
A BILL FOR AN ACT

RELATING TO ELECTRIC GUNS.

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

1 SECTION 1. The legislature finds that the United States
2 Supreme Court decision in Caetano v. Massachusetts, 136 S. Ct.
3 1027 (2016), which overruled a decision of the Massachusetts
4 Supreme Judicial Court, has raised questions regarding the
5 constitutionality of bans on electric guns, and may make
6 amendments to Hawaii's law on electric guns advisable.

7 The purpose of this Act is to protect the health and safety
8 of the public by regulating the sale and use of electric guns.

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

12 **"PART . ELECTRIC GUNS**

13 **§134-A Definitions.** As used in this part:

14 "Cartridge" means any device or object that is designed to
15 be used with an electric gun to project a missile. "Cartridge"
16 includes but is not limited to a Taser cartridge.



1 "Electric gun" means any portable device that is designed
2 to discharge electric energy, charge, voltage, or current into
3 the body through direct contact or utilizing a projectile.

4 "Electric gun" includes but is not limited to devices commonly
5 referred to as stun guns and Tasers. "Electric gun" does not
6 include any automatic defibrillator used in emergency medical
7 situations.

8 "Electric projectile gun" means an electric gun that is
9 designed to discharge electric energy, charge, voltage, or
10 current into the body through a projectile. "Electric
11 projectile gun" includes but is not limited to a Taser.

12 "Law enforcement agency" means any county police
13 department, the department of public safety, the department of
14 the attorney general, the division of conservation and resources
15 enforcement of the department of land and natural resources, and
16 any other state or county public body that employs law
17 enforcement officers.

18 "Law enforcement officer" means a sheriff or deputy
19 sheriff, a police officer, an enforcement officer within the
20 division of conservation and resources enforcement of the
21 department of land and natural resources, a special agent of the



1 department of the attorney general, and any other public servant
2 vested by law with a duty to maintain public order, make arrests
3 for offenses, or enforce criminal laws, whether that duty
4 extends to all offenses or is limited to a specific class of
5 offenses.

6 "Licensee" means a person licensed to sell, offer to sell,
7 distribute, or otherwise transfer electric guns and cartridges
8 pursuant to section 134-E.

9 "Person" means an individual, firm, corporation,
10 partnership, association, or any form of business or legal
11 entity.

12 "Transfer" means the granting of possession or ownership to
13 another. "Transfer" includes the granting of temporary
14 possession to another.

15 **§134-B Restrictions on use, sale, and transfer of electric**
16 **guns and cartridges.** (a) It shall be unlawful for any person
17 to knowingly or recklessly use an electric gun for any purpose
18 except:

19 (1) Self-defense;

20 (2) Defense of another person; or



1 (3) Protection of property of the person or of another
2 person.

3 (b) It shall be unlawful for any person to knowingly sell,
4 offer for sale, distribute, or otherwise transfer an electric
5 gun or cartridge without a license obtained pursuant to section
6 134-E.

7 It is an affirmative defense to prosecution pursuant to
8 this subsection that the person is more than twenty-one years of
9 age and is an employee of a licensee acting within the scope of
10 the person's employment.

11 (c) It shall be unlawful for a licensee or employee of a
12 licensee to knowingly sell, distribute, or otherwise transfer an
13 electric gun or cartridge from a place other than the licensee's
14 designated place of business.

15 (d) It shall be unlawful for any person to knowingly sell,
16 offer for sale, distribute, or otherwise transfer an electric
17 gun or cartridge to a minor.

18 (e) It shall be unlawful for any person, other than a
19 licensee, a law enforcement agency, or the army or air national
20 guard to knowingly or recklessly purchase, obtain, or otherwise



1 receive an electric gun or cartridge from a person who does not
2 have a license issued pursuant to section 134-E.

3 (f) Any person violating this section shall be guilty of a
4 misdemeanor.

5 **§134-C Permits to acquire electric projectile gun. (a)**

6 No person shall acquire the ownership of an electric projectile
7 gun, whether usable or unusable, serviceable or unserviceable,
8 registered by a prior owner or unregistered, either by purchase,
9 gift, inheritance, bequest, or in any other manner, whether
10 procured in the State or imported by mail, express, freight, or
11 otherwise, until the person has first procured from the chief of
12 police of the county of the person's place of business or, if
13 there is no place of business, the person's residence or, if
14 there is neither place of business nor residence, the person's
15 place of sojourn, a permit to acquire the ownership of an
16 electric projectile gun. When title to any electric projectile
17 gun is acquired by inheritance or bequest, the permit shall be
18 obtained before taking possession of an electric projectile gun;
19 provided that upon presentation of a copy of the death
20 certificate of the owner making the bequest, any heir or legatee
21 may transfer the inherited or bequeathed electric projectile gun



1 directly to a person licensed under section 134-E without
2 complying with the requirements of this section.

3 (b) The permit application form shall include the
4 applicant's name, address, sex, height, weight, date of birth,
5 place of birth, country of citizenship, social security number,
6 alien or admission number, and information regarding the
7 applicant's mental health history and shall require the
8 fingerprinting and photographing of the applicant by the police
9 department of the county of registration; provided that this
10 requirement may be waived where fingerprints and photographs are
11 already on file with the police department.

12 (c) An applicant for a permit shall sign a waiver at the
13 time of application, allowing the chief of police of the county
14 issuing the permit access to any records that have a bearing on
15 the mental health of the applicant. The permit application form
16 and the waiver form shall be prescribed by the attorney general
17 and shall be uniform throughout the State.

18 (d) The chief of police of the respective counties may
19 issue permits to acquire electric projectile guns to citizens of
20 the United States, United States nationals, or legal aliens of
21 the age of twenty-one years or more.



