

JAN 25 2023

A BILL FOR AN ACT

RELATING TO WEAPON SAFETY.

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

1 SECTION 1. The legislature finds that, pursuant to
2 article IX, sections 1 and 10, of the Constitution of the State
3 of Hawaii, the State is obligated to protect the health and
4 safety of the public. The legislature therefore believes that
5 the State must place restrictions on the public spaces in which
6 firearms and electric guns may be carried.

7 The legislature further finds that Hawai`i's firearms laws
8 are an important reason that Hawai`i leads the nation in
9 preventing incidents of gun violence. Nationwide, more than
10 thirty thousand gun violence-related deaths occur per year. In
11 Hawai`i, there are fewer than fifty gun violence-related deaths
12 per year, and these deaths occur at a rate of fewer than five
13 gun deaths for every one hundred thousand people. Hawai`i has
14 cumulatively ranked number one as the state with the lowest
15 number of deaths, and lowest rate of deaths, from gun violence.
16 According to annual statistics from the Centers for Disease
17 Control and Prevention, Hawai`i had the lowest number of deaths



1 and lowest death rate attributed to gun violence in 2020. In
2 2019, Hawai`i had the second lowest number of deaths and the
3 fourth lowest death rate. In 2018, Hawai`i had the second
4 fewest deaths and third lowest death rate; in 2017, the fewest
5 deaths and lowest death rate; in 2016, the second fewest deaths
6 and fourth lowest death rate; in 2015, the second fewest deaths
7 and second lowest death rate; and in 2014, the second fewest
8 deaths and lowest death rate.

9 The legislature recognizes that, in *New York State Rifle &*
10 *Pistol Association, Inc. v. Bruen*, 597 U.S. ___, 142 S. Ct. 2111
11 (2022), the United States Supreme Court held that the public
12 carrying of firearms "could be prohibited consistent with the
13 Second Amendment" in "sensitive places". Many states and federal
14 agencies have historically enacted location-based restrictions on
15 the carrying of firearms in or on such places as school grounds,
16 legislative buildings, polling places, courthouses, places of
17 worship, college and university campuses, bars and restaurants
18 that serve alcohol, and other spaces for public or social
19 gathering. The legislature observes that restrictions on public
20 carrying of firearms in Hawai`i have existed for many years. For
21 example, a law enacted on May 25, 1852, "An Act to Prevent the



1 Carrying of Deadly Weapons" (1852 Haw. Sess. Laws 19), declared
2 that "the habit of carrying deadly weapons is dangerous to life
3 and the public peace".

4 Accordingly, this current Act, grounded in the State's
5 historical restrictions and principles, restricts firearms from
6 areas in which public health and safety demand protection.
7 These areas include any private property or business in which
8 firearms are not usually allowed (and usually not expected),
9 unless the property owner has the authority and expressly
10 consents to an individual's carry of a firearm.

11 The legislature notes that this Act's location-based
12 restrictions do not negate or diminish other laws regulating
13 firearms, including laws that prohibit the possession of a
14 firearm without a permit to acquire a firearm, laws that
15 prohibit carrying a firearm without a license to carry, and laws
16 that require firearm registration.

17 The legislature further finds that data support
18 location-based restrictions on the carrying of firearms. When
19 other cities and states changed their laws to allow the
20 concealed carrying of firearms, or loosened restrictions on the
21 carrying of firearms, there was a corresponding increase in



