
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. Chapter 134, Hawaii Revised Statutes, is
2 amended by adding seven new sections to be appropriately
3 designated and to read as follows:

4 "§134-A Carrying or use of firearm in the commission of a
5 separate felony; penalty. (a) It shall be unlawful for a
6 person to knowingly carry on the person or have within the
7 person's immediate control or intentionally use or threaten to
8 use a firearm while engaged in the commission of a separate
9 felony, whether the firearm was loaded or not, and whether
10 operable or not; provided that a person shall not be prosecuted
11 under this subsection when the separate felony is:

12 (1) A felony offense otherwise defined by this chapter;

13 (2) The felony offense of reckless endangering in the
14 first degree under section 707-713;

15 (3) The felony offense of terroristic threatening in the
16 first degree under section 707-716(1) (a),
17 707-716(1) (b), or 707-716(1) (d); or



1 (4) The felony offenses of criminal property damage in the
2 first degree under section 708-820 or criminal
3 property damage in the second degree under section
4 708-821 and the firearm is the instrument or means by
5 which the property damage is caused.

6 (b) A conviction and sentence under this section shall be
7 in addition to and not in lieu of any conviction and sentence
8 for the separate felony; provided that the sentence imposed
9 under this section may run concurrently or consecutively with
10 the sentence for the separate felony.

11 (c) Any person violating this section shall be guilty of a
12 class A felony.

13 §134-B Possession of a firearm with intent to facilitate
14 the commission of a felony drug offense; penalty. (a) It shall
15 be unlawful for a person to knowingly possess a firearm with the
16 intent to facilitate the commission of a felony offense
17 involving the distribution of a controlled substance, whether
18 the firearm was loaded or not, and whether operable or not.

19 (b) For the purposes of this section:

20 "Controlled substance" shall have the same meaning as
21 defined in section 329-1.



1 "Distribution" means the selling, transferring,
2 prescribing, giving or delivering to another, or the leaving,
3 bartering, or exchanging with another, or the offering or
4 agreeing to do the same.

5 (c) A conviction and sentence under this section shall be
6 in addition to and not in lieu of any conviction and sentence
7 for the separate felony; provided that the sentence imposed
8 under this section may run concurrently or consecutively with
9 the sentence for the separate felony.

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

12 **§134-C Place to keep loaded firearms other than pistols**
13 **and revolvers; penalty.** (a) Except as provided in section

14 134-5, all firearms shall be confined to the possessor's place
15 of business, residence, or sojourn; provided that it shall be
16 lawful to carry unloaded firearms in an enclosed container from
17 the place of purchase to the purchaser's place of business,
18 residence, or sojourn, or between these places upon change of
19 place of business, residence, or sojourn, or between these
20 places and the following:

21 (1) A place of repair;

22 (2) A target range;

- 1 (3) A licensed dealer's place of business;
- 2 (4) An organized, scheduled firearms show or exhibit;
- 3 (5) A place of formal hunter or firearm use training or
- 4 instruction; or
- 5 (6) A police station.

6 "Enclosed container" means a rigidly constructed
 7 receptacle, or a commercially manufactured gun case, or the
 8 equivalent thereof that completely encloses the firearm.

9 (b) Any person violating this section by carrying or
 10 possessing a loaded firearm other than a pistol or revolver
 11 shall be guilty of a class B felony.

12 **§134-D Place to keep unloaded firearms other than pistols**
 13 **and revolvers; penalty.** (a) Except as provided in section
 14 134-5, all firearms shall be confined to the possessor's place
 15 of business, residence, or sojourn; provided that it shall be
 16 lawful to carry unloaded firearms in an enclosed container from
 17 the place of purchase to the purchaser's place of business,
 18 residence, or sojourn, or between these places upon change of
 19 place of business, residence, or sojourn, or between these
 20 places and the following:

- 21 (1) A place of repair;
- 22 (2) A target range;

- 1 (3) A licensed dealer's place of business;
2 (4) An organized, scheduled firearms show or exhibit;
3 (5) A place of formal hunter or firearm use training or
4 instruction; or
5 (6) A police station.

6 "Enclosed container" means a rigidly constructed
7 receptacle, or a commercially manufactured gun case, or the
8 equivalent thereof that completely encloses the firearm.

