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JAN 25 2023

A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY BACKGROUND CHECKS.

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

1 SECTION 1. Section 134-83, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~ §134-83 ~~[+]~~ License to sell, offer to sell, distribute,
4 or otherwise transfer electric guns or cartridges; fee. (a)
5 Any person desiring to sell, offer to sell, distribute, or
6 otherwise transfer electric guns or cartridges to a person in
7 the State, either at wholesale or retail, shall annually file an
8 application for a license to do so with the county in which the
9 person desires to conduct business or within the county to which
10 the person intends the electric guns or cartridges to be sold,
11 offered for sale, distributed, or otherwise transferred using
12 forms prescribed by the county.

13 (b) If the applicant is an individual, the application and
14 supporting documentation shall establish at least the following:

15 (1) The legal name, date of birth, and the last four
16 digits of the social security number of the
17 individual;

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- 1 (2) The street address, telephone number, fax number, and
2 electronic mail address of the individual;
- 3 (3) The name and location of the principal place of
4 business of the individual and, if applicable, each
5 additional designated place of business from which the
6 individual desires to sell, offer to sell, distribute,
7 or otherwise transfer electric guns or cartridges;
- 8 (4) The individual's Hawaii tax identification number;
- 9 (5) That the individual has had no convictions for any
10 felony offense;
- 11 (6) Within the last three years, that the individual has
12 completed an electric gun safety or training course
13 offered or approved by the county that focuses on:
- 14 (A) The safe use and handling of electric guns;
- 15 (B) Current information about the effects, dangers,
16 risks, and limitations of electric guns; and
- 17 (C) Education on the existing state laws on electric
18 guns; and
- 19 (7) Any other information the county may require.
- 20 (c) If the applicant is not an individual, the application
21 and supporting documentation shall establish at least the
22 following:

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- 1 (1) The name of the applying entity and any other name
2 under which the applying entity does business, if
3 applicable;
- 4 (2) The street address, telephone number, fax number, and
5 electronic mail address of the applying entity;
- 6 (3) The legal name, date of birth, and the last four
7 digits of the social security number of each of the
8 principal owners or members of the applying entity;
- 9 (4) The street address, telephone number, fax number, and
10 electronic mail address of each of the principal
11 owners or members of the applying entity;
- 12 (5) The name and location of the principal place of
13 business of the applying entity and, if applicable,
14 each additional designated place of business from
15 which the applying entity desires to sell, offer to
16 sell, distribute, or otherwise transfer electric guns
17 or cartridges;
- 18 (6) That the applying entity is registered to do business
19 in the State;
- 20 (7) That the applying entity is composed of principal
21 owners or members who have had no convictions for any
22 felony offense;

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- 1 (8) The applying entity's Hawaii tax identification
2 number;
- 3 (9) The applying entity's federal employer identification
4 number;
- 5 (10) Within the last three years, that at least one
6 principal owner or member of the applying entity has
7 completed an electric gun safety or training course,
8 as described in subsection (b) (6); and
- 9 (11) Any other information the county may require.
- 10 (d) The applicant shall certify that the applicant will
11 comply at all times with, and is responsible for compliance by
12 its employees with, all provisions of law relative to the
13 acquisition, possession, storage, sale, offer for sale,
14 distribution, and transfer of electric guns and cartridges.
- 15 (e) Every applicant or, in the case of an entity, every
16 principal owner or member of the applying entity, shall be
17 fingerprinted and photographed by the police department of the
18 county of application; provided that this requirement shall be
19 waived where fingerprints and photographs are already on file
20 with the police department. The police department may perform a
21 fingerprint-based criminal history background check pursuant to
22 section 846-2.7, before any determination to issue a license is

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1 made. The applicant shall be responsible for all applicable
2 fees.

3 [~~e~~] (f) Upon receipt of the completed application form
4 and the annual licensing fee of \$50 payable to the county, the
5 county shall review the application and may issue a license to
6 the applicant if it determines that the applicant meets all the
7 requirements of this section. If requested by the licensee, the
8 county shall also provide certified copies of the license to the
9 licensee.

