

A Bill for an Act Relating to Firearms.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

**“§134-1 Definitions.** As used in this chapter: “Firearm” means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon, and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

“Pistol” or “revolver” means any firearm of any shape whatsoever with a barrel less than sixteen inches in length and capable of discharging loaded ammunition or any noxious gas.

“Electric gun” means any portable device which is electrically operated to project a missile or electromotive force. It does not mean to include any electric livestock prod used in animal husbandry.

“Chief of police” means the chief of police of the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu.

“Fugitive from justice” means any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding.

“Crime of violence” means any offense, as defined in Title 37, which involves injury of threat of injury to the person of another.”

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

**“§134-2 Registration, mandatory.** (a) Every person arriving in the State who brings with him firearms of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival, register the same with the chief of police of the county of such person’s place of business, or if there be no place of business, such person’s residence, or if there be neither place of business nor residence, such person’s place of sojourn; provided that, no alien shall be allowed to bring any firearm into the State.

(b) Every person who acquires a pistol or revolver pursuant to section 134-3

shall, within five days of acquisition, register it in the manner prescribed by this section.

Registration shall not be required for: (1) any device designed to fire loose black powder; (2) a device not designed to fire or made incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition; or (3) all unserviceable firearms and destructive devices registered with the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury pursuant to Title 27, Code of Federal Regulations.

The registration shall be on such forms as may be designated by the department of the attorney general and shall include the names of the manufacturer and importer, model, type of action, caliber or gauge, the serial number, quantity and class of ammunition in the person's ownership and/or possession, and the source from which receipt was obtained, including the name and address of the prior registrant.

No fee shall be charged for the registration.

(c) Any person who fails to comply with subsection (b) of this section shall be guilty of a misdemeanor. Failure to comply with any other subsection of this section shall be a petty misdemeanor."

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

**"§134-3 Permits to acquire; penalty.** No person shall acquire the ownership of a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until such person has first procured from the chief of police of the county of the person's place of business, or if there be no place of business, such person's residence, or if there be neither place of business nor residence, such person's place of sojourn, a permit to acquire as prescribed herein; provided that when title to any such firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of same.

The permit application form shall include the applicant's name, address, sex, height, weight, date of birth, place of birth, information regarding the applicant's mental health history, and social security number, and shall require the fingerprinting and photographing of the applicant by the police department of the county of registration, provided that where fingerprints and photograph are already on file with said department, the fingerprinting and photographing may be waived.

Applicants for a permit shall sign a waiver at time of application, upon forms to be specified by the department of the attorney general, allowing the chief of police of the county issuing permits access to any records which have a bearing on the mental health of the applicant.

No person shall keep in his possession any firearm which is owned by another, whether or not the owner has consented to its possession, without a permit from the chief of police of the appropriate county except as provided in section 134-5.

Any lawfully acquired rifle or shotgun may be loaned to an adult for use within the State for a period not to exceed fifteen days without obtaining a permit, provided

that where the rifle or shotgun is to be used outside of the State, the loan may be for a period not to exceed seventy-five days.

No firearm shall knowingly be loaned to any person who is prohibited under section 134-7 from ownership or possession of a firearm.

Each chief of police may issue permits, within the chief's jurisdiction, to acquire firearms to citizens of the United States of the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien has first procured a hunting license under sections 191-1 to 191-6.

Applications for the permits shall be signed by the applicant upon forms to be specified by the department of the attorney general and shall be signed 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 dealers licensed under section 134-31, or to law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-2(a), a permit shall be issued no earlier than ten calendar days after the date of application; provided that a permit shall be issued, or an application denied, no later than fifteen days from the date of the application. Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver require a separate application and permit for each acquisition. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue, subject to the disqualifications under section 134-7. In all cases where possession of a pistol or revolver is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. The person shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of the firearm is had by mail, express, freight, or otherwise, from sources without the State, the person to whom the permit has been issued shall make the prescribed entries thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with this section.

