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## A BILL FOR AN ACT

RELATING TO AMMUNITION.

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

1           SECTION 1. The legislature finds that more than thirty per  
2 cent of all homicides committed in the United States that  
3 involve a gun go unsolved each year. Handgun ammunition  
4 accounts for eighty per cent of all ammunition sold in the  
5 United States. Current technology for matching a bullet used in  
6 a crime to the gun that fired it has worked moderately well for  
7 years but presupposes that the weapon was recovered by law  
8 enforcement. Bullet coding is a new and effective way for law  
9 enforcement to quickly identify persons of interest in gun crime  
10 investigations.

11           The purpose of this Act is to require that ammunition  
12 manufactured or sold in Hawaii and capable of use in handguns,  
13 including assault pistols, be coded to assist law enforcement in  
14 identifying and prosecuting offenders who use handguns,  
15 including assault pistols, to commit violent crimes.

16           SECTION 2. Chapter 134, Hawaii Revised Statutes, is  
17 amended by adding a new part to be appropriately designated and  
18 to read as follows:



"PART . CODED AMMUNITION

**§134-A Possession or sale of non-coded ammunition**

**prohibited.** (a) All ammunition capable of use in a handgun, including an assault pistol, that is manufactured or sold in the State after January 1, 2010, shall be coded by the manufacturer; provided that the coding requirement shall apply only to the following calibers of ammunition:

(b) No later than January 1, 2011, all non-coded ammunition capable of use in a handgun, including an assault pistol, whether owned by private individuals or retail outlets, shall be disposed of in a manner prescribed by the attorney general through rules adopted pursuant to chapter 91.

(c) For the purposes of this part, "coded ammunition" means a bullet carrying a unique identifier that has been applied by etching onto the base of the bullet projectile.

**§134-B Ammunition coding system database.**

(a) The attorney general shall establish and maintain an ammunition coding system database containing the information specified in this section.

(b) Manufacturers shall:



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- 1           (1) Register with the attorney general in a manner
- 2                   prescribed by the attorney general through rules
- 3                   adopted pursuant to chapter 91; and
- 4           (2) Maintain records on the business premises for a period
- 5                   of seven years concerning all sales, loans, and
- 6                   transfers of ammunition, to, from, or within the
- 7                   state.
- 8           (c) Vendors shall:
- 9           (1) Register with the attorney general in a manner
- 10                   prescribed by the attorney general through rules
- 11                   adopted pursuant to chapter 91;
- 12           (2) Record the following information in a format
- 13                   prescribed by the attorney general:
- 14                   (A) The date of the transaction;
- 15                   (B) The name of the purchaser;
- 16                   (C) The purchaser's driver's license number or other
- 17                   government-issued identification card number;
- 18                   (D) The date of birth of the purchaser;
- 19                   (E) The unique identifiers of all ammunition or
- 20                   bullets sold; and

1 (F) All other information prescribed by the attorney  
2 general through rules adopted pursuant to chapter  
3 91;

4 and

5 (3) Maintain records on the business premises for a period  
6 of three years from the date of the recorded purchase.

7 (c) To the greatest extent possible or practical, the  
8 ammunition coding system database shall be built within the  
9 framework of existing firearms databases. The ammunition coding  
10 system database shall be operational no later than January 1,  
11 2010.

12 (d) Information in the ammunition coding system database  
13 shall be stored in a manner consistent with the provisions of  
14 section 846-7 through rules adopted by the attorney general  
15 pursuant to chapter 91. Access to the information shall be  
16 limited to law enforcement personnel only in connection with a  
17 criminal investigation.

18 **§134-C Penalties.** (a) Any vendor who intentionally or  
19 knowingly fails to comply with, or falsifies the records  
20 required to be kept by, this part shall be guilty of a  
21 misdemeanor and subject to a fine of \$1,000.



1 (b) Any manufacturer who fails to comply with the  
2 provisions of this section shall be subject to a civil fine of  
3 not more than one \$1,000 for a first violation, not more than  
4 \$5,000 for a second violation, and not more than \$10,000 for a  
5 third or subsequent violation.

6 (c) Any person who intentionally or knowingly destroys,  
7 obliterates, or otherwise renders unreadable the ammunition  
8 coding required, pursuant to this part, to be placed on any  
9 bullet or assembled ammunition shall be guilty of a misdemeanor  
10 and subject to a fine of \$1,000.

11 **§134-D Coded ammunition special fund; fee.** (a) There is  
12 established outside the state treasury a special fund, to be  
13 known as the coded ammunition special fund, to be administered  
14 by the attorney general. The fund shall consist of amounts  
15 collected under this section. Moneys paid into the fund are not  
16 general fund revenues of the State. The attorney general shall  
17 place the funds in an interest-bearing account at any federally  
18 insured financial institution, separate and apart from the  
19 general fund of the State. Moneys in the fund shall be expended  
20 by the attorney general for infrastructure, implementation,  
21 operational, enforcement, and future development costs of this  
22 part.