9 (b) Any person violating this section by carrying or
10 possessing an unloaded firearm other than a pistol or revolver
11 shall be guilty of a class C felony.

12 **§134-E Place to keep pistol or revolver; penalty.** (a)
13 Except as provided in sections 134-5 and 134-9, all firearms
14 shall be confined to the possessor's place of business,
15 residence, or sojourn; provided that it shall be lawful to carry
16 unloaded firearms in an enclosed container from the place of
17 purchase to the purchaser's place of business, residence, or
18 sojourn, or between these places upon change of place of
19 business, residence, or sojourn, or between these places and the
20 following:

- 21 (1) A place of repair;
22 (2) A target range;



- 1 (3) A licensed dealer's place of business;
2 (4) An organized, scheduled firearms show or exhibit;
3 (5) A place of formal hunter or firearm use training or
4 instruction; or
5 (6) A police station.

6 "Enclosed container" means a rigidly constructed
7 receptacle, or a commercially manufactured gun case, or the
8 equivalent thereof that completely encloses the firearm.

9 (b) Any person violating this section by carrying or
10 possessing a loaded or unloaded pistol or revolver shall be
11 guilty of a class B felony.

12 **§134-F Carrying or possessing a loaded firearm on a public**
13 **highway; penalty.** (a) It shall be unlawful for any person on
14 any public highway to carry on the person, or to have in the
15 person's possession, or to carry in a vehicle any firearm loaded
16 with ammunition; provided that this section shall not apply to
17 any person who has in the person's possession or carries a
18 pistol or revolver in accordance with a license issued as
19 provided in section 134-9.

20 (b) Any vehicle used in the commission of an offense under
21 this section shall be forfeited to the State, subject to the
22 notice and hearing requirements of chapter 712A.



1 (c) Any person violating this section shall be guilty of a
2 class B felony.

3 **§134-G Place to keep ammunition; penalty.** (a) Except as
4 provided in sections 134-5 and 134-9, all ammunition shall be
5 confined to the possessor's place of business, residence, or
6 sojourn; provided that it shall be lawful to carry ammunition in
7 an enclosed container from the place of purchase to the
8 purchaser's place of business, residence, or sojourn, or between
9 these places upon change of place of business, residence, or
10 sojourn, or between these places and the following:

- 11 (1) A place of repair;
- 12 (2) A target range;
- 13 (3) A licensed dealer's place of business;
- 14 (4) An organized, scheduled firearms show or exhibit;
- 15 (5) A place of formal hunter or firearm use training or
16 instruction; or
- 17 (6) A police station.

18 "Enclosed container" means a rigidly constructed
19 receptacle, or a commercially manufactured gun case, or the
20 equivalent thereof that completely encloses the ammunition.

21 (b) Any person violating this section shall be guilty of a
22 misdemeanor."

1 SECTION 2. Section 134-5, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) A person may carry unconcealed and use a lawfully
4 acquired pistol or revolver while actually engaged in hunting
5 game mammals, if that pistol or revolver and its suitable
6 ammunition are acceptable for hunting by rules adopted pursuant
7 to section 183D-3 and if that person is licensed pursuant to
8 part II of chapter 183D. The pistol or revolver may be
9 transported in an enclosed container, as defined in section
10 [~~134-6(e),~~] 134-E in the course of going to and from the place
11 of the hunt, notwithstanding section [~~134-6(d).~~] 134-F."

12 SECTION 3. Section 134-9, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) No person shall carry concealed or unconcealed on the
15 person a pistol or revolver without being licensed to do so
16 under this section or in compliance with sections 134-5(c) or
17 [~~134-6.~~] 134-E."

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

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

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



- 1 (1) To state and county law enforcement officers; provided
2 that such persons are not convicted of an offense
3 involving abuse of a family [+]or[+] household member
4 under section 709-906;
- 5 (2) To members of the armed forces of the State and of the
6 United States and mail carriers while in the
7 performance of their respective duties if those duties
8 require them to be armed;
- 9 (3) To regularly enrolled members of any organization duly
10 authorized to purchase or receive the weapons from the
11 United States or from the State[~~r~~]; provided the
12 members are either at, or going to or from, their
13 places of assembly or target practice;
- 14 (4) To persons employed by the State, or subdivisions
15 thereof, or the United States while in the performance
16 of their respective duties or while going to and from
17 their respective places of duty if those duties
18 require them to be armed;
- 19 (5) To aliens employed by the State, or subdivisions
20 thereof, or the United States while in the performance
21 of their respective duties or while going to and from

1 their respective places of duty if those duties
 2 require them to be armed; and
 3 (6) To police officers on official assignment in Hawaii
 4 from any state which by compact permits police
 5 officers from Hawaii while on official assignment in
 6 that state to carry firearms without registration.