No fee shall be charged for permits under this section.

Any person who violates this section shall be guilty of a misdemeanor."

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

**"§134-5 Possession by licensed hunters and minors; issuance of permits. (a)** Any person of the age of sixteen years or over, or any person under the age of sixteen years while accompanied by an adult, may carry and use any lawfully acquired rifle or shotgun and suitable ammunition while actually engaged in hunting or target shooting, or while going to and from the place of hunting or target shooting, if the person has procured a hunting license under section 191-1 to 191-6 and provided

minors shall also obtain a permit pursuant to subsection (b) of this section.

(b) The chief of police of each county may issue permits to citizens of the United States who are minors, but such permits shall be limited to the sole purpose of carrying and using any rifle or shotgun as provided in section (a) of this section. This permit shall expire on the expiration date of the hunting license as provided in section 191-3.

(c) Any lawfully acquired firearm may be loaned to another, even though the other person is a minor, upon a target range or similar facility for a period not longer than to allow the other person to then and there use it for target shooting, without a permit."

SECTION 5. Section 134-7, Hawaii Revised Statutes, is amended to read as follows:

**"§134-7 Ownership or possession prohibited, when; penalty.** (a) No person who is a fugitive from justice shall own or have in his possession or under his control any firearm or ammunition therefor.

(b) No person who is under indictment for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or of the illegal sale of any drug, shall own or have in his possession or under his control any firearm or ammunition therefor.

(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful or detrimental drug, intoxicating compound as defined in section 712, or intoxicating liquor;
- (2) Has been committed pursuant to section 333-27, 333-35, or 333-35.5;
- (3) Has been admitted to and detained at a psychiatric facility pursuant to chapter 334, part IV or V;
- (4) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (5) Is or has been under treatment for significant behavioral, emotional or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless such person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.

(d) No person who, as a minor:

- (1) Is a fugitive from justice;
- (2) Has been adjudicated by the family court to have committed a felony or any crime of violence; or
- (3) Has been determined not to have been responsible for a criminal act or committed to any institution on account of a mental disease, disorder, or defect;

shall own, possess, or control any firearm or ammunition therefor, unless such person has been medically documented to have been cured of any such mental disease, disorder or defect.

For the purposes of enforcing this subsection, and notwithstanding section 571-84 or any other law to the contrary, any agency within the State shall make its

records relating to family court adjudications available to law enforcement officials.

(e) Any person disqualified from ownership, possession or control of firearms and ammunition by this chapter shall dispose of all firearms and ammunition in compliance with this chapter.

(f) Any person violating subsections 134-7(a) or (b) shall be guilty of a class C felony, provided that any felon violating subsection 134-7(b) shall be guilty of a class B felony. Any person violating subsections 134-7(c), (d), or (e) shall be guilty of a misdemeanor.”

SECTION 6. Section 134-9, Hawaii Revised Statutes, is amended to read as follows:

“§134-9 Licenses to carry; penalty. In an exceptional case, when the applicant shows reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the county where the license is granted, a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty years or more, who is engaged in the protection of life and property and not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county where the license is granted, a pistol or revolver. Unless renewed, the license shall automatically become void at the expiration of one year from date of issue. No license shall be issued unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who is prohibited under section 134-7 from the ownership or possession of a firearm, or a person adjudged insane or appearing to be mentally deranged. The chief of police of each county shall adopt procedures to require that any person granted a license to carry a concealed weapon on his person, shall be qualified to use the firearm in a safe manner. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under this section or in compliance with section 134-6.

For each license there shall be charged a fee of \$10, which shall be deposited in the treasury of the county in which the license is granted.

Any person violating this section shall be guilty of a class C felony.

SECTION 7. **Severability.** If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**SECTION 9.** This Act shall take effect upon its approval and shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred before the effective date.

(Approved June 24, 1981.)