1 crimes involving firearms. Michael Siegel and other researchers
2 from the Boston University School of Public Health compared
3 homicide rates over a twenty-five-year period, from 1991 to
4 2015. Their findings, published in 2017 in the American Journal
5 of Public Health as *Easiness of Legal access to Concealed*
6 *Firearm Permits and Homicide Rates in the United States* (107:12,
7 1923-29, DOI: <https://doi.org/10.2105/AJPH.2017.304057>), concluded
8 that "shall-issue" laws, which require concealed carry permits
9 to be issued if the permit criteria are met, are associated with
10 significantly higher rates of total, firearm-related, and
11 handgun-related homicide: 6.5 per cent higher total homicide
12 rates, 8.6 per cent higher firearm-related homicide rates, and
13 10.6 per cent higher handgun-specific homicide rates, when
14 compared with states having "may-issue" laws which grant
15 authorities discretion on whether to issue carrying permits.
16 Similarly, Emma Fridel, a Florida State University College of
17 Criminology and Criminal Justice professor, examined the impact
18 of household gun ownership and concealed carry legislation on
19 firearm-related homicides and mass shootings in the United
20 States from 1991 to 2016. The professor, whose findings were
21 published in 2021 in *Justice Quarterly* as *Comparing the Impact*



1 *of Household Gun Ownership and Concealed Carry Legislation on*
2 *the Frequency of Mass Shootings and Firearms Homicide* (38:5,
3 892-915, DOI: [httdoi.org/10.1080/07418825.2020.1789693](https://doi.org/10.1080/07418825.2020.1789693)), found
4 that states with "shall-issue" laws and states that do not
5 require a permit to carry a firearm have overall firearm
6 homicide rates that are 10.8 per cent higher than states with
7 "may-issue" laws. A team of researchers lead by John Donohue
8 found that "shall-issue" laws were associated with increased
9 rates of violence in forty-seven major United States cities,
10 including a twenty-nine per cent overall increase in firearm
11 violent crimes, a thirty-two per cent increase in
12 firearm-related robberies, and a thirty-five per cent increase
13 in gun thefts. The team, in *More Guns, More Unintended*
14 *Consequences: The Effects of Right-to-Carry on Criminal Behavior*
15 *and Policing in US Cities*, a June 2022 working paper published
16 by the National Bureau of Economic Research (available at:
17 <https://www.nber.org/papers/w30190>), concluded: "Any
18 crime-inhibiting benefits from increased gun carrying are
19 swamped by the crime-stimulating impacts". Still other
20 researchers, led by Mitchell L. Doucette, also found an
21 association of "shall-issue" laws with increased violence.



1 Their manuscript, entitled *Impact of Changes to Concealed Carry*
2 *Weapons Laws on Fatal and Nonfatal Violent Crime, 1980-2019*
3 (kwac160,DOI: <https://doi.org/10.1093/aje/kwac160>), and published
4 in 2022 by the American Journal of Epidemiology, concluded that
5 those laws led to a 9.5 per cent increase in the rate of firearm
6 assaults.

7 The legislature further finds that Act 183, Sessions Laws
8 of Hawaii 2021, repealed the State's prohibition on electric
9 guns. While Act 183 imposed reasonable requirements relating to
10 the use, storage, transfer, disposal, and purchase of electric
11 guns, the Act did not impose location-based restrictions on the
12 carrying or the possession of those electric guns. The
13 legislature believes that those restrictions are also necessary
14 to protect public health and safety.

15 Accordingly, the purpose of this Act is to protect the
16 public health and safety, in a manner consistent with the Second
17 Amendment of the Constitution of the United States, by:

- 18 (1) Specifying sensitive locations in which the carrying
19 of firearms is prohibited;
- 20 (2) Authorizing, in certain circumstances, the carrying of
21 firearms on private property, when authorized by the



- 1 property owner, the property owner's agent, or the
2 lessee of the property;
- 3 (3) Specifying restricted areas in which the carrying or
4 possession of electric guns is prohibited;
- 5 (4) Imposing certain firearm storage requirements on
6 individuals licensed to carry firearms; and
- 7 (5) Requiring the department of the attorney general to
8 submit to the legislature, over a four-year period,
9 semi-annual reports on the public carrying of
10 firearms.