7 The governor of the State or the governor's duly
 8 authorized representative may enter into compacts with
 9 other states to carry out this paragraph."

10 2. By amending subsection (c) to read:

11 "(c) Sections [~~134-6,~~] 134-A to 134-G, 134-8, and 134-9
 12 shall not apply to the possession, transportation, or use, with
 13 blank cartridges, of any firearm or explosive solely as props
 14 for motion picture film or television program production when
 15 authorized by the chief of police of the appropriate county
 16 pursuant to section 134-2.5 and not in violation of federal
 17 law."

18 SECTION 5. Section 806-83, Hawaii Revised Statutes, is
 19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Criminal charges may be instituted by written
 21 information for a felony when the charge is a class C felony
 22 under section 19-3.5 (voter fraud); section 128D-10 (knowing

1 releases); [§]section 132D-14(a)(1), (2)(A), and (3) [§],
2 (penalties for failure to comply with requirements of sections
3 132D-7, 132D-10 and 132D-16); section [~~134-6 (carrying or use of~~
4 ~~firearm in the commission of a separate felony);~~] 134-D (place
5 to keep unloaded firearms other than pistols and revolvers);
6 section 134-7(a) and (b) (ownership or possession prohibited);
7 section 134-8 (prohibited ownership); section 134-9 (licenses to
8 carry); section 134-17(a) (relating to false information or
9 evidence concerning psychiatric or criminal history); section
10 134-51 (deadly weapons); section 134-52 (switchblade knives);
11 section 134-53 (butterfly knives); section 188-23 (possession or
12 use of explosives, electrofishing devices, and poisonous
13 substances in state waters prohibited); section 231-34 (attempt
14 to evade or defeat tax); section 231-36 (false and fraudulent
15 statements); section 245-37 (sale or purchase of packages of
16 cigarettes without stamps); section 245-38 (vending unstamped
17 cigarettes); section 245-51 (sale of export cigarettes
18 prohibited); section 245-52 (alteration of packaging
19 prohibited); section 291C-12.5 (accidents involving substantial
20 bodily injury); section 291E-61.5 (habitually operating a
21 vehicle under the influence of an intoxicant); section 329-41
22 (prohibited acts B); section 329-42 (prohibited acts C); section

1 329-43.5 (prohibited acts related to drug paraphernalia);
2 section 329C-2 (manufacture, distribution, or possession with
3 intent to distribute an imitation controlled substance to a
4 person under eighteen years of age); section 346-34(d)(2) and
5 (e) (fraud involving food stamps or coupons with a value
6 exceeding \$300); section 346-43.5 (medical assistance fraud);
7 section 383-141 (falsely obtaining benefits); section
8 431:10C-307.7 (insurance fraud); section 482D-7 (violation of
9 fineness standards and stamping requirements); section 485-8
10 (registration of securities); section 485-14 (registration of
11 dealers, investment advisers, salespersons, and investment
12 adviser representatives); section 485-25 (fraudulent and other
13 prohibited practices); section 707-703 (negligent homicide in
14 the second degree); section 707-705 (negligent injury in the
15 first degree); section 707-711 (assault in the second degree);
16 section 707-713 (reckless endangering in the first degree);
17 section 707-721 (unlawful imprisonment in the first degree);
18 section 707-726 (custodial interference in the first degree);
19 section 707-757 (electronic enticement of a child in the second
20 degree); section 707-766 (extortion in the second degree);
21 section 708-811 (burglary in the second degree); section 708-821
22 (criminal property damage in the second degree); section 708-831