(e) The permit application form shall be signed by the applicant and by the issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to persons licensed under section 134-E, no permit shall be issued to an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the twentieth day from the date of application. Permits issued to acquire any electric projectile gun shall be void unless used within ten days after the date of issue. Permits to acquire an electric projectile gun shall require a separate application and permit for each transaction. The issuing authority shall perform a fingerprint-based background check pursuant to section 846-2.7 before any determination to issue a permit or to deny an application is made.

(f) In all cases where an electric projectile gun is acquired from another person within the State, the permit shall be signed in ink by the person to whom title to the electric projectile gun is transferred and shall be delivered to the person who is transferring title to the electric projectile gun, who shall verify that the person to whom the electric projectile



1 gun is to be transferred is the person named in the permit and
2 enter on the permit in the space provided the following
3 information:

4 (1) Name of the person to whom the title to the electric
5 projectile gun was transferred;

6 (2) Names of the manufacturer and importer;

7 (3) Model; and

8 (4) Serial number, as applicable.

9 The person who is transferring title to the electric projectile
10 gun shall sign the permit in ink and cause the permit to be
11 delivered or sent by registered mail to the issuing authority
12 within forty-eight hours after transferring the electric
13 projectile gun.

14 In all cases where receipt of an electric projectile gun is
15 had by mail, express, freight, or otherwise from sources without
16 the State, the person to whom the permit has been issued shall
17 make the prescribed entries on the permit, sign the permit in
18 ink, and cause the permit to be delivered or sent by registered
19 mail to the issuing authority within forty-eight hours after
20 taking possession of the electric projectile gun.



1 (g) No person shall be issued a permit under this section
2 unless the person, at any time prior to the issuance of the
3 permit, has completed an electric projectile gun safety or
4 training course offered by the county, or approved by the
5 county, that focuses on:

6 (1) The safe use and handling of electric projectile guns;

7 (2) Current information about the effects, dangers, risks,
8 and limitations of electric projectile guns; and

9 (3) Education on the existing state laws on electric
10 projectile guns.

11 (h) No person shall sell, give, lend, or deliver into the
12 possession of another any electric projectile gun except in
13 accordance with this part.

14 (i) All fees for capturing and processing fingerprints and
15 for processing the fingerprint-based background check shall be
16 chargeable by and payable to the issuing county on behalf of the
17 Hawaii criminal justice data center and the Federal Bureau of
18 Investigation pursuant to section 846-2.7. Fees imposed
19 pursuant to section 846-2.7 shall be remitted by the issuing
20 county to the Hawaii criminal justice data center.



(j) Any person, including any licensee, violating subsection (a), (f), or (h) shall be guilty of a misdemeanor.

§134-D Registration. (a) Every person arriving in the State who brings or by any other manner causes to be brought into the State an electric gun of any description, whether usable or unusable, serviceable or unserviceable, shall register the electric gun within five days after arrival of the person or of the electric gun, whichever arrives later, with the chief of police of the county of the person's place of business or, if there is no place of business, the person's residence or, if there is neither a place of business nor residence, the person's place of sojourn.

Every person registering an electric gun under this subsection shall complete the application for a permit and waiver pursuant to section 134-C. The application shall include the person's fingerprints and photograph by the police department of the county of registration; provided that this requirement shall be waived where fingerprints and photographs are already on file with the police department. The police department shall perform a fingerprint-based background check pursuant to section 846-2.7 before any determination to register



1 an electric gun is made. The issued permit to acquire shall be
2 used for the registration of the electric gun. If the electric
3 gun has no serial number, the permit number shall be entered in
4 the space provided for the serial number, and the permit number
5 shall be engraved upon the electric gun prior to registration.

6 (b) Every person who manufactures an electric gun shall
7 register the electric gun in the manner prescribed by this
8 section within five days of manufacture. A licensee shall not
9 be required to have the electric guns physically inspected by
10 the chief of police at the time of registration under this
11 subsection.

12 Every person registering an electric gun under this
13 subsection shall be fingerprinted and photographed by the police
14 department of the county of registration; provided that this
15 requirement shall be waived where fingerprints and photographs
16 are already on file with the police department. The police
17 department shall perform a fingerprint-based background check
18 pursuant to section 846-2.7 before any determination to register
19 an electric gun is made. If the electric gun has no serial
20 number, an application for a permit pursuant to section 134-C
21 shall be completed, but no permit shall be issued, and the



1 permit number shall be entered in the space provided for the
2 serial number, and the permit number shall be engraved upon the
3 electric gun prior to registration.

4 (c) Every person who acquires an electric projectile gun
5 pursuant to section 134-F shall register the electric projectile
6 gun in the manner prescribed by this section within five days of
7 acquisition. If the electric projectile gun has no serial
8 number, the permit number shall be entered in the space provided
9 for the serial number, and the permit number shall be engraved
10 upon the electric projectile gun prior to registration.

11 (d) The registration shall be on forms prescribed by the
12 attorney general, which shall be uniform throughout the State,
13 and shall include the following information: name of the
14 manufacturer and importer; model; serial number; and source from
15 which receipt was obtained, including the name and address of
16 the prior registrant. All registration data that would identify
17 the individual registering the electric gun by name or address
18 shall be confidential and shall not be disclosed to anyone,
19 except as may be required:

20 (1) For processing the registration;



1 (2) For database management by the Hawaii criminal justice
2 data center;

3 (3) By a law enforcement agency for the lawful performance
4 of its duties; or

5 (4) By order of a court.

6 (e) A licensee shall register electric projectile guns
7 pursuant to this section on registration forms prescribed by the
8 attorney general and shall not be required to have the electric
9 projectile guns physically inspected by the chief of police at
10 the time of registration.

