

JAN 18 2013

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 part to be appropriately designated and
3 to read as follows:

4 **"PART . ASSAULT WEAPONS**

5 **§134-A Definitions.** As used in this part:

6 "Assault weapon", excluding any firearm modified to render
7 it permanently inoperable, means:

- 8 (1) Any selective-fire firearm capable of fully automatic,
9 semiautomatic, or burst fire at the option of the user
10 or any of the following specified semiautomatic
11 firearms: Algimec Agmi; Armalite AR-180; Australian
12 Automatic Arms SAP Pistol; Auto-Ordnance Thompson
13 type; Avtomat Kalashnikov AK-47 type; Barrett Light-
14 Fifty model 82A1; Beretta AR-70; Bushmaster Auto Rifle
15 and Auto Pistol; Calico models M-900, M-950, and
16 100-P; Chartered Industries of Singapore SR-88; Colt
17 AR-15 and Sporter; Daewoo K-1, K-2, Max-1, and Max-2;
18 Encom MK-IV, MP-9, and MP-45; Fabrique Nationale



1 FN/FAL, FN/LAR, or FN/FNC; FAMAS MAS 223; Feather AT-9
2 and Mini-AT; Federal XC-900 and XC-450; Franchi
3 SPAS-12 and LAW-12; Galil AR and ARM; Goncz High-Tech
4 Carbine and High-Tech Long Pistol; Heckler & Koch
5 HK-91, HK-93, HK-94, and SP-89; Holmes MP-83; MAC-10,
6 MAC-11, and MAC-11 Carbine type; Intratec TEC-9 and
7 Scorpion; Iver Johnson Enforcer model 3000; Ruger
8 Mini-14/5F folding stock model only; Scarab Skorpion;
9 SIG 57 AMT and 500 series; Spectre Auto Carbine and
10 Auto Pistol; Springfield Armory BM59, SAR-48, and G-3;
11 Sterling MK-6 and MK-7; Steyr AUG; Street Sweeper and
12 Striker 12 revolving cylinder shotguns; USAS-12; UZI
13 Carbine, Mini-Carbine, and Pistol; Weaver Arms
14 Nighthawk; Wilkinson "Linda" Pistol;

15 (2) A part or combination of parts designed or intended to
16 convert a firearm into an assault weapon, as defined
17 in paragraph (1) of this definition, or any
18 combination of parts from which an assault weapon, as
19 defined in paragraph (1) of this definition, may be
20 rapidly assembled if those parts are in the possession
21 or under the control of the same person;



- 1 (3) Any semiautomatic firearm not listed in paragraph (1)
2 of this definition that meets the following criteria:
3 (A) A semiautomatic rifle that has an ability to
4 accept a detachable magazine and has at least two
5 of the following:
6 (i) A folding or telescoping stock;
7 (ii) A pistol grip that protrudes conspicuously
8 beneath the action of the weapon;
9 (iii) A bayonet mount;
10 (iv) A flash suppressor or threaded barrel
11 designed to accommodate a flash suppressor;
12 and
13 (v) A grenade launcher; or
14 (B) A semiautomatic pistol that has an ability to
15 accept a detachable magazine and has at least two
16 of the following:
17 (i) An ammunition magazine that attaches to the
18 pistol outside of the pistol grip;
19 (ii) A threaded barrel capable of accepting a
20 barrel extender, flash suppressor, forward
21 handgrip, or silencer;



S.B. NO. 219

- 1 (iii) A shroud that is attached to, or partially
- 2 or completely encircles, the barrel and that
- 3 permits the shooter to hold the firearm with
- 4 the nontrigger hand without being burned;
- 5 (iv) A manufactured weight of fifty ounces or
- 6 more when the pistol is unloaded; and
- 7 (v) A semiautomatic version of an automatic
- 8 firearm; or
- 9 (C) A semiautomatic shotgun that has at least two of
- 10 the following:
- 11 (i) A folding or telescoping stock;
- 12 (ii) A pistol grip that protrudes conspicuously
- 13 beneath the action of the weapon;
- 14 (iii) A fixed magazine capacity in excess of five
- 15 rounds; and
- 16 (iv) An ability to accept a detachable magazine;
- 17 or
- 18 (4) A part or combination of parts designed or intended to
- 19 convert a firearm into an assault weapon, as defined
- 20 in paragraph (3) of this definition, or any
- 21 combination of parts from which an assault weapon, as
- 22 defined in paragraph (3) of this definition, may be



1 rapidly assembled if those parts are in the possession
2 or under the control of the same person.

3 "Machine gun" shall apply to and include a weapon of any
4 description, loaded or unloaded, which shoots, is designed to
5 shoot, or can be readily restored to shoot automatically more
6 than one projectile, without manual reloading, by a single
7 function of the trigger, and shall also include any part or
8 combination of parts designed for use in converting a weapon
9 into a machine gun and any combination of parts from which a
10 machine gun can be assembled if such parts are in the possession
11 of or under the control of a person.

12 "Projectile" means any size bullet that when affixed to any
13 cartridge case may be propelled through the bore of a machine
14 gun.

15 **§134-B Sale or transfer of assault weapon prohibited.** (a)
16 Any person who, within this State, distributes, transports, or
17 imports into the State, keeps for sale, or offers or exposes for
18 sale, or who gives any assault weapon, shall be guilty of a
19 class B felony.

