

JAN 25 2006

A BILL FOR AN ACT

RELATING TO FIREARMS.

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

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

4 "§134- License to carry concealed firearm. (a) The
5 chiefs of police of the various counties shall issue licenses to
6 carry concealed firearms to persons qualified as provided in
7 this section. These licenses shall be valid statewide for a
8 period of three years. Each license shall bear a color
9 photograph of the licensee. For the purposes of this section,
10 "concealed firearm" means a firearm, that is a pistol or a
11 revolver, and that is covered or enclosed in any manner so that
12 an observer cannot determine that it is a handgun without
13 removing it from that which covers or encloses it or without
14 opening, lifting, or removing that which covers or encloses it;
15 but the term does not include an assault pistol or automatic
16 firearm as defined in section 134-1. Any person in compliance
17 with the terms of the license may carry a concealed firearm
18 notwithstanding section 134-6. The licensee shall carry the



1 license, together with valid identification, at all times in
2 which the licensee is in actual possession of a concealed
3 firearm and shall display both the license and proper
4 identification upon demand by a law enforcement officer.
5 Violations of this subsection shall constitute a petty
6 misdemeanor, provided that the maximum term of imprisonment
7 shall be three days, and the maximum fine shall be \$500.

8 (b) The appropriate chief of police shall issue a license
9 if the applicant:

- 10 (1) Is a citizen of the United States;
11 (2) Has resided in the State for at least six months or is
12 a member of, or spouse of a member of, the military
13 stationed in the State, or a retired law enforcement;
14 (3) Is twenty-three years of age or older;
15 (4) Is not ineligible to possess a firearm pursuant to
16 section 134-7;
17 (5) Has demonstrated competence with a firearm by meeting
18 the training requirements of 134-2(g), to include
19 practical training in drawing and replacing a handgun
20 from and to a holster or any other practical means of
21 carrying a concealed handgun. A photocopy of an
22 affidavit from the certified instructor or standard



1 government form from the government agency providing
2 said training, attesting to the successful completion
3 of the training, shall constitute evidence of
4 qualification under this paragraph.

5 (6) Does not chronically and habitually use intoxicating
6 liquor or other substances to the extent that the
7 person's normal faculties are impaired. It shall be
8 presumed that an applicant chronically and habitually
9 uses intoxicating liquor or other substances to the
10 extent that the person's normal faculties are impaired
11 if the applicant:

12 (A) Has been committed under the substance abuse
13 provisions of chapter 334;

14 (B) Has been convicted of any offense relating to
15 dangerous, harmful, or detrimental drug,
16 intoxicating compound or liquor, or marijuana
17 under part IV of chapter 712;

18 (C) Has been deemed a habitual offender under section
19 291E-61.5; or

20 (D) Has had two or more convictions under section
21 291E-61, or similar laws of any other state,
22 within the three-year period immediately



1 preceding the date on which the application is
2 submitted;

3 (7) Desires a legal means to carry a concealed firearm for
4 lawful purposes;

5 (8) Has not been adjudicated an incapacitated person as
6 defined under section 554B-1 or 560:5-101, or similar
7 laws of any other state, unless five years have
8 elapsed since the applicant's restoration to capacity
9 by court order;

10 (9) Has not been committed to a mental institution under
11 chapter 334, or similar laws of any other state,
12 unless the applicant produces a certificate from a
13 licensed psychiatrist that the applicant has not
14 suffered from disability for at least five years prior
15 to the date of submission of the application, and is
16 highly unlikely to relapse; and

17 (10) Has not had adjudication of guilt withheld or
18 imposition of sentence suspended on any felony, unless
19 three years have elapsed since probation or any other
20 conditions set by the court have been fulfilled, or
21 the record has been sealed or expunged.



