

JAN 26 2022

A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. The legislature finds that the ruling by the
2 United States District Court for the District of Hawaii in
3 Yukutake v. Connors, Civ. No. 19-00578 JMS-RT (D. Haw. Aug. 16,
4 2021), has made amendments to the firearm permitting and
5 registration requirements advisable. Specifically, the ruling
6 found that both a ten-day expiration period for a permit to
7 acquire a pistol or revolver and a requirement that all firearms
8 be physically inspected at the time of registration were
9 unconstitutional. The amendments in this Act will clarify the
10 legislature's intent to ensure public safety through its
11 firearms laws and help Hawaii maintain one of the lowest gun
12 violence rates in the nation.

13 The legislature finds that imposing a thirty-day expiration
14 date for a permit to acquire a pistol or revolver is necessary
15 for protecting public safety. This finding is based on the
16 extensive knowledge and experience of the Hawaii law enforcement
17 community and the Hawaii legislature regarding permitting
18 requirements, since such requirements were originally enacted in

1 Hawaii in the early twentieth century, e.g., via Act 124,
2 Session Laws of Hawaii 1919, and Act 26, Special Session Laws of
3 Hawaii 1933.

4 According to section 134-2, Hawaii Revised Statutes, when
5 applying for a permit to acquire a firearm, a person must (1)
6 submit certain background information, including name, address,
7 sex, height, and weight; (2) be photographed and fingerprinted;
8 and (3) be subjected to background checks, including mental
9 health inquiries and inquiries using the National Crime
10 Information Center, National Instant Background Check System,
11 International Justice and Public Safety Network, and United
12 States Immigration and Customs Enforcement. The legislature
13 finds that, if a permit to acquire has an excessively long
14 expiration date, some of this background information, including
15 relevant mental health information, may become outdated by the
16 time the permit is used. People often change their names or
17 addresses, and their appearances can change over time. More
18 importantly, people can experience events in their lives that
19 disqualify them from owning firearms, such as criminal
20 convictions, mental health diagnoses, or being subjected to
21 restraining orders.

22 Consequently, the expiration date for a permit to acquire
23 must be short enough to ensure that the information upon which

1 the permit is based is current and accurate at the time the
2 permittee acquires the pistol or revolver. Hawaii has a
3 substantial interest in public safety, and accurate information
4 protects public safety both by helping prevent people who are
5 disqualified from owning firearms from acquiring them and by
6 facilitating the tracing of firearms. The legislature believes
7 that the ten-day expiration date under prior law accomplished
8 these public safety purposes. Based on the statistics reported
9 in Firearm Registrations in Hawaii, 2020, published by the crime
10 prevention and justice assistance division of the department of
11 the attorney general, the legislature finds that, in 2020, 98.6
12 per cent of approved permits were picked up within the ten-day
13 period (25,024 permits were picked up out of 25,381 approved
14 permits). However, to address the constitutional issues raised
15 by the federal district court, the legislature deems it
16 advisable to extend the expiration date from ten to thirty days.
17 It is the legislature's considered judgment that thirty days is
18 short enough to ensure the continued accuracy of the information
19 on which the permit is based and long enough for permit holders
20 to complete the acquisition of their pistols or revolvers.
21 Thirty days will provide adequate time for people to complete
22 their acquisitions.

1 Moreover, the legislature appreciates the correlation
2 between strong permitting laws and the reduction of gun
3 violence. The legislature finds that it has been established in
4 studies such as Purchaser Licensing, Point of Sale Background
5 Check Laws, and Firearm Homicide and Suicide in 4 US States,
6 1985-2017 by Alexander D. McCourt et al., published by the
7 American Journal of Public Health, that when Connecticut enacted
8 permitting requirements, its gun violence rate went down, but
9 when Missouri repealed its permitting requirements, the gun
10 violence rate went up. A thirty day expiration date remains
11 within the range of expiration dates adopted by other states
12 with similar requirements involving single use, short expiration
13 permits, including ten days (Massachusetts General Laws chapter
14 140, sections 121, 129B, 129C, 131A, and 131E), thirty days
15 (Michigan Compiled Laws sections 28.422 and 28.422a), and ninety
16 days (New Jersey Statutes section 2C:58-3). Therefore, the
17 legislature finds that a thirty-day expiration date for permits
18 to acquire pistols and revolvers is supported by the
19 significant, substantial, and important government interest in
20 protecting public safety and it reasonably fits with that
21 objective.