20 (b) This section shall not apply to the sale of assault
21 weapons to the department of public safety, police departments,
22 state department of defense, or to the armed services of the



1 United States in connection with the discharge of official
2 duties.

3 **§134-C Possession of assault weapon prohibited.** (a) Any
4 person who, within this State, possesses any assault weapon,
5 shall be guilty of a class C felony.

6 (b) This section shall not apply to the sale of assault
7 weapons to the department of public safety, police departments,
8 state department of defense, or to the armed services of the
9 United States in connection with the discharge of official
10 duties.

11 **§134-D Relinquishment of assault weapon to law**
12 **enforcement.** Any individual may arrange in advance to
13 relinquish an assault weapon to a county police department or
14 the department of public safety for disposal, without penalty.

15 **§134-E Machine guns.** (a) Any person who:
16 (1) Possesses, sells, or transfers a machine gun; or
17 (2) Use a machine gun in the perpetration or attempted
18 perpetration of or an attempt to commit murder,
19 manslaughter, kidnapping, sexual assault, assault in
20 the first or second degree, robbery, burglary, or
21 theft,
22 shall be guilty of a class A felony.



1 (b) The presence of a machine gun in any room, boat, or
2 vehicle shall be presumptive evidence of the possession or use
3 of the machine gun by each person occupying such room, boat, or
4 vehicle."

5 SECTION 2. Section 706-662, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§706-662 Criteria for extended terms of imprisonment.** A
8 defendant who has been convicted of a felony may be subject to
9 an extended term of imprisonment under section 706-661 if it is
10 proven beyond a reasonable doubt that an extended term of
11 imprisonment is necessary for the protection of the public and
12 that the convicted defendant satisfies one or more of the
13 following criteria:

14 (1) The defendant is a persistent offender in that the
15 defendant has previously been convicted of two or more
16 felonies committed at different times when the
17 defendant was eighteen years of age or older;

18 (2) The defendant is a professional criminal in that:

19 (a) The circumstances of the crime show that the
20 defendant has knowingly engaged in criminal
21 activity as a major source of livelihood; or



1 (b) The defendant has substantial income or resources
2 not explained to be derived from a source other
3 than criminal activity;

4 (3) The defendant is a dangerous person in that the
5 defendant has been subjected to a psychiatric or
6 psychological evaluation that documents a significant
7 history of dangerousness to others resulting in
8 criminally violent conduct, and this history makes the
9 defendant a serious danger to others. Nothing in this
10 section precludes the introduction of victim-related
11 data to establish dangerousness in accord with the
12 Hawaii rules of evidence;

13 (4) The defendant is a multiple offender in that:
14 (a) The defendant is being sentenced for two or more
15 felonies or is already under sentence of
16 imprisonment for any felony; or
17 (b) The maximum terms of imprisonment authorized for
18 each of the defendant's crimes, if made to run
19 consecutively, would equal or exceed in length
20 the maximum of the extended term imposed or would
21 equal or exceed forty years if the extended term
22 imposed is for a class A felony;



S.B. NO. 219

- 1 (5) The defendant is an offender against the elderly,
2 handicapped, or a minor eight years of age or younger
3 in that:
- 4 (a) The defendant attempts or commits any of the
5 following crimes: murder, manslaughter, a sexual
6 offense that constitutes a felony under chapter
7 707, robbery, felonious assault, burglary, or
8 kidnapping; and
- 9 (b) The defendant, in the course of committing or
10 attempting to commit the crime, inflicts serious
11 or substantial bodily injury upon a person who
12 has the status of being:
- 13 (i) Sixty years of age or older;
14 (ii) Blind, a paraplegic, or a quadriplegic; or
15 (iii) Eight years of age or younger; and
- 16 the person's status is known or reasonably should
17 be known to the defendant; [~~or~~]
- 18 (6) The defendant is a hate crime offender in that:
- 19 (a) The defendant is convicted of a crime under
20 chapter 707, 708, or 711; and
- 21 (b) The defendant intentionally selected a victim or,
22 in the case of a property crime, the property



1 that was the object of a crime, because of
2 hostility toward the actual or perceived race,
3 religion, disability, ethnicity, national origin,
4 gender identity or expression, or sexual
5 orientation of any person. For purposes of this
6 subsection, "gender identity or expression"
7 includes a person's actual or perceived gender,
8 as well as a person's gender identity, gender-
9 related self-image, gender-related appearance, or
10 gender-related expression, regardless of whether
11 that gender identity, gender-related self-image,
12 gender-related appearance, or gender-related
13 expression is different from that traditionally
14 associated with the person's sex at birth[-]; or

15 (7) The defendant uses an assault weapon or a machine gun,
16 as those terms are defined in section 134-A, in the
17 course of committing murder in the first or second
18 degree, manslaughter, kidnapping, sexual assault,
19 assault in the first or second degree, robbery,
20 burglary, or theft."



S.B. NO. 219


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

4 SECTION 4. In codifying the new sections added by section
5 1 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY: 
By Request



S.B. NO. 219

Report Title:

Firearms; Assault Weapons; Machine Guns; Ban

Description:

Prohibits the distribution, transport, importation into the State, keeping for sale, or offering or exposing for sale assault weapons, or giving to another person assault weapon. Defines assault weapon. Prohibits the possession, sale, transfer, or use of a machine gun in the perpetration or attempted perpetration of certain crimes. Defines machine gun. Makes use of an assault weapon or machine gun in the course of committing murder in the first degree or second degree, manslaughter, kidnapping, sexual assault, assault in the first or second degree, robbery, burglary, or theft subject to criteria for extended term of imprisonment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