1 (c) The appropriate chief of police may deny a license if
2 the applicant has been found guilty of one or more crimes of
3 violence constituting a misdemeanor, unless three years have
4 elapsed since probation or any other conditions set by the court
5 have been fulfilled, or the record has been sealed or expunged.
6 The chief of police may deny a license if the applicant has been
7 found guilty of one or more crimes of violence constituting a
8 felony, unless the record has been expunged. The chief of
9 police, may revoke a license if the licensee has been found
10 guilty of one or more misdemeanor or felony crimes of violence
11 within the preceding three years and shall revoke the license if
12 so ordered by the court. The chief of police, upon notification
13 by a law enforcement agency, a court, or the attorney general,
14 and subsequent written verification, shall suspend a license or
15 the processing of an application for a license if the licensee
16 or applicant is arrested or formally charged with a crime that
17 would disqualify the person from having a license under this
18 section, until final disposition of the case.

19 (d) The application shall be completed, under oath, on a
20 form prescribed by the attorney general, which shall be uniform
21 throughout the State, and shall include:



1 (1) The name, address, place and date of birth, race, and
2 occupation of the applicant;

3 (2) A statement that the applicant is in compliance with
4 criteria contained within subsections (b) and (c);

5 (3) A statement that the applicant has been furnished a
6 copy of this chapter and is knowledgeable of its
7 provisions;

8 (4) A conspicuous warning that the application is executed
9 under oath and that a false answer to any question, or
10 the submission of any false document by the applicant,
11 subjects the applicant to criminal prosecution under
12 section 134-17(a); and

13 (5) A statement that the applicant desires a concealed
14 weapon or firearm license for lawful purposes.

15 (e) The applicant shall submit to the appropriate chief of
16 police:

17 (1) A completed application as described in subsection
18 (d);

19 (2) A nonrefundable license fee not to exceed \$100, if the
20 applicant has not previously been issued a license, or
21 a nonrefundable license fee not to exceed \$50 for
22 renewal of a license. Costs for processing the set of



1 fingerprints as required in paragraph (3) shall be
2 borne by the applicant. If any individual described
3 in section 134-11(a)(1) or (4) wishes to receive a
4 concealed weapon or firearm license, the person is
5 exempt from the background investigation and all
6 background investigation fees, but shall pay the
7 current license fees regularly required to be paid by
8 nonexempt applicants; provided further that the person
9 is exempt from the required fees and background
10 investigation for a period of one year subsequent to
11 the date of retirement of the person;

12 (3) A full set of fingerprints of the applicant
13 administered by a law enforcement agency;

14 (4) A photocopy of a certificate or an affidavit or
15 document as described in subsection (b)(7); and

16 (5) A full frontal view color photograph of the applicant
17 taken within the preceding thirty days, in which the
18 head, including hair, measures seven-eighths of an
19 inch wide and one and one-eighth inches high.

20 (f) (1) The appropriate chief of police, upon receipt of
21 the items listed in subsection (e), shall forward
22 within three working days the full set of fingerprints



1 of the applicant to the attorney general and the
2 Federal Bureau of Investigation for state and federal
3 processing; provided the federal service is available.

4 The cost of processing the fingerprints shall be
5 payable to the State;

6 (2) The county police department shall provide
7 fingerprinting service, if requested by the applicant,
8 and may charge a fee not to exceed \$5 for this
9 service;

10 (3) The appropriate county chief of police, within forty-
11 five days after the date of receipt of the items
12 listed in subsection (e), shall:

13 (A) Issue the license;

14 (B) Deny the application based solely on the ground
15 that the applicant fails to qualify under
16 subsection (b) or (c). Upon a denial of the
17 application, the chief of police shall notify the
18 applicant in writing, stating the ground for
19 denial and informing the applicant of any right
20 to a hearing pursuant to subsection (k); or

21 (C) Suspend the time limitation prescribed by this
22 paragraph if the chief of police receives



1 criminal history information with no final
2 disposition on a crime that may disqualify the
3 applicant until receipt of the final disposition
4 or proof of restoration of civil and firearm
5 rights;

6 (4) If a legible set of fingerprints, as determined by the
7 attorney general or the Federal Bureau of
8 Investigation, cannot be obtained after two attempts,
9 the attorney general shall determine eligibility based
10 upon name checks conducted by the criminal justice
11 data center; and

12 (5) If the appropriate county chief of police fails to
13 issue or deny the license within forty-five days after
14 the date of receipt of the items listed in subsection
15 (e) or within such further time as may be necessary
16 under paragraph (3) (C), the application shall be
17 deemed denied and the applicant shall have the right
18 to a hearing as provided in subsection (k).

