

ACT 301

H.B. NO. 679

A Bill for an Act Relating to Firearms.

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:

“§663-9.5 Liability of firearm owners. (a) ~~[The owner of a firearm, if]~~ If a firearm discharges and the discharge of the firearm proximately causes either personal injury or property damage to any person, the owner of the firearm shall be absolutely liable for the damage.

(b) It shall be an affirmative defense to the absolute liability that[:

~~(1) The] the firearm was not in the possession of the owner[;].~~

(c) It shall be an affirmative defense to the absolute liability that:

~~[(2)]~~ (1) The firearm was taken from the owner’s possession without the owner’s permission; and

~~[(3)]~~ (2) The owner either:

(A) Reported the theft to the police prior to the discharge; or

(B) Despite the exercise of reasonable care:

(i) Had not discovered the theft prior to the discharge; or

(ii) Was not reasonably able to report the theft to the police prior to the discharge.

~~[(e)]~~ (d) This section shall not apply when the discharge of the firearm was legally justified.

~~[(d)]~~ (e) 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.

(f) The absolute liability under subsection (a) shall not apply to National Rifle Association certified firearms instructors during the course of providing firearms training or safety courses or classes at a firing range to persons seeking to acquire a permit for the acquisition of a pistol or revolver in accordance with section 134-2(g)(4); provided that this section shall not be construed to relieve a National Rifle Association certified firearms instructor from any other tort liability that may be applicable.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 9, 2012.)