

JAN 18 2023

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 in *New York State*
2 *Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111
3 (2022), the United States Supreme Court held that the Second and
4 Fourteenth Amendments of the United States Constitution protect
5 an individual's right to publicly carry a handgun for purposes
6 of self-defense. The *Bruen* court also determined that the law
7 is settled that firearms could be prohibited in certain
8 "sensitive places", consistent with the Second Amendment.
9 However, the *Bruen* court did not explicitly define "sensitive
10 places", except that Justice Brett M. Kavanaugh and Chief
11 Justice John G. Roberts, Jr. noted in a concurring opinion that,
12 "[p]roperly interpreted, the Second Amendment allows a 'variety'
13 of gun regulations[,] " including "laws forbidding the carrying
14 of firearms in sensitive places such as schools and government
15 buildings". The Supreme Court had endorsed these restrictions
16 in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and
17 *McDonald v. Chicago*, 561 U.S. 742 (2010).



1 The legislature further finds that before *Bruen*, lower
2 courts had held that national parks and the parking lots of
3 rural post offices were also sensitive places, and had similarly
4 indicated that libraries, museums, hospitals, and daycare
5 centers may also ban guns. Both red and blue states created a
6 list of "sensitive places" such as public transit, polling
7 places, athletic facilities, public swimming pools, riverboat
8 casinos, school bus stops, pharmacies, business parking lots,
9 public highways, amusement parks, zoos, liquor stores, airports,
10 parades, demonstrations, financial institutions, theaters, hotel
11 lobbies, tribal lands, and gun shows. These "sensitive place"
12 designations are now subject to challenge as insufficiently
13 analogous to regulations that existed in the past.

14 The legislature also finds that the *Bruen* decision has
15 recently led states to propose legislation to define "sensitive
16 places" where firearms are prohibited, which may lead to more
17 explicit guidance from the United States Supreme Court.

18 The purpose of this Act is to:

- 19 (1) Prohibit the carrying of a firearm in sensitive
20 places;
21 (2) Define sensitive places; and



1 (3) Establish penalties for violations.

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

5 "§134- Prohibition against carrying a firearm in a
6 sensitive place; penalties. (a) It shall be unlawful for any
7 person to intentionally, knowingly, or recklessly carry on their
8 person a firearm, concealed or unconcealed, in a sensitive
9 place.

10 (b) Any person violating this section shall be guilty of a
11 class C felony.

12 (c) This section shall preempt any ordinances passed or
13 adopted by any county to the extent that these ordinances
14 conflict with or are inconsistent with the provisions of this
15 section.

16 (d) For the purposes of this section, "sensitive place"
17 means:

18 (1) Any government-owned or controlled buildings or
19 offices, excluding:

20 (A) Any dwelling unit or lodging unit when not used
21 as a child care facility;



- 1 (B) Firing range complex; and
- 2 (C) Government-owned or controlled building during
- 3 the operating hours of an organized firearms show
- 4 or exhibit;
- 5 (2) Hospitals, medical facilities, medical offices, and
- 6 medical clinics;
- 7 (3) Churches or religious assemblies;
- 8 (4) Public parks or recreational grounds as defined in
- 9 section 708-814.5;
- 10 (5) Child care facilities as defined in section 346-151;
- 11 (6) Schools as defined in section 302A-901;
- 12 (7) Shelters and residential facilities operated by a
- 13 government entity or a charitable organization serving
- 14 homeless children, children involved in the juvenile
- 15 justice system, or children who are similarly at-risk;
- 16 (8) Any educational institution, college, or university;
- 17 (9) Any place, conveyance, or vehicle used for public
- 18 transportation or public transit;
- 19 (10) Any facility used for or in connection with service in
- 20 the transportation of passengers; and



1 (11) Any gathering of individuals to collectively express
2 their constitutional rights to protest or assemble."

3 SECTION 3. Section 134-11, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) Sections 134-7 to 134-9 [~~and~~], 134-21 to 134-27, and
7 section 134- , except [~~section~~] subsection 134-7(f), shall not
8 apply:

9 (1) To state and county law enforcement officers; provided
10 that [~~such~~] the persons are not convicted of an
11 offense involving abuse of a family or household
12 member under 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 2. By amending subsection (c) to read:

19 "(c) Sections 134-8, 134-9, [~~and~~] 134-21 to 134-27, and
20 134-__, shall not apply to the possession, transportation, or
21 use, with blank cartridges, of any firearm or explosive solely



1 as props for motion picture film or television program
2 production when authorized by the chief of police of the
3 appropriate county pursuant to section 134-2.5 and not in
4 violation of federal law."

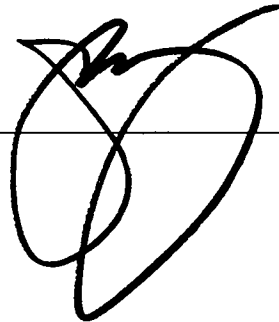
5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY: _____

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S.B. NO. 121

Report Title:

Firearms; Sensitive Places; Penalties

Description:

Prohibits the carrying of a firearm in sensitive places.
Defines sensitive places. Establishes penalties.

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

