
A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. The legislature finds that the number of
2 households with firearms has steadily decreased from fifty-four
3 per cent in 1977 to thirty-five per cent in 2006. The Brady
4 Campaign to Prevent Gun Violence has given Hawaii an A- for its
5 state policies protecting residents from gun violence. However,
6 the legislature recognizes that continued focus must be placed
7 on efforts to curb gun-related accidents and fatalities because
8 at least two hundred million firearms are owned by private
9 individuals in the United States, more than any other country.

10 The legislature finds that gun violence continues to be one
11 of our most challenging social problems. In April 2007, a
12 Virginia Tech University student killed thirty-three people,
13 including himself, using two semiautomatic pistols. In December
14 2007, a young man in Omaha, Nebraska killed eight people using
15 an assault rifle. The legislature has worked to provide law
16 enforcement with the necessary tools to prevent gun-related
17 fatalities in Hawaii and will continue to do so in the future.

18 The purpose of this Act is to:



- 1 (1) Require that all guns be sold with safety devices to
2 prevent unintentional discharges by children and
3 unauthorized users;
- 4 (2) Prohibit sale of ammunition unless the purchaser shows
5 proof of registration for the firearm for which the
6 ammunition is to be purchased and photo identification
7 proving that purchaser is the person to whom the
8 firearm is registered;
- 9 (3) Require the attorney general to adopt rules setting
10 minimum standards for firearms dealers licensed under
11 section 134-32, Hawaii Revised Statutes, to secure
12 firearms in the ordinary course of business and in the
13 event of a natural disaster;
- 14 (4) Require firearms dealers to report theft of a firearm
15 within twenty-four hours;
- 16 (5) Prohibit importation, manufacture, possession, sale,
17 barter, trade, gift, transfer, or acquisition of any
18 .50 BMG rifle or .50 BMG cartridge;
- 19 (6) Prohibit disclosure to an applicant for a permit to
20 acquire a firearm of the source of the information
21 used to deny the application, when the application is



1 denied because the applicant was diagnosed with a
2 mental disorder; and

3 (7) Except government entities from the definition of
4 owner in the statute that imposes strict liability on
5 firearms owner for injury or damage proximately caused
6 by the firearm.

7 SECTION 2. Chapter 134, Hawaii Revised Statutes, is
8 amended by adding three new sections to be appropriately
9 designated and to read as follows:

10 **"§134-A Safety device required for sale of firearm. (a)**

11 All firearms sold in this State by a person licensed pursuant to
12 section 134-31 and all firearms manufactured in this State shall
13 include or be accompanied by a firearms safety device.

14 (b) The sale of a firearm shall be exempt from the
15 requirement of subsection (a) if both of the following apply:

16 (1) The purchaser owns a gun safe; and

17 (2) The purchaser presents an original receipt for
18 purchase of the gun safe, or other proof of purchase
19 or ownership of the gun safe, to the seller. The
20 seller shall maintain a copy of this receipt or proof
21 of purchase with the seller's record of sales of
22 firearms.



1 (c) The sale of a firearm shall be exempt from subsection

2 (a) if all of the following apply:

3 (1) The purchaser purchases a firearms safety device no
4 more than thirty days prior to the day the purchaser
5 takes possession of the firearm from the licensed
6 person;

7 (2) The purchaser presents the firearms safety device to
8 the licensed person when taking possession of the
9 firearm;

10 (3) The purchaser presents an original receipt to the
11 licensed person that shows the date of purchase and
12 the name and model number of the firearms safety
13 device;

14 (4) The licensed person verifies that the requirements in
15 paragraphs (1) to (3) have been satisfied; and

16 (5) The licensed person maintains a copy of the receipt
17 together with the licensed person's record of sales of
18 firearms.

19 (d) Violation of this section is a misdemeanor.

20 (e) For purposes of this section:

21 "Firearms safety device" means a device, other than a gun
22 safe, that locks and is designed to prevent children and



1 unauthorized users from firing a firearm. The device may be
2 installed on a firearm, be incorporated into the design of the
3 firearm, or prevent access to the firearm.