11 (f) All fees for capturing and processing fingerprints and
12 for processing the fingerprint-based background check shall be
13 chargeable by and payable to the issuing county on behalf of the
14 Hawaii criminal justice data center and the Federal Bureau of
15 Investigation pursuant to section 846-2.7. Fees imposed
16 pursuant to section 846-2.7 shall be remitted by the issuing
17 county to the Hawaii criminal justice data center.

18 (g) The person registering an electric gun shall have the
19 electric gun physically inspected by the chief of police or
20 chief of police's designee at the time of registration except as
21 provided in subsections (b) and (e). If the person registering



1 an electric gun is prohibited from owning, possessing, or
2 controlling an electric gun, the registration shall be denied
3 and the electric gun shall be surrendered to the chief of police
4 or the chief of police's designee for disposal as provided in
5 section 134-G.

6 (h) Any person, including any licensee, violating this
7 section shall be guilty of a misdemeanor.

8 **§134-E License to sell or distribute electric guns or**
9 **cartridges; fee.** (a) Any person desiring to sell, offer for
10 sale, distribute, or otherwise transfer electric guns or
11 cartridges to a person in the State, either at wholesale or
12 retail, shall annually file an application for a license to do
13 so with the county in which the person desires to conduct
14 business or within the county to which the person intends the
15 electric guns to be sold, offered for sale, distributed, or
16 otherwise transferred using forms prescribed by the county.

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

19 (1) The legal name, date of birth, and the last four
20 digits of the social security number of the
21 individual;



- 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 applicant and, if applicable, each
5 additional designated place of business from which the
6 applicant desires to sell electric guns or cartridges;
- 7 (4) The applicant's Hawaii tax identification number;
- 8 (5) The applicant has had no convictions for any felony
9 offense; and
- 10 (6) Within the last three years, the applicant has
11 completed an electric gun safety or training course,
12 offered by the county, or approved by the county, that
13 focuses on:
- 14 (A) The safe use and handling of electric guns;
- 15 (B) Information about the effects, dangers, risks,
16 and limitations of electric guns;
- 17 (C) Education on the existing state laws on electric
18 guns; and
- 19 (D) Any other information the county may require.



1 (c) If the applicant is not an individual, the application
2 and supporting documentation shall establish at least the
3 following:

4 (1) The name of the applying entity and any other name
5 under which the applying entity does business, if
6 applicable;

7 (2) The street address, telephone number, fax number, and
8 electronic mail address of the applying entity;

9 (3) The legal name, date of birth, and the last four
10 digits of the social security number of each of the
11 principals or members of the applying entity;

12 (4) The street address, telephone number, fax number, and
13 electronic mail address of each of the principals or
14 members of the applying entity;

15 (5) The name and location of the principal place of
16 business of the applying entity and, if applicable,
17 each additional designated place of business from
18 which the applying entity desires to sell electric
19 guns or cartridges;

20 (6) That the applying entity is registered to do business
21 in the State;



1 (7) That the applying entity is composed of principals or
2 members who have had no convictions for any felony
3 offense;

4 (8) That the applying entity has a Hawaii tax
5 identification number;

6 (9) That the applying entity has a federal employer
7 identification number;

8 (10) That at least one principal or member of the applying
9 entity has completed an electric gun safety or
10 training course, offered by the county, or approved by
11 the county, that focuses on:

12 (A) The safe use and handling of electric guns;

13 (B) Information about the effects, dangers, risks,
14 and limitations of electric guns; and

15 (C) Education on the existing state laws on electric
16 guns; and

17 (11) Any other information that the county may require.

18 (d) The applicant shall certify that the applicant will
19 comply at all times with all provisions of law relative to the
20 acquisition, possession, storage, and sale of electric guns, and
21 that the applicant is responsible for compliance by its



1 employees of all provisions of law relative to the acquisition,
2 possession, and sale of electric guns.

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

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

14 **§134-F Sale or distribution of electric guns.** (a) A
15 licensee shall post the license to sell or distribute electric
16 guns, or a certified copy thereof, in a location readily visible
17 to customers at each designated place of business. For internet
18 sales by a licensee, the license number shall be prominently
19 displayed and an electronic copy of the license shall be readily
20 accessible to the customer.



1 (b) An individual licensee shall complete, every three
2 years, an electric gun safety or training course, offered by the
3 county, or approved by the county, that focuses on:

4 (1) The safe use and handling of electric guns;

5 (2) Information about the effects, dangers, risks, and
6 limitations of electric guns; and

7 (3) Education on the existing state laws on electric guns.

8 A licensee shall keep copies of the certificates of
9 completion of these training courses in the licensee's business
10 records.

11 (c) A licensee shall not allow an employee to participate
12 in the sale or distribute of electric guns or cartridges, until
13 the employee completes an electric gun safety or training
14 course, offered by the county, or approved by the county, that
15 focuses on:

16 (1) The safe use and handling of electric guns;

17 (2) Information about the effects, dangers, risks, and
18 limitations of electric guns; and

19 (3) Education on the existing state laws on electric guns.



1 A licensee shall keep copies of the certificates of
2 completion of these training courses for each of the licensee's
3 employees in the licensee's business records.

4 (d) If there is no manufacturer serial number on an
5 electric gun or cartridge received into inventory by a licensee,
6 then the licensee shall engrave on the electric gun or cartridge
7 a legible unique serial number that begins with the licensee's
8 license number, followed by a hyphen and a unique identifying
9 number.

10 (e) A licensee shall keep records for all electric guns
11 and cartridges received into inventory within the State,
12 including:

13 (1) Information identifying the seller, distributor, or
14 transferor of the electric gun or cartridge; and

15 (2) The transaction record for the electric gun or
16 cartridge, including the date of receipt, a
17 description of the electric gun or cartridge, the
18 manufacturer's serial number or the unique serial
19 number engraved by the licensee, and if available, the
20 manufacturer and the model number.