11 SECTION 2. Chapter 134, Hawaii Revised Statutes, is
12 amended by adding four new sections to part I to be
13 appropriately designated and to read as follows:

- 14 **"§134-A Firearm carrying; sensitive location restrictions**
15 **and prohibitions.** (a) No individual carrying a firearm,
16 concealed or unconcealed, on the individual's person shall enter
17 or remain in or on, including the grounds and buildings of, any:
- 18 (1) Place owned or under the control of federal, state, or
19 county government, excluding any:
- 20 (A) Dwelling unit or lodging unit when not used as a
21 child care facility;



- 1 (B) Designated shooting complex; and
- 2 (C) Building used for an authorized firearms show or
- 3 exhibit, during normal operating hours for the
- 4 firearms show or exhibit;
- 5 (2) Public transportation vehicle, facility, or structure
- 6 used for land, air, or sea transportation, including
- 7 any:
- 8 (A) Airplane, bus, train car, ship, or other vehicle;
- 9 and
- 10 (B) Airport, bus terminal, train station, or any
- 11 other structure used for or in connection with
- 12 public transportation;
- 13 (3) Library, playground, recreation center, or public
- 14 park;
- 15 (4) Nursery school, preschool, or child care facility,
- 16 including any day care center or camp;
- 17 (5) Educational institution, college, university, public
- 18 school, charter school, private school, or any
- 19 state-operated or state-supported school;
- 20 (6) School bus or other school vehicle used for the
- 21 transport of students;



- 1 (7) Public or private hospital or hospital affiliate,
2 mental health facility, nursing home, medical office,
3 urgent care facility, or any other place at which
4 medical services are customarily provided;
- 5 (8) Shelter or residential facility licensed, regulated,
6 or approved by a government entity;
- 7 (9) Place at which services to children, youth, young
8 adults, or people with developmental disabilities are
9 provided by an individual or entity licensed,
10 regulated, or approved by a government entity to
11 provide those services;
- 12 (10) Establishment licensed for on-premises consumption of
13 liquor;
- 14 (11) Theater, arena, stadium, museum, amusement park,
15 performance venue, concert venue, exhibit hall,
16 conference center, banquet hall, or other place
17 commonly used for performances, the arts,
18 entertainment, or sporting events;
- 19 (12) Voter service center, place of deposit, or
20 appurtenance to a voter service center or place of
21 deposit, including any parking lots, routes of access,



1 and any other areas specified in section 11-132; or
2 any area within a two hundred-foot radius from the
3 perimeter of those locations; or

4 (13) Property at which any government-permitted public
5 event is actively being held, the sidewalks or streets
6 immediately adjacent to that property, and the area
7 within a one thousand-foot radius of the perimeter of
8 that property; provided that signs are clearly and
9 conspicuously posted at visible places along the
10 perimeter of the event to identify the event; provided
11 further that this paragraph shall not apply to an
12 individual if the individual:

13 (A) Possesses a valid license to carry a firearm
14 pursuant to section 134-9;

15 (B) Is walking through the property in order to
16 access the individual's residence, place of
17 business, or vehicle;

18 (C) Has no other reasonable means of accessing the
19 individual's residence, place of business, or
20 vehicle; and



1 (D) Does not loiter or remain in place at the
2 property longer than necessary for the purposes
3 of subparagraph (B).

4 (b) Nothing in this section shall prohibit the carrying of
5 a firearm as expressly authorized by federal or state law.

6 (c) Any individual carrying a firearm in violation of this
7 section shall be guilty of a:

8 (1) Misdemeanor for a first offense; or

9 (2) Class C felony for any subsequent offense committed
10 within five years after a prior offense,

11 shall be subject to revocation of any license to carry a firearm
12 pursuant to section 134-13, and shall be ineligible to apply for
13 a license to carry a firearm until one year after the
14 individual's sentence has been served.

15 (d) For the purposes of this section,
16 "government-permitted public event" means a public gathering,
17 special event, or other public event for which the issuance of a
18 permit from a federal, state, or local government agency was
19 necessary.

20 **§134-B Firearm carrying; on private property; restrictions**
21 **and prohibitions.** (a) Except as provided in subsection (b), no



1 individual carrying a firearm, concealed or unconcealed, on the
2 individual's person shall enter or remain in or on any private
3 property, including any place of private business open to the
4 public.