22 The legislature further finds that Hawaii's important
23 interest in protecting public safety justifies the physical

1 inspection of certain narrow categories of firearms at the time
2 of registration. This finding is based on the extensive
3 knowledge and experience of the Hawaii law enforcement community
4 and the Hawaii legislature regarding registration requirements,
5 including serial numbers, since such requirements were
6 originally adopted in Hawaii in the early twentieth century,
7 e.g., via Act 85, Session Laws of Hawaii 1907.

8 The legislature finds that firearms and firearm receivers
9 that do not have serial numbers imprinted by the manufacturer,
10 including those created by 3-D printers, pose a danger to public
11 safety inasmuch as these "ghost guns" are untraceable by law
12 enforcement. These firearms and firearm receivers can be
13 legally obtained and registered under Hawaii law; however, the
14 process established by section 134-3, Hawaii Revised Statutes,
15 requires the permanent engraving or embedding of a registration
16 number on the firearm by the registrant. The legislature finds
17 that it is necessary for police departments to inspect the
18 engraving or embedding, even when done by a licensed dealer, so
19 as to ensure that it is done legibly, permanently, and
20 accurately. The legislature finds that due to the risk of human
21 error, it is not enough simply to assume that the registration
22 number is properly engraved or embedded and also properly
23 recorded in registration records. The legislature finds that it

1 is the experience of Hawaii firearm officials that mistakes can
2 and have been made in the recording of serial numbers, and
3 inspection is necessary to remedy that risk. The accuracy of
4 the registration number should be verified by law enforcement
5 officials to ensure there were no errors made in engraving or
6 embedding the number and that the registration number matches
7 the number on the firearm. Because of the extremely strong
8 public safety interest associated with this issue, the
9 legislature finds that relying on blind faith is not
10 sufficiently reliable to protect the public interest. Although
11 the legislature believes that the prior requirement of in-person
12 inspection at registration enacted in Act 74, Session Laws of
13 Hawaii 2020, was based on this purpose, the legislature makes
14 express and specific findings here to specifically address any
15 constitutional questions regarding the basis for this
16 requirement.

17 The legislature further finds that, with the exception of
18 licensed dealers or manufacturers, persons: (1) who bring
19 firearms into the State, or (2) who are participating in private
20 sales or transfers of firearms, are particularly vulnerable to
21 unknowingly possessing firearms that are illegal under Hawaii
22 law. The legislature finds that there is an important public
23 safety interest in discovering illegal firearms brought into

1 Hawaii, as well as an important government interest in doing so
2 in a manner that minimizes unnecessary prosecution.

3 People may bring firearms to Hawaii from out of state.
4 However, the firearms laws in other states are often very
5 different from the firearms laws in Hawaii. For example,
6 pursuant to sections 134-8 and 134-8.5, Hawaii Revised Statutes,
7 assault pistols, automatic firearms, rifles and shotguns with
8 certain barrel lengths, certain large capacity magazines, and
9 bump fire stocks, among other things, are illegal in Hawaii. A
10 person who is not a licensed dealer may not be aware that the
11 features, modifications, or accessories of their firearms are
12 illegal in Hawaii and may attempt to bring such firearms into
13 the State.

14 Similarly, people participating in private sales or
15 transfers of firearms may not be aware that the firearms are
16 illegal. Unlike licensed firearm dealers, who are required to
17 keep detailed, audited records and are familiar with Hawaii's
18 firearm laws, private individuals may be unfamiliar with the
19 technical details of the firearms and with the requirements of
20 Hawaii law. They may not know which features, modifications, or
21 accessories are illegal under Hawaii law.