10 [~~f~~] (g) A license issued pursuant to this section shall
11 expire on June 30 next following the date of issuance of the
12 license unless sooner terminated. Application for renewal of
13 license shall be filed on or before July 1 of each year."

14 SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Criminal history record checks may be conducted by:
17 (1) The department of health or its designee on operators
18 of adult foster homes for individuals with
19 developmental disabilities or developmental
20 disabilities domiciliary homes and their employees, as
21 provided by section 321-15.2;

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- 1 (2) The department of health or its designee on
2 prospective employees, persons seeking to serve as
3 providers, or subcontractors in positions that place
4 them in direct contact with clients when providing
5 non-witnessed direct mental health or health care
6 services as provided by section 321-171.5;
- 7 (3) The department of health or its designee on all
8 applicants for licensure or certification for,
9 operators for, prospective employees, adult
10 volunteers, and all adults, except adults in care, at
11 healthcare facilities as defined in section 321-15.2;
- 12 (4) The department of education on employees, prospective
13 employees, and teacher trainees in any public school
14 in positions that necessitate close proximity to
15 children as provided by section 302A-601.5;
- 16 (5) The counties on employees and prospective employees
17 who may be in positions that place them in close
18 proximity to children in recreation or child care
19 programs and services;
- 20 (6) The county liquor commissions on applicants for liquor
21 licenses as provided by section 281-53.5;

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- 1 (7) The county liquor commissions on employees and
2 prospective employees involved in liquor
3 administration, law enforcement, and liquor control
4 investigations;
- 5 (8) The department of human services on operators and
6 employees of child caring institutions, child placing
7 organizations, and foster boarding homes as provided
8 by section 346-17;
- 9 (9) The department of human services on prospective
10 adoptive parents as established under section
11 346-19.7;
- 12 (10) The department of human services or its designee on
13 applicants to operate child care facilities, household
14 members of the applicant, prospective employees of the
15 applicant, and new employees and household members of
16 the provider after registration or licensure as
17 provided by section 346-154, and persons subject to
18 section 346-152.5;
- 19 (11) The department of human services on persons exempt
20 pursuant to section 346-152 to be eligible to provide
21 child care and receive child care subsidies as
22 provided by section 346-152.5;

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- 1 (12) The department of health on operators and employees of
2 home and community-based case management agencies and
3 operators and other adults, except for adults in care,
4 residing in community care foster family homes as
5 provided by section 321-15.2;
- 6 (13) The department of human services on staff members of
7 the Hawaii youth correctional facility as provided by
8 section 352-5.5;
- 9 (14) The department of human services on employees,
10 prospective employees, and volunteers of contracted
11 providers and subcontractors in positions that place
12 them in close proximity to youth when providing
13 services on behalf of the office or the Hawaii youth
14 correctional facility as provided by section 352D-4.3;
- 15 (15) The judiciary on employees and applicants at detention
16 and shelter facilities as provided by section 571-34;
- 17 (16) The department of public safety on employees and
18 prospective employees who are directly involved with
19 the treatment and care of persons committed to a
20 correctional facility or who possess police powers
21 including the power of arrest as provided by section
22 353C-5;

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- 1 (17) The board of private detectives and guards on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
12 employees whose positions place them in close
13 proximity to children as provided by section
14 302A-601.5;
- 15 (20) The State or any of its branches, political
16 subdivisions, or agencies on applicants and employees
17 holding a position that has the same type of contact
18 with children, vulnerable adults, or persons committed
19 to a correctional facility as other public employees
20 who hold positions that are authorized by law to
21 require criminal history record checks as a condition
22 of employment as provided by section 78-2.7;