1 (f) Prior to completing a sale or other transfer of an
2 electric gun that does not require the purchaser to obtain a
3 permit, the licensee or an employee of the licensee shall
4 provide an informational briefing to the recipient that includes
5 but is not limited to the following:

6 (1) The safe use and handling of electric guns;

7 (2) Information about the effects, dangers, risks, and
8 limitations of electric guns;

9 (3) Education on the existing state laws on electric guns;
10 and

11 (4) The proper disposal of electric guns.

12 (g) Upon completion of the informational briefing, the
13 licensee shall provide a certification of informational briefing
14 that is signed and dated by the recipient and the person who
15 provided the briefing acknowledging the completion of the
16 briefing and that the recipient understood the briefing and
17 includes the names of the recipient and the person who provided
18 the informational briefing, and the date of the briefing. The
19 form of the certification shall be as provided by the county
20 office that issued the license to the licensee.



1 (h) A licensee shall keep a record of the information
2 provided to recipients during the informational briefings.

3 (i) A licensee shall keep records of all sales,
4 distributions, and other transactions of electric guns and
5 cartridges sold in the State or to a recipient in the State,
6 including:

7 (1) The recipient's name, date of birth, address, and
8 telephone number;

9 (2) A copy of the recipient's government-issued
10 identification card or document;

11 (3) The transaction record for the electric gun or
12 cartridge, including the date of the transaction, a
13 description of the electric gun or cartridge, name of
14 the manufacturer, serial and model numbers, and if
15 necessary, the unique serial number engraved by the
16 licensee;

17 (4) A copy of the certification of informational briefing
18 signed and dated by the recipient and the person who
19 provided the briefing;

20 (5) For sales of an electric projectile gun, a copy of the
21 permit;



1 (6) For sales of a cartridge, a copy of the registration
2 for an electric projectile gun; and

3 (7) For purchases of an inherited or bequeathed electric
4 projectile gun pursuant to section 134-C(a) or from a
5 personal representative of an estate, a copy of the
6 death certificate of the deceased owner of the
7 electric gun and a copy of the will, trust, or other
8 legal document establishing the seller's authority to
9 sell the electric gun.

10 (j) A licensee shall keep a record of the licensee's
11 current inventory of electric guns and cartridges.

12 (k) During normal business hours, a licensee shall allow
13 the chief of police of the appropriate county or designee to
14 inspect the licensee's books and records for all records
15 required to be kept by the licensee for electric guns and
16 cartridges. At the discretion of the chief of police of the
17 appropriate county or designee, the inspection of the records
18 may be conducted via facsimile transmittal of the records.

19 (l) A licensee shall keep records required by this section
20 for a minimum of ten years. If a licensee, as a result of death
21 or dissolution, cannot maintain the records, the records shall



1 be turned over to the chief of police of the appropriate county
2 or designee.

3 (m) When displaying or storing electric guns or cartridges
4 at a designated place of business, a licensee shall display or
5 store the electric guns and cartridges in a locked cabinet or
6 area not accessible to the general public.

7 (n) During normal business hours, a licensee shall allow
8 the chief of police of the appropriate county or designee to
9 physically inspect all electric guns and cartridges in the
10 possession and control of the licensee wherever they may be
11 located within the State.

12 (o) A licensee shall only sell, distribute, or transfer a
13 cartridge to a person who presents an original registration for
14 an electric projectile gun that is in the person's name.

15 (p) Any person, including any licensee, violating this
16 section shall be guilty of a misdemeanor.

17 (q) A license may be suspended or revoked for a violation
18 of any of the requirements of this section.

19 **§134-G Disposal of electric gun or cartridge.** A person
20 who is not a licensee pursuant to section 134-E may sell or
21 otherwise transfer an electric gun or cartridge to a licensee or



1 may surrender the electric gun or cartridge to the chief of
2 police of the appropriate county or designee. Within thirty
3 days of surrendering an electric gun or cartridge, the person
4 who surrendered the electric gun or cartridge may sell or
5 otherwise transfer the electric gun or cartridge to a licensee;
6 or, upon obtaining a permit pursuant to section 134-C, may
7 reclaim the electric gun; or, upon providing a valid
8 registration for an electric projectile gun, may reclaim the
9 cartridge. After thirty days, the chief of police may either
10 destroy the electric gun or cartridge, or utilize the electric
11 gun or cartridge for educational purposes. The chief of police
12 shall maintain records of all surrendered electric guns and
13 cartridges, including their disposition.

14 **§134-H Ownership or possession prohibited.** (a) No person
15 who is a fugitive from justice shall own, possess, or control an
16 electric gun.

17 (b) No person who is under indictment for, or has waived
18 indictment for, or has been bound over to the circuit court for,
19 or has been convicted in this State or elsewhere of having
20 committed a felony, or any crime of violence, or any illegal
21 sale of any drug shall own, possess, or control an electric gun.



(c) No person who:

(1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;

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

(3) Is or has been diagnosed as having a significant behavioral, emotional, or mental disorder as defined by the most current diagnostic manual of the American Psychiatric Association; or

(4) Is under for treatment for an organic brain syndrome; shall own, possess, or control an electric gun, unless the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, syndrome, disease, disorder, or defect.

(d) No person who is less than twenty-five years of age and has been adjudicated by the family court to have committed a



1 felony, or two or more crimes of violence, or an illegal sale of
2 any drug shall own, possess, or control an electric gun.

3 (e) No minor shall own, possess, or control an electric
4 gun.

5 (f) No person shall possess an electric gun that is owned
6 by another, regardless of whether the owner has consented to
7 possession of the electric gun.