22 The legislature finds that physical inspection of firearms
23 at registration is the best way to discover whether firearms

1 brought into the State by non-dealers or being transferred by
2 private parties have features, modifications, or accessories
3 that are illegal under Hawaii law. In addition, discovering the
4 illegality at registration helps to minimize the gun owner's
5 risk of prosecution. Because the gun owner brings the firearm
6 to authorities at registration, it is highly unlikely that the
7 gun owner will be prosecuted or arrested. Under such
8 circumstances, prosecutors or the police are likely to use their
9 discretion and decline to prosecute or arrest. In contrast,
10 without inspection at registration, if the illegality is
11 discovered later, the circumstances are much more likely to lead
12 to prosecution or arrest.

13 Therefore, the legislature finds that an in-person
14 inspection at registration requirement is supported by the
15 significant, substantial, and important government interest in
16 protecting public safety. The legislature finds that the
17 requirement reasonably fits that objective, and is in fact
18 narrowly tailored, because it is limited to certain specific
19 situations that have an exceptional need for inspection, e.g.,
20 ghost guns, firearms coming from out of state, firearms in
21 private sales and transfers. The legislature also finds that
22 in-person inspection at registration serves an additional
23 significant, substantial, and important government interest in

1 minimizing the risk that gun owners who are not aware of the
2 illegality of their firearms will be prosecuted.

3 The purpose of this Act is to strengthen the reasons,
4 purposes, and interests served by Hawaii firearms laws and
5 thereby resolve possible constitutional questions.

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

8 "(e) The permit application form shall be signed by the
9 applicant and by the issuing authority. One copy of the permit
10 shall be retained by the issuing authority as a permanent
11 official record. Except for sales to dealers licensed under
12 section 134-31, or dealers licensed by the United States
13 Department of Justice, or law enforcement officers, or where a
14 license is granted under section 134-9, or where any firearm is
15 registered pursuant to section 134-3(a), no permit shall be
16 issued to an applicant earlier than fourteen calendar days after
17 the date of the application; provided that a permit shall be
18 issued or the application denied before the twentieth day from
19 the date of application. Permits issued to acquire any pistol
20 or revolver shall be void unless used within ~~ten~~ thirty days
21 after the date of issue. Permits to acquire a pistol or
22 revolver shall require a separate application and permit for
23 each transaction. Permits issued to acquire any rifle or

1 shotgun shall entitle the permittee to make subsequent purchases
2 of rifles or shotguns for a period of one year from the date of
3 issue without a separate application and permit for each
4 acquisition, subject to the disqualifications under section 134-
5 7 and subject to revocation under section 134-13; provided that
6 if a permittee is arrested for committing a felony or any crime
7 of violence or for the illegal sale of any drug, the permit
8 shall be impounded and shall be surrendered to the issuing
9 authority. The issuing authority shall perform an inquiry on an
10 applicant by using the International Justice and Public Safety
11 Network, including the United States Immigration and Customs
12 Enforcement query, the National Crime Information Center, and
13 the National Instant Criminal Background Check System, pursuant
14 to section 846-2.7 before any determination to issue a permit or
15 to deny an application is made."

16 SECTION 3. Section 134-3, Hawaii Revised Statutes, is
17 amended by amending subsections (a) to (c) to read as follows:

18 "(a) Every resident or other person arriving in the State
19 who brings or by any other manner causes to be brought into the
20 State a firearm of any description, whether usable or unusable,
21 serviceable or unserviceable, modern or antique, shall register
22 and submit to physical inspection the firearm within five days
23 after arrival of the person or of the firearm, whichever arrives

1 later, with the chief of police of the county of the person's
2 place of business or, if there is no place of business, the
3 person's residence or, if there is neither a place of business
4 nor residence, the person's place of sojourn. A nonresident
5 alien may bring firearms not otherwise prohibited by law into
6 the State for a continuous period not to exceed ninety days;
7 provided that the person meets the registration requirement of
8 this section and the person possesses:

- 9 (1) A valid Hawaii hunting license procured under chapter
10 183D, part II, or a commercial or private shooting
11 preserve permit issued pursuant to section 183D-34;
12 (2) A written document indicating the person has been
13 invited to the State to shoot on private land; or
14 (3) Written notification from a firing range or target
15 shooting business indicating that the person will
16 actually engage in target shooting.