4 "Gun safe" means a locking container that fully contains
5 and secures one or more firearms.

6 **§134-B Ammunition purchase; proof of registration;**

7 **exception.** (a) No person shall sell ammunition for any firearm
8 unless the purchaser first demonstrates that the purchaser is
9 the registered owner of the firearm for which the ammunition is
10 to be purchased. Presentation to the seller of the registration
11 issued pursuant to section 134-3 together with government-issued
12 photographic identification, such as a driver's license, a
13 certificate of identification issued pursuant to section 846-30,
14 a military identification card, or a United States passport,
15 shall be sufficient to demonstrate that the purchaser is the
16 registered owner of the firearm for which the ammunition is to
17 be purchased.

18 (b) Violation of this section is a class C felony.

19 (c) This section shall not apply to ammunition purchases:

20 (1) For firearms manufactured before 1899;

21 (2) By federal, state, or county law enforcement officers;



1 (3) By procurement officials purchasing ammunition as part
2 of the official equipment of any federal, state, or
3 county law enforcement agency; and

4 (4) By law enforcement officers on official assignment in
5 Hawaii from any state that by compact permits law
6 enforcement officers from Hawaii while on official
7 assignment in that state to carry firearms without
8 registration.

9 §134-C Secure storage of firearms and ammunition by
10 dealers; report of theft; penalty. (a) Any person who is
11 licensed pursuant to section 134-31 shall ensure that all
12 firearms and ammunition in the licensee's inventory are secured
13 from theft at all times. Licensees shall maintain an accurate
14 and current inventory of all firearms in the licensee's
15 possession, which shall be made available for inspection by the
16 chief of police of each county during normal business hours at
17 the licensee's place of business.

18 (b) Licensees shall report the theft of any firearm in the
19 licensee's inventory to the appropriate chief of police within
20 twenty-four hours after the theft is discovered or should have
21 been discovered.



1 (c) The attorney general shall adopt rules pursuant to
2 chapter 91 necessary to ensure secure storage of the inventory
3 of dealers licensed under section 134-31 both in the ordinary
4 course of business and in times of natural disaster or national
5 emergency. The rules shall require permanent, minimum safety
6 and security standards for windows, doors, storage areas,
7 containers, safes, and alarms on a dealer's premises, to be
8 augmented with additional safeguards to be activated in the
9 event of a natural disaster or national emergency.

10 (d) Violation of this section or of any rules adopted
11 hereunder shall be a misdemeanor.

12 (e) For purposes of this section:

13 "National emergency" has the same meaning as in section
14 134-34.

15 "Natural disaster" means damage caused by earthquake, fire,
16 flood, hurricane, tidal wave, volcanic eruption, or other
17 natural causes."

18 SECTION 3. Section 134-1, Hawaii Revised Statutes, is
19 amended by adding two new definitions to be appropriately
20 inserted and to read as follows:

21 ".50 BMG cartridge" means a cartridge that includes ball,
22 tracer, incendiary, armor piercing, armor piercing incendiary,



1 armor piercing incendiary tracer, or sabotaged light armor
2 penetrator and is designed and intended to be fired from a
3 center fire rifle and that meets all of the following criteria:

4 (1) An overall length of 5.54 inches from base to the tip
5 of the bullet;

6 (2) The bullet diameter for the cartridge is from .510 to,
7 and including, .511, inches;

8 (3) The case base diameter for the cartridge is from .800
9 inches to, and including, .804 inches; and

10 (4) A cartridge case length of 3.91 inches.

11 ".50 BMG rifle" means a center fire rifle that can fire a
12 .50 BMG cartridge and is not an automatic firearm; provided it
13 does not include any antique firearm nor any curio or relic as
14 those terms are used in 18 United States Code §921(16) or 27
15 Code of Federal Regulations 178.11."

