



GOV. MSG. NO. 1129

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

April 26, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

✓ The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on April 26, 2023, the following bill was signed into law:

HB426 HD1

RELATING TO FIREARMS.
ACT 028

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on APR 26 2023

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO. 426
H.D. 1

A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. Chapter 134, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . FIREARM INDUSTRY RESPONSIBILITY**

5 **§134-A Definitions.** As used in this part:

6 "Firearm accessory" means an attachment or device designed
7 or adapted to be inserted into, affixed onto, or used in
8 conjunction with a firearm that is designed, intended, or
9 functions to alter or enhance the firing capabilities of the
10 firearm, the lethality of the firearm, or a shooter's ability to
11 hold or use a firearm.

12 "Firearm industry member" means a person, firm,
13 corporation, company, partnership, society, joint stock company,
14 or any other entity or association engaged in the manufacture,
15 distribution, importation, marketing, wholesale, or retail sale
16 of firearm-related products.



1 "Firearm precursor part" means any forging, casting,
2 printing, extrusion, machined body, or similar article that has
3 reached a state in manufacture where it may readily be
4 completed, assembled, or converted to be used as the frame or
5 receiver of a functional firearm, or that is marketed or sold to
6 the public to become or be used as the frame or receiver of a
7 functional firearm once completed, assembled, or converted.

8 "Firearm-related product" means a firearm, ammunition, a
9 firearm precursor part, a firearm component, or a firearm
10 accessory that meets any of the following conditions:

- 11 (1) The item is sold, made, or distributed in the State;
- 12 (2) The item is intended to be sold or distributed in the
13 State; or
- 14 (3) The item is or was possessed in the State and it was
15 reasonably foreseeable that the item would be
16 possessed in the State.

17 "Reasonable controls" means reasonable procedures, acts, or
18 practices that are designed, implemented, and enforced to do the
19 following:

- 20 (1) Prevent the sale or distribution of a firearm-related
21 product to a straw purchaser, a firearm trafficker, a



1 person prohibited from possessing a firearm under
2 federal or state law, or a person who the firearm
3 industry member has reasonable cause to believe is at
4 substantial risk of using a firearm-related product to
5 harm themselves or another or of possessing or using a
6 firearm-related product unlawfully;

7 (2) Prevent the loss or theft of a firearm-related product
8 from the firearm industry member; and

9 (3) Ensure that the firearm industry member complies with
10 all provisions of federal or state law and does not
11 otherwise promote the unlawful manufacture, sale,
12 possession, marketing, or use of a firearm-related
13 product.

14 **§134-B Firearm industry members; standards of conduct.**

15 (a) It shall be a violation of this part for a firearm industry
16 member to fail to comply with any requirement of this part.

17 (b) A firearm industry member shall:

18 (1) Establish, implement, and enforce reasonable controls;

19 (2) Take reasonable precautions to ensure that the firearm
20 industry member does not sell, distribute, or provide
21 to a downstream distributor a firearm-related product



1 that is abnormally dangerous and likely to create an
2 unreasonable risk of harm to public health and safety
3 in the State; and

4 (3) Not engage in any conduct related to the sale or
5 marketing of firearm-related products that is in
6 violation of this chapter.

7 (c) For the purposes of this part, a firearm-related
8 product shall not be considered abnormally dangerous and likely
9 to create an unreasonable risk of harm to public health and
10 safety based on a firearm's inherent capacity to cause injury or
11 lethal harm.

12 (d) There shall be a presumption that a firearm-related
13 product is abnormally dangerous and likely to create an
14 unreasonable risk of harm to public health and safety if any of
15 the following is true:

16 (1) The firearm-related product's features render the
17 product most suitable for assaultive purposes instead
18 of lawful self-defense, hunting, or other legitimate
19 sport and recreational activities;

20 (2) The firearm-related product is designed, sold, or
21 marketed in a manner that foreseeably promotes the



1 conversion of legal firearm-related products into
2 illegal firearm-related products; or

3 (3) The firearm-related product is designed, sold, or
4 marketed in a manner that is targeted at minors or
5 other individuals who are legally prohibited from
6 accessing firearms.

7 **§134-C Violations; who may sue; relief.** (a) An act or
8 omission by a firearm industry member in violation of this part
9 shall constitute an actionable cause of action.

10 (b) A person who has suffered harm in the State because of
11 a firearm industry member's violation of this part may bring an
12 action in a court of competent jurisdiction.

13 (c) In addition to any lawsuit filed against a firearm
14 owner pursuant to section 663-9.5, the attorney general or any
15 county attorney or public prosecutor may bring a civil action in
16 a court of competent jurisdiction in the name of the people of
17 the State to enforce this part and remedy harm caused by a
18 violation of this part.

19 (d) If a court determines that a firearm industry member
20 engaged in conduct in violation of this part, the court may
21 award any or all of the following:



- 1 (1) Injunctive relief sufficient to prevent the firearm
2 industry member and any other defendant from further
3 violating the law;
- 4 (2) Damages;
- 5 (3) Attorney's fees and costs; and
- 6 (4) Any other appropriate relief necessary to enforce this
7 part and remedy the harm caused by the conduct.
- 8 (e) In an action alleging that a firearm industry member
9 failed to establish, implement, and enforce reasonable controls
10 in violation of section 134-B(b), there shall be a rebuttable
11 presumption that the firearm industry member failed to implement
12 reasonable controls if the following conditions are satisfied:
- 13 (1) The firearm industry member's action or failure to act
14 created a reasonably foreseeable risk that the harm
15 alleged by the claimant would occur; and
- 16 (2) The firearm industry member could have established,
17 implemented, and enforced reasonable controls to
18 prevent or substantially mitigate the risk that the
19 harm would occur.
- 20 (f) If a rebuttable presumption is established pursuant to
21 subsection (e), the firearm industry member shall have the



1 burden of showing through a preponderance of the evidence that
2 the firearm industry member established, implemented, and
3 enforced reasonable controls.

4 (g) An intervening act by a third party, including but not
5 limited to criminal use of a firearm-related product, shall not
6 preclude a firearm industry member from liability under this
7 part.

8 **§134-D Interpretation of part.** (a) Nothing in this part
9 shall be construed to limit or impair in any way the right of a
10 person or entity to pursue a legal action under any other
11 authority.

12 (b) Nothing in this part shall be construed to limit or
13 impair in any way an obligation or requirement placed on a
14 firearm industry member by any other authority.

15 (c) This part shall be construed and applied in a manner
16 that is consistent with the requirements of the United States
17 Constitution and the Hawaii State Constitution."

18 SECTION 2. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. In codifying the new sections added by section
7 1 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 5. This Act shall take effect on July 1, 2023.

11

APPROVED this 26th day of April , 2023

A handwritten signature in black ink that reads "Josh Green H.D.".

GOVERNOR OF THE STATE OF HAWAII



HB No. 426, HD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: March 2, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: **APR 11 2023**
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the Senate of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Ronald D. Kouchi
President of the Senate



Carol T. Taniguchi
Clerk of the Senate