5 (b) Unless the individual is otherwise restricted by the
6 location-based restrictions in section 134-A, an individual
7 licensed to carry a firearm pursuant to section 134-9 and
8 applicable county ordinances who is carrying the firearm in a
9 manner consistent with the license may enter or remain in or on
10 any private property with the express consent of the property
11 owner, the property owner's agent, or the lessee of the
12 property; provided that express consent may be conveyed through:

- 13 (1) The use of signs; or
14 (2) Other reasonable means.

15 (c) Any individual carrying a firearm in violation of this
16 section shall be guilty of a:

- 17 (1) Misdemeanor for a first offense; or
18 (2) Class C felony for any subsequent offense committed
19 within five years after a prior offense,

20 shall be subject to revocation of any license to carry a firearm
21 pursuant to section 134-13, and shall be ineligible to apply for



1 a license to carry a firearm until one year after the
2 individual's sentence has been served.

3 (d) For the purposes of this section, "private property"
4 means any real property that is not owned or controlled by a
5 government entity. "Private property" includes any private
6 residential, commercial, industrial, or agricultural real
7 property, and includes the premises of the real property.

8 **§134-C Safe storage of firearms; persons licensed to carry**

9 **firearms.** (a) Any individual licensed to carry a firearm
10 pursuant to section 134-9 shall store each of the individual's
11 firearms as described in subsection (b), except when:

12 (1) The firearm is kept on any premises under the person's
13 control and is stored pursuant to section 134-10.5; or

14 (2) The individual is actively carrying the firearm on the
15 individual's person, as authorized by the license
16 issued to the individual.

17 (b) The individual shall store each firearm, unloaded, in
18 an enclosed container, placed out of plain view, and locked with
19 a padlock, keylock, combination lock, or similar locking device;
20 provided that the utility or glove compartment of a motor
21 vehicle shall not serve as an enclosed container.



1 (c) Any individual who violates this section shall be
2 guilty of a misdemeanor, shall be subject to revocation of any
3 license to carry a firearm pursuant to section 134-13, and shall
4 be ineligible to apply for a license to carry a firearm until
5 one year after the individual's sentence has been served.

6 **§134-D Duty to inform law enforcement upon contact when**
7 **carrying firearm.** (a) Any individual licensed to carry a

8 firearm pursuant to section 134-9 who is in possession of or
9 carrying a firearm when contacted by a law enforcement officer
10 shall immediately:

- 11 (1) Inform the law enforcement officer that the individual
12 is in possession of or carrying the firearm; and
13 (2) Present the individual's license to the law
14 enforcement officer.

15 (b) Any individual who violates this section shall be
16 guilty of a petty misdemeanor, shall be subject to revocation of
17 any license to carry a firearm pursuant to section 134-13, and
18 shall be ineligible to apply for a license to carry a firearm
19 until one year after the individual's sentence has been served."



1 SECTION 3. Chapter 134, Hawaii Revised Statutes, is
2 amended by adding a new section to part V to be appropriately
3 designated and to read as follows:

4 **"§134-E Electric gun carrying; restricted areas and**
5 **prohibitions.** (a) No individual carrying or in possession of
6 an electric gun shall enter or remain in or on, including the
7 grounds and buildings of, any:

8 (1) Place owned or under the control of federal, state, or
9 county government, excluding any:

10 (A) Dwelling unit or lodging unit when not used as a
11 child care facility;

12 (B) Designated shooting complex; and

13 (C) Building used for an authorized firearms show or
14 exhibit, during normal operating hours for the
15 firearms show or exhibit;

16 (2) Public transportation vehicle, facility, or structure
17 used for land, air, or sea transportation, including
18 any:

