
A BILL FOR AN ACT

RELATING TO THE POSSESSION OF FIREARMS WHILE CONSUMING OR UNDER
THE INFLUENCE OF AN INTOXICANT.

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

1 SECTION 1. Section 134-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§134-7 Ownership or possession prohibited, when; penalty.

4 (a) No person who is a fugitive from justice or is a person
5 prohibited from possessing firearms or ammunition under federal
6 law shall own, possess, or control any firearm or ammunition
7 therefor.

8 (b) No person who is under indictment for, or has waived
9 indictment for, or has been bound over to the circuit court for,
10 or has been convicted in this State or elsewhere of having
11 committed a felony, or any crime of violence, or an illegal sale
12 of any drug shall own, possess, or control any firearm or
13 ammunition therefor.

14 (c) No person who:

15 (1) Is or has been under treatment or counseling for
16 addiction to, abuse of, or dependence upon any



1 dangerous, harmful, or detrimental drug, intoxicating
2 compound as defined in section 712-1240, or
3 intoxicating liquor;

4 (2) Has been acquitted of a crime on the grounds of mental
5 disease, disorder, or defect pursuant to section 704-
6 411; or

7 (3) Is or has been diagnosed as having a significant
8 behavioral, emotional, or mental disorders as defined
9 by the most current diagnostic manual of the American
10 Psychiatric Association or for treatment for organic
11 brain syndromes;

12 shall own, possess, or control any firearm or ammunition
13 therefor, unless the person has been medically documented to be
14 no longer adversely affected by the addiction, abuse,
15 dependence, mental disease, disorder, or defect.

16 (d) No person who is less than twenty-five years old and
17 has been adjudicated by the family court to have committed a
18 felony, two or more crimes of violence, or an illegal sale of
19 any drug shall own, possess or control any firearm or ammunition
20 therefor.

21 (e) No minor who:



1 (1) Is or has been under treatment for addiction to any
2 dangerous, harmful, or detrimental drug, intoxicating
3 compound as defined in section 712-1240, or
4 intoxicating liquor;

5 (2) Is a fugitive from justice; or

6 (3) Has been determined not to have been responsible for a
7 criminal act or has been committed to any institution
8 on account of a mental disease, disorder, or defect;

9 shall own, possess, or control any firearm or ammunition
10 therefor, unless the minor has been medically documented to be
11 no longer adversely affected by the addiction, mental disease,
12 disorder, or defect.

13 For the purposes of enforcing this section, and
14 notwithstanding section 571-84 or any other law to the contrary,
15 any agency within the State shall make its records relating to
16 family court adjudications available to law enforcement
17 officials.

18 (f) No person who has been restrained pursuant to an order
19 of any court, including an ex parte order as provided in this
20 subsection, from contacting, threatening, or physically abusing
21 any person, shall possess, control, or transfer ownership of any



1 firearm or ammunition therefor, so long as the protective order,
2 restraining order, or any extension is in effect, unless the
3 order, for good cause shown, specifically permits the possession
4 of a firearm and ammunition. The restraining order or order of
5 protection shall specifically include a statement that
6 possession, control, or transfer of ownership of a firearm or
7 ammunition by the person named in the order is prohibited. Such
8 person shall relinquish possession and control of any firearm
9 and ammunition owned by that person to the police department of
10 the appropriate county for safekeeping for the duration of the
11 order or extension thereof. In the case of an ex parte order,
12 the affidavit or statement under oath that forms the basis for
13 the order shall contain a statement of the facts that support a
14 finding that the person to be restrained owns, intends to obtain
15 or to transfer ownership of, or possesses a firearm, and that
16 the firearm may be used to threaten, injure, or abuse any
17 person. The ex parte order shall be effective upon service
18 pursuant to section 586-6. At the time of service of a
19 restraining order involving firearms and ammunition issued by
20 any court, the police officer may take custody of any and all
21 firearms and ammunition in plain sight, those discovered



1 pursuant to a consensual search, and those firearms surrendered
2 by the person restrained. If the person restrained is the
3 registered owner of a firearm and knows the location of the
4 firearm, but refuses to surrender the firearm or refuses to
5 disclose the location of the firearm, the person restrained
6 shall be guilty of a misdemeanor. In any case, when a police
7 officer is unable to locate the firearms and ammunition either
8 registered under this chapter or known to the person granted
9 protection by the court, the police officer shall apply to the
10 court for a search warrant pursuant to chapter 803 for the
11 limited purpose of seizing the firearm and ammunition.

12 For the purposes of this subsection, good cause shall not
13 be based solely upon the consideration that the person subject
14 to restraint pursuant to an order of any court, including an ex
15 parte order as provided for in this subsection, is required to
16 possess or carry firearms or ammunition during the course of the
17 person's employment. Good cause consideration may include but
18 not be limited to the protection and safety of the person to
19 whom a restraining order is granted.



1 (g) No person shall physically possess any firearm while
2 consuming or under the influence of an intoxicant, as defined in
3 section 291E-1.

4 [~~(g)~~—Any] (h) Except for matters arising under subsection
5 (g), any person disqualified from ownership, possession,
6 control, or the right to transfer ownership of firearms and
7 ammunition under this section shall surrender or dispose of all
8 firearms and ammunition in compliance with section 134-7.3.

9 [~~(h)~~] (i) Any person violating subsection (a) or (b) shall
10 be guilty of a class C felony; provided that any felon violating
11 subsection (b) shall be guilty of a class B felony. Any person
12 violating subsection (c), (d), (e), (f), [~~e~~] (g), or (h) shall
13 be guilty of a misdemeanor."

14 SECTION 2. Section 134-7.3, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) [~~Any~~] Except for matters arising under section 134-
17 7(g), any person disqualified from ownership, possession, or
18 control of firearms and ammunition under section 134-7 shall
19 voluntarily surrender all firearms and ammunition to the chief
20 of police where the person resides or dispose of all firearms
21 and ammunition. If any person fails to voluntarily surrender or



H.B. NO. 626

1 dispose of all firearms and ammunition within thirty days from
 2 the date of disqualification, the chief of police may seize all
 3 firearms and ammunition."

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

7 SECTION 4. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY:

Claw

Hal Abroad

Conse om

Ryan

Or

Mark Ryan

Julio A. Rucchi

[Signature]



H.B. NO. 626

Report Title:

Firearms; Possession While Consuming or Under the Influence of Intoxicants

Description:

Prohibits the physical possession of any firearm while consuming or under the influence of an intoxicant.

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