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- 1 (21) The department of health on licensed adult day care
2 center operators, employees, new employees,
3 subcontracted service providers and their employees,
4 and adult volunteers as provided by section 321-15.2;
- 5 (22) The department of human services on purchase of
6 service contracted and subcontracted service providers
7 and their employees serving clients of the adult
8 protective and community services branch, as provided
9 by section 346-97;
- 10 (23) The department of human services on foster grandparent
11 program, senior companion program, and respite
12 companion program participants as provided by section
13 346-97;
- 14 (24) The department of human services on contracted and
15 subcontracted service providers and their current and
16 prospective employees that provide home and community-
17 based services under section 1915(c) of the Social
18 Security Act, title 42 United States Code section
19 1396n(c), or under any other applicable section or
20 sections of the Social Security Act for the purposes
21 of providing home and community-based services, as
22 provided by section 346-97;

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- 1 (25) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a bank,
3 savings bank, savings and loan association, trust
4 company, and depository financial services loan
5 company as provided by section 412:3-201;
- 6 (26) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;
- 10 (27) The department of commerce and consumer affairs on the
11 original chartering applicants and proposed executive
12 officers of a credit union as provided by section
13 412:10-103;
- 14 (28) The department of commerce and consumer affairs on:
- 15 (A) Each principal of every non-corporate applicant
16 for a money transmitter license;
- 17 (B) Each person who upon approval of an application
18 by a corporate applicant for a money transmitter
19 license will be a principal of the licensee; and
- 20 (C) Each person who upon approval of an application
21 requesting approval of a proposed change in

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1 control of licensee will be a principal of the
2 licensee,

3 as provided by sections 489D-9 and 489D-15;

4 (29) The department of commerce and consumer affairs on
5 applicants for licensure and persons licensed under
6 title 24;

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

10 (C) Current or prospective members of the corporation
11 board or regional system board; or

12 (D) Current or prospective volunteers, providers, or
13 contractors,

14 in any of the corporation's health facilities as
15 provided by section 323F-5.5;

16 (31) The department of commerce and consumer affairs on:

17 (A) An applicant for a mortgage loan originator
18 license, or license renewal; and

19 (B) Each control person, executive officer, director,
20 general partner, and managing member of an
21 applicant for a mortgage loan originator company
22 license or license renewal,

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- 1 as provided by chapter 454F;
- 2 (32) The state public charter school commission or public
3 charter schools on employees, teacher trainees,
4 prospective employees, and prospective teacher
5 trainees in any public charter school for any position
6 that places them in close proximity to children, as
7 provided in section 302D-33;
- 8 (33) The counties on prospective employees who work with
9 children, vulnerable adults, or senior citizens in
10 community-based programs;
- 11 (34) The counties on prospective employees for fire
12 department positions that involve contact with
13 children or vulnerable adults;
- 14 (35) The counties on prospective employees for emergency
15 medical services positions that involve contact with
16 children or vulnerable adults;
- 17 (36) The counties on prospective employees for emergency
18 management positions and community volunteers whose
19 responsibilities involve planning and executing
20 homeland security measures including viewing,
21 handling, and engaging in law enforcement or

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- 1 classified meetings and assisting vulnerable citizens
2 during emergencies or crises;
- 3 (37) The State and counties on employees, prospective
4 employees, volunteers, and contractors whose position
5 responsibilities require unescorted access to secured
6 areas and equipment related to a traffic management
7 center;
- 8 (38) The State and counties on employees and prospective
9 employees whose positions involve the handling or use
10 of firearms for other than law enforcement purposes;
- 11 (39) The State and counties on current and prospective
12 systems analysts and others involved in an agency's
13 information technology operation whose position
14 responsibilities provide them with access to
15 proprietary, confidential, or sensitive information;
- 16 (40) The department of commerce and consumer affairs on:
17 (A) Applicants for real estate appraiser licensure or
18 certification as provided by chapter 466K;
19 (B) Each person who owns more than ten per cent of an
20 appraisal management company who is applying for
21 registration as an appraisal management company,
22 as provided by section 466L-7; and

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1 (C) Each of the controlling persons of an applicant
2 for registration as an appraisal management
3 company, as provided by section 466L-7;

4 (41) The department of health or its designee on all
5 license applicants, licensees, employees, contractors,
6 and prospective employees of medical cannabis
7 dispensaries, and individuals permitted to enter and
8 remain in medical cannabis dispensary facilities as
9 provided under sections 329D-15(a)(4) and
10 329D-16(a)(3);