19 (g) The attorney general shall maintain an automated
20 listing of license holders and pertinent information, which
21 shall be available on the internet, upon request, at all times



1 to all law enforcement agencies through the criminal justice
2 data center.

3 (h) Within thirty days after the changing of a permanent
4 address, or within thirty days after having a license lost or
5 destroyed, the licensee shall notify the appropriate chief of
6 police of the change or loss. Failure to notify the appropriate
7 chief of police pursuant to this subsection shall constitute a
8 noncriminal violation with a penalty of a \$25 fine.

9 (i) If a concealed firearm license is lost or destroyed,
10 the license shall be automatically invalid, and the person to
11 whom the license was issued, upon payment of \$15 to the
12 appropriate chief of police, may obtain a duplicate, or
13 substitute thereof, upon furnishing a notarized statement to the
14 chief of police that the license has been lost or destroyed.

15 (j) A license issued under this section shall be suspended
16 or revoked by the chief of police, pursuant to subsection (k),
17 if the licensee is found to be or subsequently becomes
18 ineligible under the criteria set forth in subsection (b) or
19 (c).

20 (k) Any person denied a license, or who has a license
21 suspended or revoked under this section shall have the right to
22 a hearing on the denial, suspension, or revocation, subject to



1 the requirements for contested cases and judicial review under
2 chapter 91.

3 (1) Not less than ninety days prior to the expiration date
4 of the license, the appropriate county chief of police shall
5 mail to each licensee a written notice of the expiration and a
6 renewal form prescribed by the attorney general, which shall be
7 uniform through the State. The licensee must renew the license,
8 on or before the expiration date, by filing with the appropriate
9 county chief of police the renewal form containing: a notarized
10 affidavit stating that the licensee remains qualified pursuant
11 to the criteria specified in subsections (b) and (c); a color
12 photograph as specified in paragraph (e)(5); and the required
13 renewal fee. The license shall be renewed upon receipt of the
14 completed renewal form, color photograph, appropriate payment of
15 fees, and, if applicable, a completed fingerprint card.
16 Additionally, a licensee who fails to file a renewal application
17 on or before its expiration date shall renew the license by
18 paying a late fee of \$15. No license shall be renewed six
19 months or more after its expiration date, and the license shall
20 be deemed to be permanently expired. A person whose license has
21 permanently expired may reapply for licensure; however, an
22 application for licensure and fees pursuant to subsection (e)



1 shall be submitted, and a background investigation shall be
2 conducted pursuant to this section. Persons who knowingly file
3 false information pursuant to this subsection shall be subject
4 to criminal prosecution under section 134-17(a).

5 (m) No license issued pursuant to this section shall
6 authorize any person to carry a concealed firearm into any:

7 (1) Place of nuisance pursuant to section 712-1270;

8 (2) Police station;

9 (3) Detention facility, prison, or jail;

10 (4) Courthouse, except where permitted by subsection (5)
11 of this section;

12 (5) Courtroom, except that nothing in this section shall
13 preclude a judge from carrying a concealed weapon or
14 determining who may carry a concealed weapon in the
15 courtroom;

16 (6) Polling place;

17 (7) Meeting of the governing body of a county or any
18 political subdivision, the board of education, or any
19 neighborhood board;

20 (8) Meeting of the legislature or a committee thereof;

21 (9) School administration building;

22 (10) Elementary or secondary school facility;



1 (11) Designated federal security screening area within the
2 passenger terminal and sterile area of any airport;

3 and

4 (12) Locked psychiatric units.

5 Any person who intentionally or knowingly violates any
6 provision of this subsection shall be guilty of a class C
7 felony.

8 (n) All funds received by a county police department
9 pursuant to this section shall be deposited into the general
10 fund of the respective county and shall be budgeted to the
11 police department.