8 (g) No person who has been restrained pursuant to an order
9 of any court from contacting, threatening, or physically abusing
10 any person or from possessing or owning a firearm, shall
11 possess, control, or transfer ownership of an electric gun, so
12 long as the protective order, restraining order, or any
13 extension is in effect, unless the order, for good cause shown,
14 specifically permits the possession of an electric gun. The
15 restraining order or order of protection shall specifically
16 include a statement that possession, control, or transfer of an
17 electric gun by the person named in the order is prohibited.
18 Such person shall relinquish possession and control of any
19 electric gun owned by that person to the police department of
20 the appropriate county for safekeeping for the duration of the
21 order or extension thereof.



1 In the case of an ex parte order that includes a
2 restriction on the possession, control, or transfer of an
3 electric gun, the affidavit or statement under oath that forms
4 the basis for the order shall contain a statement of the facts
5 that support a finding that the person to be restrained owns,
6 intends to obtain or to transfer, or possesses an electric gun,
7 and that the electric gun may be used to threaten, injure, or
8 abuse any person. The ex parte order shall be effective upon
9 service pursuant to section 586-6.

10 At the time of service of a restraining order involving
11 electric guns issued by any court, the police officer may take
12 custody of any and all electric guns in plain sight, those
13 discovered pursuant to a consensual search, and those electric
14 guns surrendered by the person restrained.

15 For the purposes of this subsection, good cause shall not
16 be based solely upon the consideration that the person subject
17 to restraint pursuant to an order of any court, including an ex
18 parte order as provided for in this subsection, is required to
19 possess or carry an electric gun during the course of the
20 person's employment. Good cause may include but need not be



1 limited to the protection and safety of the person to whom a
2 restraining order is granted.

3 (h) Any person disqualified from ownership, possession,
4 control, or the right to transfer ownership of an electric gun
5 under this section shall surrender or dispose of all electric
6 guns in compliance with section 134-G.

7 (i) For the purposes of enforcing this section, and
8 notwithstanding section 571-84 or any other law to the contrary,
9 any agency within the State shall make its records relating to
10 family court adjudications available to law enforcement
11 officials.

12 (j) Any person violating subsection (a) or (b) shall be
13 guilty of a class C felony. Any person violating subsection
14 (c), (d), (e), (f), (g), or (h) shall be guilty of a
15 misdemeanor.

16 **§134-I Exemptions.** (a) Sections 134-B, 134-C, 134-D, and
17 134-H(f) shall not apply to:

18 (1) Law enforcement agencies and law enforcement officers
19 acting within the course of their employment; and

20 (2) The army or air national guard and its members when
21 they are assisting civil authorities in disaster



1 relief, emergency management, or law enforcement
2 functions, subject to the requirements of section 121-
3 34.5;

4 provided that the electric guns shall be acquired by the law
5 enforcement agencies or the army or air national guard and not
6 individual law enforcement officers or members of the army or
7 air national guard, and shall remain in the custody and control
8 of law enforcement agencies, or the army or air national guard.

9 (b) Law enforcement agencies that authorize use of
10 electric guns by its law enforcement officers and the army or
11 air national guard shall:

12 (1) Provide training from the manufacturer or from a
13 manufacturer-approved training program, conducted by
14 manufacturer-certified or manufacturer-approved
15 instructors in the use of electric guns prior to
16 deployment of the electric guns and related equipment
17 in public;

18 (2) Maintain records regarding every electric gun in its
19 custody and control, including every instance of usage
20 of the electric guns, in a similar manner as records
21 are maintained for the discharge of firearms; and



(3) Report to the legislature on the information in, and maintenance of, these records no later than twenty days prior to the convening of each regular session.

(c) The licensing requirement of sections 134-B(b) and 134-E shall not apply to the sale of electric guns and cartridges by the electric gun manufacturers distributing directly to law enforcement agencies, or the army or air national guard.

§134-J Storage of electric gun; responsibility with respect to minors. (a) No person shall store or keep any electric gun on any premises under the person's control if the person knows or reasonably should know that a minor is likely to gain access to the electric gun, unless the person:

(1) Keeps the electric gun in a securely locked box or other container or in a location that a reasonable person would believe to be secure; or

(2) Carries the electric gun on the person or within such close proximity thereto that the minor cannot gain access or control of the electric gun.

(b) Any person violating this section shall be guilty of a misdemeanor.



1 **§134-K Carrying or use of electric gun in the commission**
2 **of a separate misdemeanor.** (a) It shall be unlawful for a
3 person to knowingly carry on the person or have within the
4 person's immediate control or intentionally use or threaten to
5 use an electric gun, whether operable or not, while engaged in
6 the commission of a separate misdemeanor; provided that a person
7 shall not be prosecuted under this subsection when the separate
8 misdemeanor is a misdemeanor defined by this chapter.

9 (b) A conviction and sentence under this section shall be
10 in addition to and not in lieu of any conviction and sentence
11 for the separate misdemeanor; provided that the sentence imposed
12 under this section may run concurrently or consecutively with
13 the sentence for the separate misdemeanor.

14 (c) Any person violating this section shall be guilty of a
15 class C felony.

16 **§134-L Carrying or use of electric gun in the commission**
17 **of a separate felony.** (a) It shall be unlawful for a person to
18 knowingly carry on the person or have within the person's
19 immediate control or intentionally use or threaten to use an
20 electric gun, whether operable or not, while engaged in the
21 commission of a separate felony; provided that a person shall



1 not be prosecuted under this subsection when the separate felony
2 is a felony defined by this chapter.

3 (b) A conviction and sentence under this section shall be
4 in addition to and not in lieu of any conviction and sentence
5 for the separate felony; provided that the sentence imposed
6 under this section may run concurrently or consecutively with
7 the sentence for the separate felony.