1           (b) Effective January 1, 2010, a coded ammunition fee in  
2 the amount of 0.005 cent per bullet or round of ammunition,  
3 subject to this part, shall be imposed upon the sale of each  
4 bullet or round of ammunition that is capable of use in a  
5 handgun, including an assault pistol. The surcharge shall have  
6 uniform application and shall be imposed on the sale of each  
7 bullet or round of ammunition that is capable of use in a  
8 handgun, including an assault pistol, except those sold to  
9 federal, state, and county government entities.

10           (c) Each vendor may retain two per cent of the amount of  
11 fees collected pursuant to this section to offset administrative  
12 expenses associated with billing and collecting the surcharge.

13           (d) A vendor shall remit to the attorney general for  
14 deposit into the coded ammunition special fund, within sixty  
15 days after the end of the calendar month in which the fee is  
16 collected, an amount that represents the fees collected, less  
17 amounts retained for administrative expenses incurred by the  
18 vendor, as provided in subsection (c).

19           (e) The fees collected by the vendor pursuant to this  
20 section shall not be subject to any tax, fee, or other  
21 assessment, nor are they considered revenue of the vendor.



1 (f) At any time the attorney general deems it necessary  
2 and appropriate, the attorney general may make recommendations  
3 to the legislature as to whether the fee and fund should be  
4 discontinued, continued as is, or amended."

5 SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 **"§235- Ammunition coding equipment income tax credit.**

9 (a) Any law to the contrary notwithstanding, there shall be  
10 allowed to each taxpayer subject to the taxes imposed by this  
11 chapter an ammunition coding equipment income tax credit that  
12 shall be deductible from the taxpayer's net income tax  
13 liability, if any, imposed by this chapter for the taxable year  
14 in which the credit is properly claimed. The amount of the  
15 credit shall be equal to the total qualified costs that the  
16 taxpayer incurred for the acquisition of ammunition coding  
17 equipment required by part , chapter 134.

18 In the case of a partnership, S corporation, estate, or  
19 trust, the tax credit allowable is for qualified acquisition  
20 costs incurred by the entity for the taxable year. The cost  
21 upon which the tax credit is computed shall be determined at the



1 entity level. Distribution and share of credit shall be  
2 determined by rule.

3 If a deduction is taken under section 179 (with respect to  
4 election to expense depreciable business assets) of the Internal  
5 Revenue Code of 1986, as amended, no tax credit shall be allowed  
6 for those costs for which the deduction is taken.

7 The basis for eligible property for depreciation of  
8 accelerated cost recovery system purposes for state income taxes  
9 shall be reduced by the amount of credit allowable and claimed.

10 (b) The credit allowed under this section shall be claimed  
11 against the net income tax liability for the taxable year. For  
12 the purposes of this section, "net income tax liability" means  
13 net income tax liability reduced by all other credits allowed  
14 under this chapter.

15 (c) If the tax credit under this section exceeds the  
16 taxpayer's income tax liability, the excess of credits over  
17 liability shall be refunded to the taxpayer; provided that no  
18 refunds or payment on account of the tax credits allowed by this  
19 section shall be made for amounts less than \$1. All claims,  
20 including any amended claims, for tax credits under this section  
21 shall be filed on or before the end of the twelfth month  
22 following the close of the taxable year for which the credit may





1 be claimed. Failure to comply with the foregoing provision  
2 shall constitute a waiver of the right to claim the credit.

3 (d) To qualify for this tax credit, a taxpayer shall:

4 (1) Enter into a contract for the acquisition of  
5 ammunition coding equipment required by part ,  
6 chapter 134;

7 (2) Install the ammunition coding equipment required by  
8 part , chapter 134; and

9 (3) No later than thirty days following the end of each  
10 taxable year in which qualified costs were expended,  
11 submit a written, sworn statement to the attorney  
12 general identifying:

13 (A) All qualified costs incurred in the previous  
14 taxable year pursuant to subsection (a), if any;  
15 and

16 (B) The amount of tax credits claimed pursuant to  
17 this section, if any, in the previous taxable  
18 year.

19 The attorney general shall certify to the department of  
20 taxation on forms prescribed by the director of taxation the  
21 correct qualified costs pursuant to subsection (a).



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1        Notwithstanding the authority of the attorney general under  
2 this section, the director of taxation may audit and adjust the  
3 amount of the tax credit to conform to the information filed by  
4 the taxpayer.

5        (e) The director of taxation shall prepare forms as may be  
6 necessary to claim a credit under this section. The director  
7 may also require the taxpayer to furnish information to  
8 ascertain the validity of the claim for credit made under this  
9 section and may adopt rules necessary to effectuate the purposes  
10 of this section pursuant to chapter 91.

11        (f) Total tax credits claimed by a taxpayer pursuant to  
12 this section shall not exceed \$                    in any tax year."

13        SECTION 4. New statutory material is underscored.

14        SECTION 5. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

*John M. Flinn*  
*Tom Brown*

JAN 21 2009



**Report Title:**

Ammunition; Identification; Coding

**Description:**

Requires all ammunition of a specified caliber manufactured or sold in Hawaii that is capable of use in handguns, including assault pistols, to be coded to assist law enforcement in identifying and prosecuting gun crime offenders. Requires Attorney General to establish a statewide database to track coded ammunition. Effective 7/1/2009.

