jan 27, 2025 @ 10:28 PM
<p>Testimony:</p> <p>This is long overdue. Anything, and everything, that will stop the illegal use of fireworks needs to be done. For too long we have been subjected to needless noise, scared pets, PTSD flareups, injuries, deaths, etc. because of residents wanting to get their jollies and the public be damned.</p> <p>Please move this bill forward.</p>		
Name: Christine Denton	Email: christine.denton@honolulu.gov	Zip: 96813
Representing: Department of the Prosecuting Attorney	Position: I wish to comment	Submitted: Jan 28, 2025 @ 08:26 AM
Name: Tad Trout	Email: anakama@wik.com	Zip: 96813
Representing: TNT Fireworks	Position: Support	Submitted: Jan 29, 2025 @ 07:42 AM

**DEPARTMENT OF THE PROSECUTING ATTORNEY  
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**THE HONORABLE TOMMY WATERS, CHAIR  
HONOLULU CITY COUNCIL  
*KE KANIHELA O KE KALANA O HONOLULU*  
CITY AND COUNTY OF HONOLULU**

January 28, 2025

**RE: BILL 7; RELATING TO THE FIRE CODE**

Chair Waters, Vice-Chair Weyer, and members of the Honolulu City Council, the Department of the Prosecuting Attorney for the City and County of Honolulu offers the following **comments** on Bill 7 (2025).

**(1) The bill does not provide an enforceable definition for cases where the firework has already exploded.**

Section 1 of the bill remarks the lack of citation and prosecution for violations of the municipal prohibitions on illegal fireworks.

The City and County regulates fireworks under Chapter 20, Article 6, of the Revised Ordinances of Honolulu (ROH). Many of its provisions are patterned after the state Fireworks Control Law, codified at Hawai'i Revised Statutes (HRS) Chapter 134D.

Both Article 6 and Chapter 134D have a common weakness for effective prosecution of fireworks offenses: these laws use common definitions for regulation and prohibition. But these

are two different problems. Regulating the legal and licensed use of fireworks focuses on commercial vendors possessing unexploded materials. Prohibiting illegal use usually involves individual consumers igniting fireworks.

The problem can be best illustrated by examining the definition of an “aerial device.”

Under ROH § 20-6.1, “fireworks” must contain more than one-quarter grain of explosive substance. In turn, an “aerial device” contains 130 milligrams (approximately two grains) or less of explosive materials. Thus, one requirement for an aerial device is that it contain more than one-quarter grain but less than 130 milligrams of explosive material.

This technical specificity in defining “aerial device” is useful for regulating the legal and licensed trade in fireworks. For example, specifying the maximum amount of explosive material prevents the licensing of a bomb or a cannon or a space rocket as an “aerial device.”

But a police officer who witnesses the ignition and combustion of an aerial device cannot testify regarding the mass of explosive material that item once contained. In other words, the prosecution cannot prove the item qualifies as an “aerial device.” That evidence has literally been destroyed. So even in cases where an officer directly witnesses the explosion, a prosecution for the offense will not result in a conviction.

**(2) The City and County lacks the power to enact felony penalties.**

Section 2 of the bill proposes increased penalties for violations of Article 6 to a class C felony in certain cases where the total weight of the illegal fireworks exceeds 25 pounds.

Article VIII, § 1, of the Hawai‘i Constitution only permits a county to exercise those powers expressly conferred by a general law. And HRS § 46-1.5(14)(D) only grants each county the power to “[f]ix a penalty for the violation of any ordinance, which penalty may be a

misdemeanor, petty misdemeanor, or violation as defined by general law[.]”

Because no law authorizes a county to enact felony offenses, the proposed grading of a class C felony for certain violations of Article 6 would not be enforceable.

Nor can a county use HRS § 132D-14(2)(A) to graft felony penalties onto the violation of a municipal ordinance. The state statute addresses a narrower range of conduct than the broader ambit of potential violations under Article 6. Thus, only the conduct already prohibited under HRS § 132D-14(2)(A) would qualify for sentencing as a class C felony.

Thank you for the opportunity to testify.



Councilmember Tommy Waters, Chair  
Councilmember Matt Weyer, Vice Chair  
Honolulu City Council

**BILL 7 - RELATING TO THE FIRE CODE – SUPPORT THE INTENT**

Wednesday, January 29, 2025 at 10:00 a.m.

Aloha Chair Waters, Vice Chair Weyer and members of the council:

TNT Fireworks **supports the intent** of Bill 7 which aligns county ordinance with state statutes regarding possession of illegal aerial fireworks.

TNT is the largest distributor of fireworks in the US and an importer and seller of legal and safe consumer fireworks in Hawaii. TNT has had a presence in Hawaii for over 20 years and we partner with retailers such as Longs Drugs, Marukai, Don Quijote, Costco, Foodland, Malama Market, Food Pantry's, Times Supermarkets and many others.

Recognizing that local jurisdictions have not only become the first line of defense but one of a few lines of defense against illegal fireworks, TNT Fireworks has been partnering with cities, counties, and states in a joint effort to curb illegal fireworks.

TNT Fireworks has worked to create a variety of education materials to help educate the public about the safe and proper use of legal fireworks. Resources are also available to inform the public about the difference between Honolulu legal-fireworks and illegal fireworks. These resources are available in print form, digital content and videos. TNT Fireworks can also hand out fliers to customers informing them of local PSA's.

Enforcement is a critical component but must be in conjunction with prosecution of offenses. We look forward to offering further insights which require safety and education, effective enforcement and prosecution, and safer alternative products.

Thank you for the opportunity to testify.

Tad Trout

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