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# A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. Section 134-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Ghost gun" means a firearm, including a firearm frame or  
5 firearm receiver, that has not been imprinted with a serial  
6 number registered with a federally licensed manufacturer.  
7 "Ghost gun" does not include a firearm that has been rendered  
8 permanently inoperable."

9 SECTION 2. Chapter 706, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§706- Sentence of imprisonment for use of a ghost gun  
13 in a felony. (1) A person convicted of a felony, where the  
14 person had a ghost gun in the person's possession or threatened  
15 its use or used the ghost gun while engaged in the commission of  
16 the felony, whether the ghost gun was loaded or not, may in  
17 addition to the indeterminate term of imprisonment provided for



1 the grade of offense be sentenced to a mandatory minimum term of  
2 imprisonment without possibility of parole or probation the  
3 length of which shall be as follows:

4 (a) For murder in the second degree and attempted murder  
5 in the second degree—up to fifteen years;

6 (b) For a class A felony—up to ten years;

7 (c) For a class B felony—up to five years; and

8 (d) For a class C felony—up to three years.

9 The sentence of imprisonment for a felony involving the use of a  
10 ghost gun as provided in this section shall not be subject to  
11 the procedure for determining minimum term of imprisonment  
12 prescribed under section 706-669; provided that a person who is  
13 imprisoned in a correctional institution as provided in this  
14 subsection shall become subject to the parole procedure as  
15 prescribed in section 706-670 only upon the expiration of the  
16 term of mandatory imprisonment fixed under paragraph (a), (b),  
17 (c), or (d).

18 (2) A person convicted of a second or subsequent ghost gun  
19 felony offense as provided in subsection (1), where the person  
20 had a ghost gun in the person's possession or threatened its use  
21 or used the ghost gun while engaged in the commission of the



1 felony, whether the ghost gun was loaded or not, shall in  
2 addition to the indeterminate term of imprisonment provided for  
3 the grade of offense be sentenced to a mandatory minimum term of  
4 imprisonment without possibility of parole or probation the  
5 length of which shall be as follows:

6 (a) For murder in the second degree and attempted murder  
7 in the second degree—twenty years;

8 (b) For a class A felony—thirteen years, four months;

9 (c) For a class B felony—six years, eight months; and

10 (d) For a class C felony—three years, four months.

11 The sentence of imprisonment for a second or subsequent felony  
12 offense involving the use of a ghost gun as provided in this  
13 subsection shall not be subject to the procedure for determining  
14 a minimum term of imprisonment prescribed under section 706-669;  
15 provided that a person who is imprisoned in a correctional  
16 institution as provided in this subsection shall become subject  
17 to the parole procedure as prescribed in section 706-670 only  
18 upon expiration of the term of mandatory imprisonment fixed  
19 under paragraph (a), (b), (c), or (d).

20 (3) Any person convicted of a ghost gun felony offense as  
21 provided in subsection (1) who has previously been convicted of



1 a felony offense involving the use of a firearm under  
2 section 706-660.1, shall in addition to the indeterminate term  
3 of imprisonment provided for the grade of offense be sentenced  
4 to a mandatory minimum term of imprisonment without possibility  
5 of parole or probation the length of which shall be as follows:

6 (a) For murder in the second degree and attempted murder  
7 in the second degree—twenty years;

8 (b) For a class A felony—thirteen years, four months;

9 (c) For a class B felony—six years, eight months; and

10 (d) For a class C felony—three years, four months.

11 The sentence of imprisonment as provided in this subsection  
12 shall not be subject to the procedure for determining a minimum  
13 term of imprisonment prescribed under section 706-669; provided  
14 that a person who is imprisoned in a correctional institution as  
15 provided in this subsection shall become subject to the parole  
16 procedure as prescribed in section 706-670 only upon expiration  
17 of the term of mandatory imprisonment fixed under paragraph (a),  
18 (b), (c), or (d).

19 (4) In this section:

20 "Firearm" has the same meaning defined in section 134-1.

21 "Ghost gun" has the same meaning defined in section 134-1."



1 SECTION 3. Section 134-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§134-8 Ownership, etc., of automatic firearms, silencers,**  
4 **etc., prohibited; penalties.** (a) The manufacture, possession,  
5 sale, barter, trade, gift, transfer, or acquisition of any of  
6 the following [~~is~~] shall be prohibited: assault pistols, except  
7 as provided by section 134-4(e); automatic firearms; rifles with  
8 barrel lengths less than sixteen inches; ghost guns; shotguns  
9 with barrel lengths less than eighteen inches; cannons;  
10 mufflers, silencers, or devices for deadening or muffling the  
11 sound of discharged firearms; hand grenades, dynamite, blasting  
12 caps, bombs, or bombshells, or other explosives; or any type of  
13 ammunition or any projectile component thereof coated with  
14 teflon or any other similar coating designed primarily to  
15 enhance its capability to penetrate metal or pierce protective  
16 armor; and any type of ammunition or any projectile component  
17 thereof designed or intended to explode or segment upon impact  
18 with its target.

19 (b) Any person who installs, removes, or alters a firearm  
20 part with the intent to convert the firearm to an automatic



1 firearm shall be deemed to have manufactured an automatic  
2 firearm in violation of subsection (a).

3 (c) The manufacture, possession, sale, barter, trade,  
4 gift, transfer, or acquisition of detachable ammunition  
5 magazines with a capacity in excess of ten rounds [~~which~~] that  
6 are designed for or capable of use with a pistol [~~is~~] shall be  
7 prohibited. This subsection shall not apply to magazines  
8 originally designed to accept more than ten rounds of ammunition  
9 [~~which~~] that have been modified to accept no more than ten  
10 rounds and [~~which~~] that are not capable of being readily  
11 restored to a capacity of more than ten rounds.

12 (d) Any person violating subsection (a) or (b) shall be  
13 guilty of a class C felony and shall be imprisoned for a term of  
14 five years without probation. Any person violating subsection  
15 (c) shall be guilty of a misdemeanor except when a detachable  
16 magazine prohibited under this section is possessed while  
17 inserted into a pistol in which case the person shall be guilty  
18 of a class C felony.

19 (e) In any prosecution for the manufacture, possession,  
20 sale, barter, trade, gift, transfer, or acquisition of a ghost  
21 gun, it shall be an affirmative defense that the person holds a



1 current license to sell and manufacture firearms for sale under  
2 section 134-31, or that the person is a dealer licensed by the  
3 United States Department of Justice, or that the firearm is not  
4 required to have a serial number under the federal Gun Control  
5 Act of 1968."

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

9 SECTION 5. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Honolulu Prosecuting Attorney Package; Criminal Offenses;  
Firearms; Ghost Guns

**Description:**

Prohibits the possession, transfer, and sale of ghost guns.  
Establishes mandatory minimum sentencing for use of a ghost gun  
in the commission of a felony. (HD1)

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