8 (c) Any person violating this section shall be guilty of a
9 class B felony."

10 SECTION 3. Section 121-34.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~]**§121-34.5**[~~]~~ **Use of electric guns.** Members of the
13 army or air national guard who have been qualified by training
14 and are authorized by their commanders may use electric guns, as
15 specifically provided in section [~~134-16(e) and (d),~~] 134-I,
16 when assisting civil authorities in disaster relief, emergency
17 management, or law enforcement functions; provided that
18 "training" for the purposes of this section means a course of
19 instruction or training in the use of any electric gun
20 authorized pursuant to this section, that is provided or
21 authorized by the manufacturer or is manufacturer-approved or is



1 an electric gun training program approved by the army or air
2 national guard, prior to deployment or issuance of electric guns
3 and related equipment."

4 SECTION 4. Section 134-1, Hawaii Revised Statutes, is
5 amended by deleting the definition of "electric gun":

6 [~~"Electric gun" means any portable device that is~~
7 ~~electrically operated to project a missile or electromotive~~
8 ~~force. It does not include any electric livestock prod used in~~
9 ~~animal husbandry and any automatic external defibrillator used~~
10 ~~in emergency medical situations."]~~

11 SECTION 5. Section 134-3.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~§134-3.5[~~§~~]] **Disclosure for firearm or electric gun**
14 **permit and registration purposes.** A health care provider or
15 public health authority shall disclose health information,
16 including protected health care information, relating to an
17 individual's mental health history, to the appropriate county
18 chief of police in response to a request for the information
19 from the chief of police; provided that:



1 (1) The information shall be used only for the purpose of
2 evaluating the individual's fitness to acquire or own
3 a firearm[+] or electric gun; and

4 (2) The individual has signed a waiver permitting release
5 of the health information for that purpose."

6 SECTION 6. Section 134-17, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) Any person who violates section 134-2, 134-4, 134-10,
9 or 134-15[, ~~or 134-16(a)~~] shall be guilty of a misdemeanor. Any
10 person who violates section 134-3(b) shall be guilty of a petty
11 misdemeanor and the firearm shall be confiscated as contraband
12 and disposed of, if the firearm is not registered within five
13 days of the person receiving notice of the violation."

14 SECTION 7. Section 266-24, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The director of transportation shall enforce this
17 chapter and all rules thereunder, except for the rules relative
18 to the control and management of the beaches encumbered with
19 easements in favor of the public and ocean waters, which shall
20 be enforced by the department of land and natural resources.
21 For the purpose of the enforcement of this chapter and of all



1 rules adopted pursuant to this chapter, the powers of police
2 officers are conferred upon the director of transportation and
3 any officer, employee, or representative of the department of
4 transportation. Without limiting the generality of the
5 foregoing, the director and any person appointed by the director
6 hereunder may serve and execute warrants, arrest offenders, and
7 serve notices and orders. The director of transportation and
8 any employee, agent, or representative of the department of
9 transportation appointed as enforcement officers by the
10 director, and every state and county officer charged with the
11 enforcement of any law, statute, rule, regulation, ordinance, or
12 order, shall enforce and assist in the enforcement of this
13 chapter and of all rules and orders issued pursuant thereto, and
14 in carrying out the responsibilities hereunder, each shall be
15 specifically authorized to:

- 16 (1) Conduct any enforcement action hereunder in any
17 commercial harbor area and any area over which the
18 department of transportation and the director of
19 transportation has jurisdiction under this chapter;
20 (2) Inspect and examine at reasonable hours any premises,
21 and the buildings and other structures thereon, where



1 harbors or harbor facilities are situated, or where
2 harbor-related activities are operated or conducted;
3 and

4 (3) Subject to limitations as may be imposed by the
5 director of transportation, serve and execute
6 warrants, arrest offenders, and serve notices and
7 orders.

8 Any employee appointed as a law enforcement officer by the
9 director of transportation pursuant to this section who has been
10 qualified by training may use electric guns, as specifically
11 provided in section [~~134-167~~] 134-I, when exercising powers of
12 police officers and carrying out the responsibilities described
13 herein; provided that training for the purposes of this section
14 means a course of instruction or training in the use of any
15 electric gun that is provided, authorized, or approved by the
16 manufacturer of the electric gun prior to deployment of issuance
17 of electric guns and related equipment.

18 For purposes of this subsection, the term "agents and
19 representatives" includes persons performing services at harbors
20 or harbor areas under contract with the department of
21 transportation."



1 Section 8. Section 463-10.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Before beginning employment as a guard or in a guard
4 capacity, in addition to the classroom instruction required by
5 this section, guards and individuals acting in a guard capacity
6 who carry a firearm or other weapon, including but not limited
7 to an electric gun as defined in section [~~134-17~~] 134-A, while
8 on-duty in a guard capacity shall possess a valid permit to
9 acquire the ownership of a firearm issued by county police
10 pursuant to section 134-2 and shall satisfy the requirements of
11 section 134-2(g)."

