

JAN 22 2015

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# A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1       SECTION 1. With certain exceptions, Hawaii law requires  
2 gun purchasers to obtain a permit prior to purchasing a new  
3 firearm. Pursuant to statute, a permit to purchase a firearm  
4 may not be obtained until at least fourteen calendar days after  
5 the date of the permit application. This waiting period applies  
6 to applicants who are purchasing their first firearm and to  
7 those who already lawfully own a firearm.

8       On August 22, 2014, however, the United States District  
9 Court for the Eastern District of California determined that a  
10 law requiring a ten-day waiting period for individuals who  
11 already lawfully own a firearm and pass the background check  
12 prior to the end of the ten-day waiting period, violates the  
13 Second Amendment of the United States Constitution, regarding  
14 the right to bear arms. In *Silvester v. Harris*, the defendants  
15 argued that the California ten-day waiting period is justified  
16 as necessary for the permitting agency to perform a background  
17 check; to provide a cooling off period for the purchaser; and to



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1 allow law enforcement officers time to investigate straw  
2 purchases. After a thorough analysis, the Court determined that  
3 these justifications did not pass constitutional muster when  
4 applied to those who already lawfully own a firearm and pass the  
5 background check prior to the end of the waiting period. Among  
6 other things, the Court noted that a mandatory waiting period,  
7 or a cooling off period, will not deter a person who already  
8 owns a firearm from committing impulsive acts of violence with a  
9 firearm.

10 In light of the recent California decision, the legislature  
11 finds that Hawaii's law requiring a fourteen-day waiting period,  
12 as applied to gun purchasers who already own firearms, similarly  
13 violates the Second Amendment of the United States Constitution,  
14 and should be amended accordingly. The purpose of this Act is  
15 to remove the waiting period requirement for firearm permit  
16 applicants who already own a lawfully registered firearm.

17 SECTION 2. Section 134-2, Hawaii Revised Statutes, is  
18 amended by amending subsection (e) to read as follows:

19 "(e) The permit application form shall be signed by the  
20 applicant and by the issuing authority. One copy of the permit  
21 shall be retained by the issuing authority as a permanent



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1 official record. Except for sales to dealers licensed under  
2 section 134-31, or dealers licensed by the United States  
3 Department of Justice, or law enforcement officers, or where a  
4 license is granted under section 134-9, or where any firearm is  
5 registered pursuant to section 134-3(a), no permit shall be  
6 issued to an applicant earlier than fourteen calendar days after  
7 the date of the application; provided that [a]:

8 (1) There shall not be a waiting period for an applicant  
9 who owns a firearm previously registered under this  
10 section; and

11 (2) A permit shall be issued or the application denied  
12 before the twentieth day from the date of application.

13 Permits issued to acquire any pistol or revolver shall be  
14 void unless used within ten days after the date of issue.

15 Permits to acquire a pistol or revolver shall require a separate  
16 application and permit for each transaction. Permits issued to  
17 acquire any rifle or shotgun shall entitle the permittee to make  
18 subsequent purchases of rifles or shotguns for a period of one  
19 year from the date of issue without a separate application and  
20 permit for each acquisition, subject to the disqualifications  
21 under section 134-7 and subject to revocation under section 134-



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1 13; provided that if a permittee is arrested for committing a  
2 felony or any crime of violence or for the illegal sale of any  
3 drug, the permit shall be impounded and shall be surrendered to  
4 the issuing authority. The issuing authority shall perform an  
5 inquiry on an applicant who is a citizen of the United States by  
6 using the National Instant Criminal Background Check System  
7 before any determination to issue a permit or to deny an  
8 application is made. If the applicant is not a citizen of the  
9 United States and may be eligible to acquire a firearm under  
10 this chapter, the issuing authority shall perform an inquiry on  
11 the applicant, by using the National Instant Criminal Background  
12 Check System, to include a check of the Immigration and Customs  
13 Enforcement databases, before any determination to issue a  
14 permit or to deny an application is made."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18 INTRODUCED BY:

  
By Request



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**Report Title:**

Firearms; Registration; Waiting Period

**Description:**

Provides that owners of previously registered firearms in this State shall not be subject to the existing permit waiting period when seeking a permit to allow for the acquisition of another firearm.

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