17 The nonresident alien shall be limited to a nontransferable
18 registration of not more than ten firearms for the purpose of
19 the above activities.

20 Every person registering a firearm under this subsection
21 shall be fingerprinted and photographed by the police department
22 of the county of registration; provided that this requirement
23 shall be waived where fingerprints and photographs are already

1 on file with the police department. The police department shall
2 perform an inquiry on the person by using the International
3 Justice and Public Safety Network, including the United States
4 Immigration and Customs Enforcement query, the National Crime
5 Information Center, and the National Instant Criminal Background
6 Check System, pursuant to section 846-2.7 before any
7 determination to register a firearm is made. Any person
8 attempting to register a firearm, a firearm receiver, or the
9 parts used to assemble a firearm, and who is found to be
10 disqualified from ownership, possession, or control of firearms
11 or ammunition under section 134-7, shall surrender or dispose of
12 all firearms and ammunition pursuant to section 134-7.3.

13 (b) Every person who acquires a firearm pursuant to
14 section 134-2 shall register the firearm in the manner
15 prescribed by this section within five days of acquisition. If
16 the firearm is acquired from a person who is not a dealer
17 licensed under section 134-31 or a dealer licensed by the United
18 States Department of Justice, the firearm shall be physically
19 inspected by the chief of police of the appropriate county or
20 designee at the time of registration. The registration of all
21 firearms shall be on forms prescribed by the attorney general,
22 which shall be uniform throughout the State, and shall include
23 the following information: name of the manufacturer and

1 importer; model; type of action; caliber or gauge; serial
2 number; and source from which receipt was obtained, including
3 the name and address of the prior registrant. If the firearm
4 has been assembled from separate parts and an unfinished firearm
5 receiver, the entity that registered the firearm receiver shall
6 be recorded in the space provided for the name of the
7 manufacturer and importer, and the phrase "assembled from parts"
8 shall be recorded in the space provided for model. If the
9 firearm has been assembled from parts created using a three-
10 dimensional printer, the entity that registered the firearm
11 receiver shall be recorded in the space provided for the name of
12 the manufacturer and importer, and the phrase "3-D printer"
13 shall be recorded in the space provided for model. If the
14 firearm has no serial number, the registration number shall be
15 entered in the space provided for the serial number, and the
16 registration number shall be engraved upon the receiver portion
17 of the firearm before registration. On firearms assembled from
18 parts created using a three-dimensional printer, the ~~[serial]~~
19 registration number shall be engraved on stainless steel ~~[and]~~,
20 permanently embedded to the firearm receiver during fabrication
21 or construction~~[~]~~, and visible when the firearm is assembled.
22 Firearms and firearm receivers with engraved or embedded
23 registration numbers, even if done by a dealer licensed under

1 section 134-31 or a dealer licensed by the United States
2 Department of Justice, shall be physically inspected by the
3 chief of police of the appropriate county or designee at the
4 time of registration. All registration data that would identify
5 the individual registering the firearm by name or address shall
6 be confidential and shall not be disclosed to anyone, except as
7 may be required:

8 (1) For processing the registration;

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

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

13 (4) By order of a court.