1 (theft in the second degree); section 708-833.5 (shoplifting);
2 section 708-835.5 (theft of livestock); section 708-836
3 (unauthorized control of propelled vehicle); section 708-836.5
4 (unauthorized entry into motor vehicle); section 708-839.5
5 (theft of utility services); section 708-839.8 (identity theft
6 in the third degree); section 708-852 (forgery in the second
7 degree); section 708-854 (criminal possession of a forgery
8 device); section 708-858 (suppressing a testamentary or
9 recordable instrument); section 708-875 (trademark
10 counterfeiting); section 708-891.5 (computer fraud in the second
11 degree); section 708-892.5 (computer damage in the second
12 degree); section 708-895.6 (unauthorized computer access in the
13 second degree); section 708-8100 (fraudulent use of a credit
14 card); section 708-8102 (theft/forgery of credit cards); section
15 708-8103 (credit card fraud by a provider of goods or services);
16 section 708-8104 (possession of unauthorized credit card
17 machinery or incomplete cards); section 708-8200 (cable
18 television service fraud in the first degree); section 708-8202
19 (telecommunication service fraud in the first degree); section
20 709-903.5 (endangering the welfare of a minor in the first
21 degree); [f]section[+] 709-906 (abuse of family or household
22 members); section 710-1016.3 (obtaining a government-issued



1 identification document under false pretenses in the first
2 degree); section 710-1016.6 (impersonating a law enforcement
3 officer in the first degree); section 710-1017.5 (sale or
4 manufacture of deceptive identification document); section
5 710-1018 (securing the proceeds of an offense); section 710-1021
6 (escape in the second degree); section 710-1023 (promoting
7 prison contraband in the second degree); section 710-1024 (bail
8 jumping in the first degree); section 710-1029 (hindering
9 prosecution in the first degree); section 710-1060 (perjury);
10 section 710-1072.5 (obstruction of justice); section 711-1103
11 (riot); section 711-1109.3 (cruelty to animals/fighting dogs);
12 section 711-1110.9 (violation of privacy in the first degree);
13 section 711-1112 (interference with the operator of a public
14 transit vehicle); section 712-1221 (promoting gambling in the
15 first degree); section 712-1222.5 (promoting gambling aboard
16 ships); section 712-1224 (possession of gambling records in the
17 first degree); section 712-1243 (promoting a dangerous drug in
18 the third degree); section 712-1246 (promoting a harmful drug in
19 the third degree); section 712-1247 (promoting a detrimental
20 drug in the first degree); section 712-1249.6 (promoting a
21 controlled substance in, on, or near schools or school
22 vehicles); section 803-42 (interception, access, and disclosure

1 of wire, oral, or electronic communications, use of pen
2 register, trap and trace device, and mobile tracking device
3 prohibited); or section 846E-9(a) (2) (penalty for failure to
4 comply with requirements of chapter 846E).

5 (b) Criminal charges may be instituted by written
6 information for a felony when the charge is a class B felony
7 under section 134-C (place to keep loaded firearms other than
8 pistols and revolvers; section 134-E (place to keep pistol or
9 revolver; section 134-F (carrying or possessing a loaded firearm
10 on a public highway); section 134-7(b) (ownership or possession
11 prohibited); section 329-43.5 (prohibited acts related to drug
12 paraphernalia); section 708-810 (burglary in the first degree);
13 section 708-830 (theft in the first degree); [†]section[†]
14 708-839.7 (identity theft in the second degree); section 708-851
15 (forgery in the first degree); section 708-891 (computer fraud
16 in the first degree); section 708-892 (computer damage in the
17 first degree); section 712-1242 (promoting a dangerous drug in
18 the second degree); section 712-1245 (promoting a harmful drug
19 in the second degree); or section 712-1249.5 (commercial
20 promotion of marijuana in the second degree)."

21 SECTION 6. Section 134-6, Hawaii Revised Statutes, is
22 repealed.

1 ~~["§134-6 Carrying or use of firearm in the commission of a~~
2 ~~separate felony; place to keep firearms; loaded firearms;~~
3 ~~penalty. (a) It shall be unlawful for a person to knowingly~~
4 ~~carry on the person or have within the person's immediate~~
5 ~~control or intentionally use or threaten to use a firearm while~~
6 ~~engaged in the commission of a separate felony, whether the~~
7 ~~firearm was loaded or not, and whether operable or not; provided~~
8 ~~that a person shall not be prosecuted under this subsection~~
9 ~~where the separate felony is:~~