12 (o) The attorney general shall maintain statistical
13 information on the number of licenses issued, revoked,
14 suspended, and denied."

15 SECTION 2. Section 134-2, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) The permit application form shall be signed by the
18 applicant and by the issuing authority. One copy of the permit
19 shall be retained by the issuing authority as a permanent
20 official record. Except for sales to dealers licensed under
21 section 134-31, or dealers licensed by the United States
22 Department of the Treasury, or law enforcement officers, or



1 where a license is granted under section [~~134-9,~~] 134- , or
2 where any firearm is registered pursuant to section 134-3(a), no
3 permit shall be issued to an applicant earlier than fourteen
4 calendar days after the date of the application; provided that a
5 permit shall be issued or the application denied before the
6 twentieth day from the date of application. Permits issued to
7 acquire any pistol or revolver shall be void unless used within
8 ten days after the date of issue. Permits to acquire a pistol
9 or revolver require a separate application and permit for each
10 transaction. Permits issued to acquire any rifle or shotgun
11 shall entitle the permittee to make subsequent purchases of
12 rifles or shotguns for a period of one year from the date of
13 issue without a separate application and permit for each
14 acquisition, subject to the disqualifications under section 134-
15 7 and subject to revocation under section 134-13; provided that
16 if a permittee is arrested for committing a felony or any crime
17 of violence or for the illegal sale of any drug, the permit
18 shall be impounded and shall be surrendered to the issuing
19 authority."

20 SECTION 3. Section 134-6, Hawaii Revised Statutes, is
21 amended by amending subsections (c), (d), and (e) to read as
22 follows:



1 "(c) Except as provided in sections 134-5 and [~~134-9,~~
2 134- , all firearms and ammunition shall be confined to the
3 possessor's place of business, residence, or sojourn; provided
4 that it shall be lawful to carry unloaded firearms or ammunition
5 or both in an enclosed container from the place of purchase to
6 the purchaser's place of business, residence, or sojourn, or
7 between these places upon change of place of business,
8 residence, or sojourn, or between these places and the
9 following: a place of repair; a target range; a licensed
10 dealer's place of business; an organized, scheduled firearms
11 show or exhibit; a place of formal hunter or firearm use
12 training or instruction; or a police station. "Enclosed
13 container" means a rigidly constructed receptacle, or a
14 commercially manufactured gun case, or the equivalent thereof
15 that completely encloses the firearm.

16 (d) It shall be unlawful for any person on any public
17 highway to carry on the person, or to have in the person's
18 possession, or to carry in a vehicle any firearm loaded with
19 ammunition; provided that this subsection shall not apply to any
20 person who has in the person's possession or carries a pistol or
21 revolver and ammunition therefor in accordance with a license
22 issued as provided in section [~~134-9.~~ 134- .



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

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

14 SECTION 4. Section 134-11, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§134-11 Exemptions.** (a) Sections 134-6 to [~~134-9,~~]
17 134-, except section 134-7(f), shall not apply:

18 (1) To state and county law enforcement officers; provided
19 that such persons are not convicted of an offense
20 involving abuse of a family [or] household member
21 under section 709-906;



- 1 (2) To members of the armed forces of the State and of the
2 United States and mail carriers while in the
3 performance of their respective duties if those duties
4 require them to be armed;
- 5 (3) To regularly enrolled members of any organization duly
6 authorized to purchase or receive the weapons from the
7 United States or from the State, provided the members
8 are either at, or going to or from, their places of
9 assembly or target practice;
- 10 (4) To persons employed by the State, or subdivisions
11 thereof, or the United States while in the performance
12 of their respective duties or while going to and from
13 their respective places of duty if those duties
14 require them to be armed;
- 15 (5) To aliens employed by the State, or subdivisions
16 thereof, or the United States while in the performance
17 of their respective duties or while going to and from
18 their respective places of duty if those duties
19 require them to be armed;
- 20 (6) To police officers on official assignment in Hawaii
21 from any state which by compact permits police
22 officers from Hawaii while on official assignment in



1 that state to carry firearms without registration.

2 The governor of the State or the governor's duly
3 authorized representative may enter into compacts with
4 other states to carry out this paragraph.