11 (42) The department of commerce and consumer affairs on
12 applicants for nurse licensure or license renewal,
13 reactivation, or restoration as provided by sections
14 457-7, 457-8, 457-8.5, and 457-9;

15 (43) The county police departments on applicants for
16 permits to acquire firearms pursuant to section 134-2
17 [~~and~~], on individuals registering their firearms
18 pursuant to section 134-3[~~7~~], and on applicants for
19 licenses to sell, offer to sell, distribute, or
20 otherwise transfer electric guns or cartridges
21 pursuant to section 134-83;

22 (44) The department of commerce and consumer affairs on:

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1 (A) Each of the controlling persons of the applicant
2 for licensure as an escrow depository, and each
3 of the officers, directors, and principals who
4 will be in charge of the escrow depository's
5 activities upon licensure; and

6 (B) Each of the controlling persons of an applicant
7 for proposed change in control of an escrow
8 depository licensee, and each of the officers,
9 directors, and principals who will be in charge
10 of the licensee's activities upon approval of
11 such application,

12 as provided by chapter 449;

13 (45) The department of taxation on current or prospective
14 employees or contractors who have access to federal
15 tax information in order to comply with requirements
16 of federal law, regulation, or procedure, as provided
17 by section 231-1.6;

18 (46) The department of labor and industrial relations on
19 current or prospective employees or contractors who
20 have access to federal tax information in order to
21 comply with requirements of federal law, regulation,
22 or procedure, as provided by section 383-110;

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- 1 (47) The department of human services on current or
2 prospective employees or contractors who have access
3 to federal tax information in order to comply with
4 requirements of federal law, regulation, or procedure,
5 as provided by section 346-2.5;
- 6 (48) The child support enforcement agency on current or
7 prospective employees, or contractors who have access
8 to federal tax information in order to comply with
9 federal law, regulation, or procedure, as provided by
10 section 576D-11.5;
- 11 (49) The department of the attorney general on current or
12 prospective employees or employees or agents of
13 contractors who have access to federal tax information
14 to comply with requirements of federal law,
15 regulation, or procedure, as provided by section 28-
16 17;
- 17 [+] (50) [+] The department of commerce and consumer affairs on
18 each control person, executive office, director,
19 general partner, and managing member of an installment
20 loan licensee, or an application for an installment
21 loan license, as provided in chapter 480J;

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Report Title:

Electric Guns; Sellers; Distributors; Licensing; Criminal
History Background Check

Description:

Authorizes a fingerprint-based criminal history background check by the county police departments of applicants for licenses to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

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DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY BACKGROUND CHECKS.

PURPOSE: To protect the health and safety of the public by allowing the chief of police of each county to conduct state and national fingerprint-based criminal history background checks on applicants for licenses to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges.

MEANS: Amend sections 134-83 and 846-2.7, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Pursuant to section 134-83, HRS, an applicant for a license to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges shall establish that the applicant has had no felony convictions. Currently, background checks conducted on applicants through the Hawaii Criminal Justice Data Center are limited to searches of Hawaii criminal convictions. To maximize public safety and comply with section 134-83, HRS, the county police chiefs need the ability to run fingerprint-based national criminal background checks and obtain national arrest and conviction information to verify that the applicant does not have any felony convictions. Amendments to sections 134-83 and 846-2.7, HRS, are necessary to permit the chief of police of each county to utilize the national criminal databases to perform criminal history background checks on the license applicants.

Impact on the public: Increases public safety by ensuring those who sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges do not have

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disqualifying criminal convictions in Hawaii or elsewhere in the United States.

Impact on the department and other agencies:
The counties are responsible for issuing licenses to sell, offer to sell, distribute, or otherwise transfer electric guns and cartridges, and the bill will enable them to utilize national criminal databases to determine whether an applicant is eligible to obtain a license or is disqualified by virtue of having a felony conviction.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: County police and licensing departments.

EFFECTIVE DATE: Upon approval.