

ACT 129

H.B. NO. 2204

A Bill for an Act Relating to the Liability of a Firearm Owner.

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

SECTION 1. Section 663-9.5, Hawaii Revised Statutes, is amended to read as follows:

“§663-9.5¹ Liability of firearm owners. (a) The owner of a firearm, if the discharge of the firearm proximately causes either personal injury or property damage to any person, shall be absolutely liable for [~~such~~] the damage.

- (b) It shall be an affirmative defense to ~~[such]~~ the absolute liability that ~~[the]~~:
- (1) The firearm was not in the possession of the owner ~~[and was]~~;
 - (2) The firearm was taken from the owner's possession without the owner's permission; and ~~[the]~~
 - (3) The owner either ~~[had reported]~~:
 - (A) Reported the theft to the police prior to the discharge; or ~~[despite]~~
 - (B) Despite the exercise of reasonable care ~~[, had]~~:
 - (i) Had not discovered the theft prior to the discharge; or ~~[was]~~
 - (ii) Was not reasonably able to report the theft to the police prior to the discharge.
- (c) This section shall not apply when the discharge of the firearm was legally justified.
- (d) The absolute liability under subsection (a) shall not apply to the State or counties for the use of a firearm owned by the State or county, as applicable, and used by a law enforcement officer employed by the State or county, outside of the course and scope of employment as a law enforcement officer; provided that this section shall not be construed to relieve the State and counties from any other tort liability that may be applicable to the State or counties."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 2008.)

Note

1. Prior to amendment brackets appeared around section number.