10 ~~(1) A felony offense otherwise defined by this chapter;~~
11 ~~(2) The felony offense of reckless endangering in the~~
12 ~~first degree under section 707-713;~~
13 ~~(3) The felony offense of terroristic threatening in the~~
14 ~~first degree under section [707-716(1)(a)], [707-~~
15 ~~716(1)(b)], and [707-716(1)(d)]; or~~
16 ~~(4) The felony offenses of criminal property damage in the~~
17 ~~first degree under section 708-820 and criminal~~
18 ~~property damage in the second degree under section~~
19 ~~708-821 and the firearm is the instrument or means by~~
20 ~~which the property damage is caused.~~

21 ~~(b) It shall be unlawful for a person to knowingly possess~~
22 ~~a firearm with the intent to facilitate the commission of a~~



1 ~~felony offense involving the distribution of a controlled~~
2 ~~substance, whether the firearm was loaded or not, and whether~~
3 ~~operable or not.~~

4 ~~(c) Except as provided in sections 134 5 and 134 9, all~~
5 ~~firearms and ammunition shall be confined to the possessor's~~
6 ~~place of business, residence, or sojourn; provided that it shall~~
7 ~~be lawful to carry unloaded firearms or ammunition or both in an~~
8 ~~enclosed container from the place of purchase to the purchaser's~~
9 ~~place of business, residence, or sojourn, or between these~~
10 ~~places upon change of place of business, residence, or sojourn,~~
11 ~~or between these places and the following: a place of repair; a~~
12 ~~target range; a licensed dealer's place of business; an~~
13 ~~organized, scheduled firearms show or exhibit; a place of formal~~
14 ~~hunter or firearm use training or instruction; or a police~~
15 ~~station. "Enclosed container" means a rigidly constructed~~
16 ~~receptacle, or a commercially manufactured gun case, or the~~
17 ~~equivalent thereof that completely encloses the firearm.~~

18 ~~(d) It shall be unlawful for any person on any public~~
19 ~~highway to carry on the person, or to have in the person's~~
20 ~~possession, or to carry in a vehicle any firearm loaded with~~
21 ~~ammunition; provided that this subsection shall not apply to any~~
22 ~~person who has in the person's possession or carries a pistol or~~



1 ~~revolver and ammunition therefor in accordance with a license~~
2 ~~issued as provided in section 134-9.~~

3 ~~(e) Any person violating subsection (a) or (b) shall be~~
4 ~~guilty of a class A felony. Any person violating this section~~
5 ~~by carrying or possessing a loaded firearm or by carrying or~~
6 ~~possessing a loaded or unloaded pistol or revolver without a~~
7 ~~license issued as provided in section 134-9 shall be guilty of a~~
8 ~~class B felony. Any person violating this section by carrying~~
9 ~~or possessing an unloaded firearm, other than a pistol or~~
10 ~~revolver, shall be guilty of a class C felony.~~

11 ~~A conviction and sentence under subsection (a) or (b) shall~~
12 ~~be in addition to and not in lieu of any conviction and sentence~~
13 ~~for the separate felony; provided that the sentence imposed~~
14 ~~under subsection (a) or (b) may run concurrently or~~
15 ~~consecutively with the sentence for the separate felony.~~

16 ~~(f) Any vehicle used in the commission of an offense under~~
17 ~~subsection (d) shall be forfeited to the State, subject to the~~
18 ~~notice and hearing requirements of chapter 712A.~~

19 ~~(g) For the purposes of this section:~~

20 ~~"Controlled substance" shall be as defined in section~~
21 ~~329-1.~~



1 ~~"Distribution" means the selling, transferring,~~
2 ~~prescribing, giving or delivering to another, or the leaving,~~
3 ~~bartering, or exchanging with another, or the offering or~~
4 ~~agreeing to do the same."]~~

5 SECTION 7. 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 8. In codifying the new sections added by
9 section 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 9. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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



Report Title:

Firearms; Sentencing

Description:

Separates the multiple offenses of varying severity currently found in section 134-6, HRS, relating to firearms and ammunition into separate sections to assist in accurate record keeping and setting of bail. Adds related class B and C felonies to the list of offenses for which criminal charges may be instituted by written information. (SD1)