16 SECTION 4. Section 134-2, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 (c) An applicant for a permit shall sign a waiver at the
19 time of application, allowing the chief of police of the county
20 issuing the permit access to any records that have a bearing on
21 the mental health of the applicant. The waiver shall allow the
22 chief of police to withhold from, and the chief of police shall



1 not thereafter disclose to, the applicant the source of any
2 information used to deny the application pursuant to section
3 134-7(c). The permit application form and the waiver form shall
4 be prescribed by the attorney general and shall be uniform
5 throughout the State."

6 SECTION 5. Section 134-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§134-8 Ownership, etc., of automatic firearms, silencers,**
9 **etc., prohibited; penalties.** (a) The manufacture, possession,
10 sale, barter, trade, gift, transfer, or acquisition of any of
11 the following is prohibited: assault pistols, except as
12 provided by section 134-4(e); automatic firearms; rifles with
13 barrel lengths less than sixteen inches; shotguns with barrel
14 lengths less than eighteen inches; cannons; mufflers, silencers,
15 or devices for deadening or muffling the sound of discharged
16 firearms; hand grenades, dynamite, blasting caps, bombs, or
17 bombshells, or other explosives; or any type of ammunition or
18 any projectile component thereof coated with teflon or any other
19 similar coating designed primarily to enhance its capability to
20 penetrate metal or pierce protective armor; and any type of
21 ammunition or any projectile component thereof designed or
22 intended to explode or segment upon impact with its target.



1 (b) Any person who installs, removes, or alters a firearm
2 part with the intent to convert the firearm to an automatic
3 firearm shall be deemed to have manufactured an automatic
4 firearm in violation of subsection (a).

5 (c) The manufacture, possession, sale, barter, trade,
6 gift, transfer, or acquisition of detachable ammunition
7 magazines with a capacity in excess of ten rounds [~~which~~] that
8 are designed for or capable of use with a pistol is prohibited.
9 This subsection shall not apply to magazines originally designed
10 to accept more than ten rounds of ammunition [~~which~~] that have
11 been modified to accept no more than ten rounds and [~~which~~] that
12 are not capable of being readily restored to a capacity of more
13 than ten rounds.

14 (d) After July 1, 2008, no person shall bring or cause to
15 be brought into the State a .50 BMG rifle or .50 BMG cartridge.
16 No .50 BMG rifle or .50 BMG cartridge may be sold or transferred
17 on or after July 1, 2008, to anyone within the State other than
18 a dealer licensed under section 134-31 or the chief of police of
19 any county; provided that any person who obtains title by
20 bequest or intestate succession to a .50 BMG rifle registered
21 within the State, within sixty days, shall render the weapon
22 permanently inoperable, sell or transfer the weapon to a



1 licensed dealer or the chief of police of any county, or remove
2 the weapon from the State.

3 (e) Except as provided by this section, the manufacture,
4 possession, sale, barter, trade, gift, transfer, or acquisition
5 of any .50 BMG rifle or .50 BMG cartridge is prohibited. This
6 includes the following types of ammunition: ball, tracer,
7 incendiary, armor piercing, armor piercing incendiary, armor
8 piercing incendiary tracer, or sabotaged light armor penetrator.

9 ~~[(d)]~~ (f) Any person violating subsection (a) or (b) shall
10 be guilty of a class C felony and shall be imprisoned for a term
11 of five years without probation. Any person violating
12 subsection (c) shall be guilty of a misdemeanor except when a
13 detachable magazine prohibited under this section is possessed
14 while inserted into a pistol in which case the person shall be
15 guilty of a class C felony. Any person violating subsection (d)
16 or (e) shall be guilty of a class B felony and shall be
17 imprisoned for a term of ten years without probation."

18 SECTION 6. Section 134-10.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~f~~]**§134-10.5**[~~]~~ **Storage of firearm; responsibility with**
21 **respect to minors.** No person shall store or keep any firearm on
22 any premises under the person's control if the person knows or



1 reasonably should know that a minor is likely to gain access to
2 the firearm without the permission of the parent or guardian of
3 the minor, unless the person:

4 (1) Keeps the firearm in a securely locked box or other
5 container or in a location that a reasonable person
6 would believe to be secure; [~~or~~]

7 (2) Ensures that the firearm is equipped with a firearms
8 safety device, as defined in section 134-A; or

9 [~~(2)~~] (3) Carries the firearm on the person or within such
10 close proximity thereto that the person readily can
11 retrieve and use it as if it were carried on the
12 person.