5 (b) Sections 134-2 and 134-3 shall not apply to such
6 firearms or ammunition that are a part of the official equipment
7 of any federal agency.

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

15 SECTION 5. Section 134-9, Hawaii Revised Statutes, is
16 repealed.

17 [~~§134-9 Licenses to carry.~~ (a) In an exceptional case,
18 when an applicant shows reason to fear injury to the applicant's
19 person or property, the chief of police of the appropriate
20 county may grant a license to an applicant who is a citizen of
21 the United States of the age of twenty-one years or more or to a
22 duly accredited official representative of a foreign nation of



1 ~~the age of twenty-one years or more to carry a pistol or~~
2 ~~revolver and ammunition therefor concealed on the person within~~
3 ~~the county where the license is granted. Where the urgency or~~
4 ~~the need has been sufficiently indicated, the respective chief~~
5 ~~of police may grant to an applicant of good moral character who~~
6 ~~is a citizen of the United States of the age of twenty-one years~~
7 ~~or more, is engaged in the protection of life and property, and~~
8 ~~is not prohibited under section 134-7 from the ownership or~~
9 ~~possession of a firearm, a license to carry a pistol or revolver~~
10 ~~and ammunition therefor unconcealed on the person within the~~
11 ~~county where the license is granted. Unless renewed, the~~
12 ~~license shall expire one year from the date of issue.~~

13 ~~(b) The chief of police of each county shall adopt~~
14 ~~procedures to require that any person granted a license to carry~~
15 ~~a concealed weapon on the person shall:~~

- 16 ~~(1) Be qualified to use the firearm in a safe manner;~~
17 ~~(2) Appear to be a suitable person to be so licensed;~~
18 ~~(3) Not be prohibited under section 134-7 from the~~
19 ~~ownership or possession of a firearm; and~~
20 ~~(4) Not have been adjudged insane or not appear to be~~
21 ~~mentally deranged.~~



1 ~~(c) No person shall carry concealed or unconcealed on the~~
 2 ~~person a pistol or revolver without being licensed to do so~~
 3 ~~under this section or in compliance with sections 134-5(c) or~~
 4 ~~134-6.~~

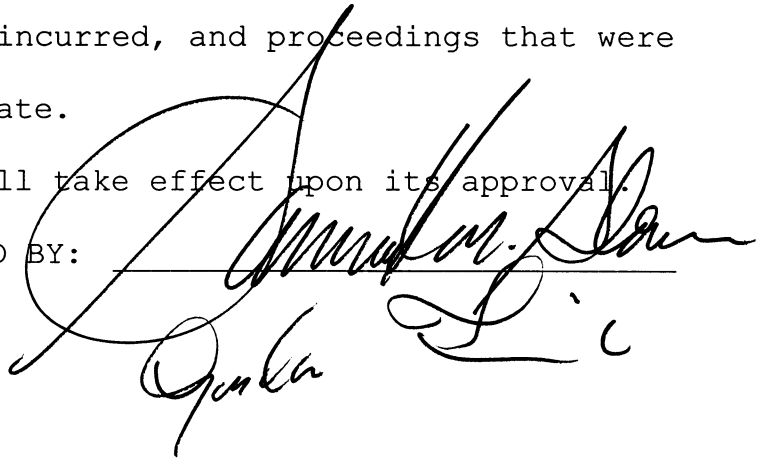
5 ~~(d) A fee of \$10 shall be charged for each license and~~
 6 ~~shall be deposited in the treasury of the county in which the~~
 7 ~~license is granted."]~~

8 SECTION 6. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun, before its effective date.

13 SECTION 8. This Act shall take effect upon its approval.

INTRODUCED BY: _____



Handwritten signatures of Mark W. Brown and Quaker over the line for INTRODUCED BY.



Report Title:

Firearms; Concealed carry license.

Description:

Authorizes chiefs of police to issue licenses to carry a concealed firearm. Details processes for license applications, renewals, and record keeping. Strictly prohibits carrying concealed firearms under certain circumstances. Repeals HRS section 134-9.