12 SECTION 9. Section 846-2.7, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Criminal history record checks may be conducted by:

15 (1) The department of health or its designee on operators
16 of adult foster homes for individuals with
17 developmental disabilities or developmental
18 disabilities domiciliary homes and their employees, as
19 provided by section 321-15.2;

20 (2) The department of health or its designee on
21 prospective employees, persons seeking to serve as



1 providers, or subcontractors in positions that place
2 them in direct contact with clients when providing
3 non-witnessed direct mental health or health care
4 services as provided by section 321-171.5;

5 (3) The department of health or its designee on all
6 applicants for licensure or certification for,
7 operators for, prospective employees, adult
8 volunteers, and all adults, except adults in care, at
9 healthcare facilities as defined in section 321-15.2;

10 (4) The department of education on employees, prospective
11 employees, and teacher trainees in any public school
12 in positions that necessitate close proximity to
13 children as provided by section 302A-601.5;

14 (5) The counties on employees and prospective employees
15 who may be in positions that place them in close
16 proximity to children in recreation or child care
17 programs and services;

18 (6) The county liquor commissions on applicants for liquor
19 licenses as provided by section 281-53.5;

20 (7) The county liquor commissions on employees and
21 prospective employees involved in liquor



1 administration, law enforcement, and liquor control
2 investigations;

3 (8) The department of human services on operators and
4 employees of child caring institutions, child placing
5 organizations, and foster boarding homes as provided
6 by section 346-17;

7 (9) The department of human services on prospective
8 adoptive parents as established under
9 section 346-19.7;

10 (10) The department of human services or its designee on
11 applicants to operate child care facilities, household
12 members of the applicant, prospective employees of the
13 applicant, and new employees and household members of
14 the provider after registration or licensure as
15 provided by section 346-154, and persons subject to
16 section 346-152.5;

17 (11) The department of human services on persons exempt
18 pursuant to section 346-152 to be eligible to provide
19 child care and receive child care subsidies as
20 provided by section 346-152.5;



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



1 including the power of arrest as provided by
2 section 353C-5;

3 (17) The board of private detectives and guards on
4 applicants for private detective or private guard
5 licensure as provided by section 463-9;

6 (18) Private schools and designated organizations on
7 employees and prospective employees who may be in
8 positions that necessitate close proximity to
9 children; provided that private schools and designated
10 organizations receive only indications of the states
11 from which the national criminal history record
12 information was provided pursuant to section 302C-1;

13 (19) The public library system on employees and prospective
14 employees whose positions place them in close
15 proximity to children as provided by
16 section 302A-601.5;

17 (20) The State or any of its branches, political
18 subdivisions, or agencies on applicants and employees
19 holding a position that has the same type of contact
20 with children, vulnerable adults, or persons committed
21 to a correctional facility as other public employees



1 who hold positions that are authorized by law to
2 require criminal history record checks as a condition
3 of employment as provided by section 78-2.7;

4 (21) The department of health on licensed adult day care
5 center operators, employees, new employees,
6 subcontracted service providers and their employees,
7 and adult volunteers as provided by section 321-15.2;

8 (22) The department of human services on purchase of
9 service contracted and subcontracted service providers
10 and their employees serving clients of the adult
11 protective and community services branch, as provided
12 by section 346-97;

13 (23) The department of human services on foster grandparent
14 program, senior companion program, and respite
15 companion program participants as provided by
16 section 346-97;

17 (24) The department of human services on contracted and
18 subcontracted service providers and their current and
19 prospective employees that provide home and community-
20 based services under section 1915(c) of the Social
21 Security Act, title 42 United States Code



1 section 1396n(c), or under any other applicable
2 section or sections of the Social Security Act for the
3 purposes of providing home and community-based
4 services, as provided by section 346-97;

5 (25) The department of commerce and consumer affairs on
6 proposed directors and executive officers of a bank,
7 savings bank, savings and loan association, trust
8 company, and depository financial services loan
9 company as provided by section 412:3-201;

10 (26) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a
12 nondepository financial services loan company as
13 provided by section 412:3-301;

14 (27) The department of commerce and consumer affairs on the
15 original chartering applicants and proposed executive
16 officers of a credit union as provided by
17 section 412:10-103;

18 (28) The department of commerce and consumer affairs on:

19 (A) Each principal of every non-corporate applicant
20 for a money transmitter license;



1 (B) Each person who upon approval of an application
2 by a corporate applicant for a money transmitter
3 license will be a principal of the licensee; and

4 (C) Each person who upon approval of an application
5 requesting approval of a proposed change in
6 control of licensee will be a principal of the
7 licensee,

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

9 (29) The department of commerce and consumer affairs on
10 applicants for licensure and persons licensed under
11 title 24;

12 (30) The Hawaii health systems corporation on:

13 (A) Employees;

14 (B) Applicants seeking employment;

15 (C) Current or prospective members of the corporation
16 board or regional system board; or

17 (D) Current or prospective volunteers, providers, or
18 contractors,

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



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

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

4 (B) Each control person, executive officer, director,
5 general partner, and managing member of an
6 applicant for a mortgage loan originator company
7 license or license renewal,

8 as provided by chapter 454F;

9 (32) The state public charter school commission or public

10 charter schools on employees, teacher trainees,

11 prospective employees, and prospective teacher

12 trainees in any public charter school for any position

13 that places them in close proximity to children, as

14 provided in section 302D-33;

15 (33) The counties on prospective employees who work with

16 children, vulnerable adults, or senior citizens in

17 community-based programs;

18 (34) The counties on prospective employees for fire

19 department positions [~~which~~] that involve contact with

20 children or vulnerable adults;



1 (35) The counties on prospective employees for emergency
2 medical services positions [~~which~~] that involve
3 contact with children or vulnerable adults;

4 (36) The counties on prospective employees for emergency
5 management positions and community volunteers whose
6 responsibilities involve planning and executing
7 homeland security measures including viewing,
8 handling, and engaging in law enforcement or
9 classified meetings and assisting vulnerable citizens
10 during emergencies or crises;

11 (37) The State and counties on employees, prospective
12 employees, volunteers, and contractors whose position
13 responsibilities require unescorted access to secured
14 areas and equipment related to a traffic management
15 center;

16 (38) The State and counties on employees and prospective
17 employees whose positions involve the handling or use
18 of firearms for other than law enforcement purposes;