13 For purposes of this section, "minor" means any person under the
14 age of sixteen years."

15 SECTION 7. Section 134-32, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§134-32 License to sell and manufacture firearms;**
18 **conditions.** Every license issued pursuant to this part shall be
19 issued and shall be regarded as having been accepted by the
20 licensee subject to the following conditions:

21 (1) That the licensee at all times shall comply with all
22 provisions of law relative to the sale of firearms[~~-~~];



- 1 (2) That the licensee shall comply with the requirements
2 of section 134-C and rules adopted thereunder relative
3 to the secure storage of firearms and ammunition;
- 4 [~~+2~~] (3) That the license during any time of national
5 emergency or crisis, as defined in section 134-34, may
6 be canceled or suspended~~[+]~~;
- 7 [~~+3~~] (4) That all firearms in the possession and control
8 of any licensee at any time of national emergency or
9 crisis, as defined in section 134-34, may be seized
10 and held in possession or purchased by or on the order
11 of the governor until such time as the national
12 emergency or crisis has passed, or until such time as
13 the licensee and the government of the United States
14 or the government of the State may agree upon some
15 other disposition of the same~~[+]~~;
- 16 [~~+4~~] (5) That all firearms in the possession and control
17 of the licensee or registered pursuant to section 134-
18 3(c) by the licensee shall be subject to physical
19 inspection by the chief of police of each county
20 during normal business hours at the licensee's place
21 of business~~[+]~~; and



1 ~~(5)~~ (6) That the license may be revoked for a violation
2 of any of the conditions of this section."

3 SECTION 8. Section 663-9.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~+~~§663-9.5~~+~~ **Liability of firearm owners.** The owner of
6 a firearm, if the discharge of the firearm proximately causes
7 either personal injury or property damage to any person, shall
8 be absolutely liable for such damage. It shall be an
9 affirmative defense to such absolute liability that the firearm
10 was not in the possession of the owner and was taken from the
11 owner's possession without the owner's permission and the owner
12 either had reported the theft to the police prior to the
13 discharge or, despite the exercise of reasonable care, had not
14 discovered the theft prior to the discharge or was not
15 reasonably able to report the theft to the police prior to the
16 discharge. This section shall not apply when the discharge of
17 the firearm was legally justified. As used in this section,
18 "owner" does not include the State or any political subdivision
19 thereof."

20 SECTION 9. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 10. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun, before its effective date.

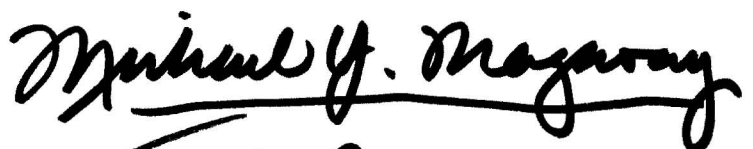
6 SECTION 11. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 12. This Act shall take effect on July 1, 2008.
9

INTRODUCED BY: 



Kirk Caldwell





JAN 22 2008



Report Title:

Firearms

Description:

Requires all guns to be sold with safety devices to prevent unintentional discharges by children and unauthorized users. Prohibits sales of ammunition unless the purchaser shows proof of registration for the firearm for which the ammunition is to be purchased and photo identification proving that purchaser is the person to whom the firearm is registered. Requires the attorney general to adopt rules setting minimum standards for firearms dealers to secure firearms in the ordinary course of business and in the event of a natural disaster. Requires firearms dealers to report theft of a firearm within 24 hours. Prohibits importation, manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any .50 BMG rifle or .50 BMG cartridge. Prohibits disclosure to an applicant for a permit to acquire a firearm of the source of the information used to deny the application, when the application is denied because the applicant was diagnosed with a mental disorder. Excepts government entities from the definition of owner in the statute that imposes strict liability on firearms owner for injury or damage proximately caused by the firearm.