14 (c) Dealers licensed under section 134-31 or dealers
15 licensed by the United States Department of Justice shall
16 register firearms pursuant to this section on registration forms
17 prescribed by the attorney general and shall not be required to
18 have the firearms physically inspected by the chief of police at
19 the time of registration[-] except as provided in subsection

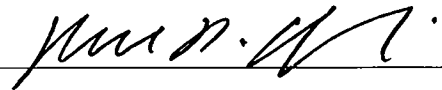
20 (b). An authorized dealer, as provided in section 134-31, or a
21 dealer licensed by the United States Department of Justice, who
22 brings, assembles, or causes to be brought into the State by any
23 other means, separate parts and an unfinished firearm receiver

1 that when assembled create a firearm, or parts created by a
2 three-dimensional printer that when assembled create a firearm,
3 shall register the unfinished firearm receiver and receive a
4 serial number before the assembly of the firearm or the sale or
5 transfer of unassembled firearm parts or a receiver to a third
6 party in accordance with subsection (b). Any sale or transfer
7 of unfinished firearm receivers by an authorized dealer to a
8 third party shall be conducted as if they were fully assembled
9 firearms with a serial number engraved on the firearm receiver
10 and in accordance with the firearms permitting process in
11 section 134-2. ~~[All other firearms and firearm receivers~~
12 ~~registered under this section shall be physically inspected by~~
13 ~~the respective county chief of police or the chief's~~
14 ~~representative at the time of registration.] "~~

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

18
19 INTRODUCED BY: _____



20 BY REQUEST

Report Title:

Firearms; Permits; Registration; Firearms Inspections

Description:

Amends section 134-2, Hawaii Revised Statutes, to increase the time a permit to acquire a firearm can be used from 10 days to 30 days. Amends section 134-3, Hawaii Revised Statutes, to eliminate physical inspection of firearms generally, but requires physical inspection of firearms brought into the State, firearms involved in private sales or transfers, and firearms and firearm receivers with engraved or embedded serial numbers.

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

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO FIREARMS

PURPOSE: To address the recent federal court ruling of Yukutake v. Connors, Civ. No. 19-00578 JMS-RT (D. Haw. Aug. 16, 2021) by (1) increasing the time limit for a person to use a permit to acquire a firearm from ten days to thirty days, (2) removing the general requirement that firearms be physically inspected at the time of their registration, and (3) requiring that only certain firearms be physically inspected.

MEANS: Amend sections 134-2(e) and 134-3(c), Hawaii Revised Statutes (HRS).

JUSTIFICATION: The requirement in section 134-2(e), HRS, that a permit to acquire a handgun must be used within ten days of the issuance of the permit, and the requirement in section 134-3(c), HRS, that firearms be physically inspected at the time of registration were both held to be unconstitutional by the United States District Court for District of Hawaii, in Yukutake v. Connors.

The bill increases, from ten days to thirty days, the period of time that a permit to acquire a handgun remains valid.

The bill also eliminates the requirement for in-person inspection of some types of firearms prior to registration. The bill specifies those types of firearms that require in-person inspection of firearms, including those that were not manufactured with serial numbers (ghost guns), firearms transported by individuals from out of state, and firearms being transferred between private individuals. In-person inspections of those types of firearms are necessary to protect the public. Firearms brought into the State may have

modifications that are legal in another state but are not legal in this State. Likewise, private sales may involve an illegally modified firearm or other irregularities that an individual may not be knowledgeable about. For firearm receivers without a manufacturer's serial number, an inspection is necessary to ensure that the registration number being added to the firearm receiver is permanent and legible.

Impact on the public: The Court's invalidation of the current statutory requirement that a permit to acquire a firearm be used within ten days results in a permit to acquire that does not expire. An expiration date protects the public by ensuring that permits to acquire are based on current background information, and that permittees do not acquire firearms after they have become disqualified.

The physical inspection requirements for certain firearms promotes public safety by ensuring firearms being registered by individuals are legal and do not have illegal modifications and that serial numbers are permanently and properly engraved on firearms.

Impact on the department and other agencies: The counties are responsible for issuing permits to acquire firearms and for the inspection, if required, of firearms.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	County police departments.
EFFECTIVE DATE:	Upon approval.