19 (39) The State and counties on current and prospective
20 systems analysts and others involved in an agency's
21 information technology operation whose position



responsibilities provide them with access to
proprietary, confidential, or sensitive information;

(40) The department of commerce and consumer affairs on:

(A) Applicants for real estate appraiser licensure or
certification as provided by chapter 466K;

(B) Each person who owns more than ten per cent of an
appraisal management company who is applying for
registration as an appraisal management company,
as provided by section 466L-7; and

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

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

(42) The department of commerce and consumer affairs on
applicants for nurse licensure or license renewal,



1 reactivation, or restoration as provided by sections
2 457-7, 457-8, 457-8.5, and 457-9;

3 (43) The county police departments on applicants for
4 permits to acquire firearms pursuant to section 134-2
5 and electric projectile guns pursuant to section 134-C
6 and on individuals registering their firearms pursuant
7 to section 134-3[+] and electric guns pursuant
8 to section 134-D;

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

10 (A) Each of the controlling persons of the applicant
11 for licensure as an escrow depository, and each
12 of the officers, directors, and principals who
13 will be in charge of the escrow depository's
14 activities upon licensure; and

15 (B) Each of the controlling persons of an applicant
16 for proposed change in control of an escrow
17 depository licensee, and each of the officers,
18 directors, and principals who will be in charge
19 of the licensee's activities upon approval of
20 such application,

21 as provided by chapter 449;



1 (45) The department of taxation on current or prospective
2 employees or contractors who have access to federal
3 tax information in order to comply with requirements
4 of federal law, regulation, or procedure, as provided
5 by section 231-1.6;

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

11 (47) The department of human services on current or
12 prospective employees or contractors who have access
13 to federal tax information in order to comply with
14 requirements of federal law, regulation, or procedure,
15 as provided by section 346-2.5;

16 (48) The child support enforcement agency on current or
17 prospective employees, or contractors who have access
18 to federal tax information in order to comply with
19 federal law, regulation, or procedure, as provided by
20 section 576D-11.5; and



(49) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 10. Section 134-16, Hawaii Revised Statutes, is repealed.

~~["§134-16 Restriction on possession, sale, gift, or delivery of electric guns. (a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, offer for sale, hold for sale, sell, give, lend, or deliver any electric gun.~~

~~(b) Any electric gun possessed, offered for sale, held for sale, sold, given, lent, or delivered in violation of subsection (a) shall be confiscated and disposed of by the chief of police.~~

~~(c) This section shall not apply to:~~

~~(1) Law enforcement officers of county police departments;~~

~~(2) Law enforcement officers of the department of public safety;~~

~~(3) Conservation and resources enforcement officers of the department of land and natural resources;~~

~~(4) Members of the Army or Air National Guard when assisting civil authorities in disaster relief,~~



1 ~~emergency management, or law enforcement functions,~~
2 ~~subject to the requirements of section 121-34.5,~~
3 ~~(5) Law enforcement officers appointed by the director of~~
4 ~~transportation pursuant to section 266-24; and~~
5 ~~(6) Vendors providing electric guns to the individuals~~
6 ~~described in paragraphs (1) through (5); provided that~~
7 ~~electric guns shall at all times remain in the custody~~
8 ~~and control of the law enforcement officers of the~~
9 ~~county police departments, the law enforcement~~
10 ~~officers of the department of public safety, the~~
11 ~~conservation and resources enforcement officers of the~~
12 ~~department of land and natural resources, the members~~
13 ~~of the Army or Air National Guard, or law enforcement~~
14 ~~officers appointed by the director of transportation.~~

15 ~~(d) The county police departments of this State, the~~
16 ~~department of public safety, the department of land and natural~~
17 ~~resources, the army and air national guard, and the department~~
18 ~~of transportation shall maintain records regarding every~~
19 ~~electric gun in their custody and control. The records shall~~
20 ~~report every instance of usage of the electric guns; in~~
21 ~~particular, records shall be maintained in a similar manner as~~



~~for those of discharging of firearms. The county police departments, the department of public safety, the department of land and natural resources, the army and air national guard, and the department of transportation shall annually report to the legislature regarding these records no later than twenty days before the beginning of each regular session of the legislature.~~

~~(e) The department of land and natural resources, the department of public safety, and the department of transportation shall ensure that each of its conservation and resources enforcement officers and law enforcement officers who is authorized to use an electric gun and related equipment shall first receive training from the manufacturer or from a manufacturer-approved training program, as well as by manufacturer-certified or approved instructors in the use of electric guns prior to deployment of the electric guns and related equipment in public. Training for conservation and resources enforcement officers of the department of land and natural resources, law enforcement officers of the department of public safety, and law enforcement officers of the department of transportation may be done concurrently to ensure cost savings.~~



~~(f) No later than June 30, 2018, the conservation and resources enforcement program of the department of land and natural resources shall meet the law enforcement accreditation or recognition standards of the Commission on Accreditation for Law Enforcement Agencies, Inc., in the use of electric guns.~~

~~(g) No later than June 30, 2024, the law enforcement officers appointed by the director of transportation shall meet the law enforcement accreditation or recognition standards of the Commission on Accreditation for Law Enforcement Agencies, Inc., in the use of electric guns."]~~

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 12. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating and referring to the new sections in this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on January 1, 2050.



Report Title:

Electric Guns; Cartridges; Electric Projectile Guns; Regulation;
Permit; Registration

Description:

Repeals the existing law that bans electric guns, and replaces it with a law that restricts the use, storage, transfer, and disposal of electric guns; regulates the sale of electric guns; requires training and education on electric guns; prohibits certain individuals from the possession and use of electric guns; prohibits the use of electric guns in the commission of crimes; and requires permits and registration of electric projectile guns. Effective 1/1/2050. (HD1)

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