19 (A) Airplane, bus, train car, ship, or other vehicle;
20 and



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- 1 (B) Airport, bus terminal, train station, or any
2 other structure used for or in connection with
3 public transportation;
- 4 (3) Playground, nursery school, preschool, or child care
5 facility, including any day care center or camp;
- 6 (4) Educational institution (other than a college or
7 university), public school, charter school, private
8 school, or any state-operated or state-supported
9 school;
- 10 (5) School bus or other school vehicle used for the
11 transport of students (other than college or
12 university students);
- 13 (6) Voter service center, place of deposit, or
14 appurtenance to a voter service center or place of
15 deposit, including any parking lots, routes of access,
16 and any other areas specified in section 11-132; or
17 any area within a two hundred-foot radius from the
18 perimeter of those locations; or
- 19 (7) Property at which any government-permitted public
20 event is actively being held, the sidewalks or streets
21 immediately adjacent to that property, and the area



1 within a one thousand-foot radius of the perimeter of
2 that property; provided that signs are clearly and
3 conspicuously posted at visible places along the
4 perimeter of the event to identify the event; provided
5 further that this paragraph shall not apply to an
6 individual if the individual:

7 (A) Is walking through the property in order to
8 access the individual's residence, place of
9 business, or vehicle;

10 (B) Has no other reasonable means of accessing the
11 individual's residence, place of business, or
12 vehicle; and

13 (C) Does not loiter or remain in place at the
14 property longer than necessary for the purposes
15 of subparagraph (A).

16 (b) Nothing in this section shall prohibit the possession
17 or carrying of an electric gun as expressly authorized by
18 federal or state law.

19 (c) Any individual who violates this section shall be
20 guilty of a misdemeanor.



1 (d) For the purposes of this section, "government-permitted
2 public event" shall have the same meaning as in section
3 134-A(d)."

4 SECTION 4. Section 134-11, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§134-11 Exemptions.** (a) Sections 134-7 to 134-9 [~~and~~],
7 134-21 to 134-27, and 134-A to 134-D, except section 134-7(f),
8 shall not apply:

9 (1) To state and county law enforcement officers; provided
10 that such persons are not convicted of an offense
11 involving abuse of a family or household member under
12 section 709-906;

13 (2) To members of the armed forces of the State and of the
14 United States and mail carriers while in the
15 performance of their respective duties if those duties
16 require them to be armed;

17 (3) To regularly enrolled members of any organization duly
18 authorized to purchase or receive the weapons from the
19 United States or from the State; provided the members
20 are either at, or going to or from, their places of
21 assembly or target practice;



- 1 (4) To persons employed by the State, or subdivisions
2 thereof, or the United States while in the performance
3 of their respective duties or while going to and from
4 their respective places of duty if those duties
5 require them to be armed;
- 6 (5) To aliens employed by the State, or subdivisions
7 thereof, or the United States while in the performance
8 of their respective duties or while going to and from
9 their respective places of duty if those duties
10 require them to be armed; and
- 11 (6) To police officers on official assignment in Hawaii
12 from any state which by compact permits police
13 officers from Hawaii while on official assignment in
14 that state to carry firearms without registration.
15 The governor of the State or the governor's duly
16 authorized representative may enter into compacts with
17 other states to carry out this paragraph.
- 18 (b) Sections 134-2 [~~and~~], 134-3, and 134-A to 134-D shall
19 not apply to such firearms or ammunition that are a part of the
20 official equipment of any federal agency.



1 (c) Sections 134-8, 134-9, [and] 134-21 to 134-27, and
2 134-A to 134-D shall not apply to the possession,
3 transportation, or use, with blank cartridges, of any firearm or
4 explosive solely as props for motion picture film or television
5 program production when authorized by the chief of police of the
6 appropriate county pursuant to section 134-2.5 and not in
7 violation of federal law."

8 SECTION 5. Section 134-25, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~134-25~~§~~ **Place to keep pistol or revolver; penalty.**

11 (a) Except as provided in sections 134-5 and 134-9, all
12 firearms shall be confined to the possessor's place of business,
13 residence, or sojourn; provided that it shall be lawful to carry
14 unloaded firearms in an enclosed container from the place of
15 purchase to the purchaser's place of business, residence, or
16 sojourn, or between these places upon change of place of
17 business, residence, or sojourn, or between these places and the
18 following:

- 19 (1) A place of repair;
20 (2) A target range;
21 (3) A licensed dealer's place of business;



- 1 (4) An organized, scheduled firearms show or exhibit;
- 2 (5) A place of formal hunter or firearm use training or
- 3 instruction; or
- 4 (6) A police station.

5 "Enclosed container" means a rigidly constructed
 6 receptacle, or a commercially manufactured gun case, or the
 7 equivalent thereof that completely encloses the firearm.

8 (b) Any person violating [~~this section~~] subsection (a) by
 9 carrying or possessing a loaded or unloaded pistol or revolver
 10 shall be guilty of a class B felony.

11 (c) Any individual having a valid license to carry a
 12 firearm issued pursuant to section 134-9 shall comply with the
 13 safe storage requirements of section 134-C."

14 SECTION 6. Section 134-26, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "~~§134-26~~ **Carrying or possessing a loaded firearm on**
 17 **a public highway; penalty.** (a) It shall be unlawful for any
 18 person on any public highway to carry on the person, or to have
 19 in the person's possession, or to carry in a vehicle any firearm
 20 loaded with ammunition[~~, provided that this~~].



1 (b) This section shall not apply to any person who has in
2 the person's possession or carries a pistol or revolver in
3 accordance with a license issued as provided in section
4 134-9[-]; provided that the person is in compliance with the
5 safe storage requirements of section 134-C.

6 [~~(b)~~] (c) Any vehicle used in the commission of an offense
7 under this section shall be forfeited to the State, subject to
8 the notice and hearing requirements of chapter 712A.

9 [~~(e)~~] (d) Any person violating this section shall be
10 guilty of a class B felony."

11 SECTION 7. Section 134-87, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Sections 134-82 [~~and~~], 134-86(f), and 134-E shall not
14 apply to:

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

17 (2) The Army or Air National Guard and its members when
18 they are assisting civil authorities in disaster
19 relief, emergency management, or law enforcement
20 functions, subject to the requirements of section
21 121-34.5;



1 provided that the electric guns shall be acquired by the law
2 enforcement agencies or the Army or Air National Guard and not
3 individual law enforcement officers or members of the Army or
4 Air National Guard, and shall remain in the custody and control
5 of law enforcement agencies or the Army or Air National Guard."

6 SECTION 8. The department of the attorney general, in
7 consultation with the gun violence and violent crimes
8 commission, shall submit to the legislature a semi-annual report
9 by December 1, 2023, and every six months thereafter, through
10 December 1, 2027. Each report shall include a record of all
11 violations of this Act's location-based restrictions on the
12 carrying or possession of firearms or electric guns.

13 SECTION 9. The provisions of this Act that apply to all
14 individuals licensed to carry a firearm pursuant to
15 section 134-9, Hawaii Revised Statutes, and applicable county
16 ordinances.

17 SECTION 10. Nothing in this Act shall be construed to
18 limit a county's authority to enact an ordinance to further
19 regulate the carrying of firearms.

20 SECTION 11. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 12. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 13. In codifying the new sections added by
9 sections 2 and 3 of this Act, the revisor of statutes shall
10 substitute appropriate section numbers for the letters used in
11 designating the new sections in this Act.

12 SECTION 14. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 15. This Act shall take effect on September 1,
15 2023.

16

INTRODUCED BY:

Karl Rhoads



S.B. NO. 1542

Report Title:

Firearms; Electric Guns; Carrying; Possession; Restrictions

Description:

Specifies sensitive locations in which the carrying of firearms is restricted or prohibited. Authorizes, in certain circumstances, the carrying of firearms on private property. Specifies areas in which the carrying or possession of electric guns is restricted or prohibited. Imposes certain firearm storage requirements for individuals licensed to carry firearms. Requires the Department of the Attorney General to submit to the Legislature, over a 4-year period, semi-annual reports on the public carrying of firearms.

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

