
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 in the case *Steven*
2 *Fotoudis vs. City and County of Honolulu*, the United States
3 District Court ruled section 134-2(d), Hawaii Revised Statutes,
4 unconstitutional because it denied Fotoudis the opportunity to
5 apply for a permit to acquire a firearm because he was a lawful
6 permanent resident alien and not a United States citizen. This
7 classification violated the equal protection clause of the
8 United States Constitution, according to the Court, which found
9 that Fotoudis must be allowed to apply for a permit to acquire a
10 firearm and be evaluated "with no more or less scrutiny than
11 would be applied to a citizen applicant." There has been no
12 appeal to this ruling.

13 The legislature also finds that criminal background checks
14 for firearm permit applicants are critical to ensure the safety
15 of the community. The rap back system is a service of the
16 Federal Bureau of Investigation's Criminal Justice Information
17 Services that provides continuous criminal history monitoring



1 for authorized government agencies, including law enforcement
2 agencies, and notifies them when an individual subject to a
3 criminal background check is arrested for a criminal offense
4 anywhere in the country. This notification will allow the
5 county police departments in Hawaii to evaluate if the firearm
6 owner may continue to legally possess and own firearms.

7 The purpose of this Act is to amend the qualification
8 requirements for acquiring firearms, including background check
9 requirements, to allow lawful permanent residents to apply for a
10 permit and to ensure the safety of the community.

11 SECTION 2. Section 134-2, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (d) to read:

14 "(d) The chief of police of the respective counties may
15 issue permits to acquire firearms to citizens of the United
16 States or lawful permanent residents of the age of twenty-one
17 years or more, or duly accredited official representatives of
18 foreign nations [~~, or duly commissioned law enforcement officers~~
19 ~~of the State who are aliens; provided that any law enforcement~~
20 ~~officer who is the owner of a firearm and who is an alien shall~~
21 ~~transfer ownership of the firearm within forty eight hours after~~



1 ~~termination of employment from a law enforcement agency. The~~
2 ~~chief of police of each county may issue permits to aliens of~~
3 ~~the age of eighteen years or more for use of rifles and shotguns~~
4 ~~for a period not exceeding sixty days, upon a showing that the~~
5 ~~alien has first procured a hunting license under chapter 183D,~~
6 ~~part II. The chief of police of each county may issue permits~~
7 ~~to aliens of the age of twenty one years or more for use of~~
8 ~~firearms for a period not exceeding six months, upon a showing~~
9 ~~that the alien is in training for a specific organized sport-~~
10 ~~shooting contest to be held within the permit period. The~~
11 ~~attorney general shall adopt rules, pursuant to chapter 91, as~~
12 ~~to what constitutes sufficient evidence that an alien is in~~
13 ~~training for a sport shooting contest]. Notwithstanding any~~
14 ~~provision of the law to the contrary and upon joint application,~~
15 ~~the chief of police may issue permits to acquire firearms~~
16 ~~jointly to spouses who otherwise qualify to obtain permits under~~
17 ~~this section."~~

18 2. By amending subsection (e) to read:

19 "(e) The permit application form shall be signed by the
20 applicant and by the issuing authority. One copy of the permit
21 shall be retained by the issuing authority as a permanent



1 official record. Except for sales to dealers licensed under
2 section 134-31, or dealers licensed by the United States
3 Department of Justice, or law enforcement officers, or where a
4 license is granted under section 134-9, or where any firearm is
5 registered pursuant to section 134-3(a), no permit shall be
6 issued to an applicant earlier than fourteen calendar days after
7 the date of the application; provided that a permit shall be
8 issued or the application denied before the twentieth day from
9 the date of application. Permits issued to acquire any pistol
10 or revolver shall be void unless used within ten days after the
11 date of issue. Permits to acquire a pistol or revolver shall
12 require a separate application and permit for each transaction.
13 Permits issued to acquire any rifle or shotgun shall entitle the
14 permittee to make subsequent purchases of rifles or shotguns for
15 a period of one year from the date of issue without a separate
16 application and permit for each acquisition, subject to the
17 disqualifications under section 134-7 and subject to revocation
18 under section 134-13; provided that if a permittee is arrested
19 for committing a felony or any crime of violence or for the
20 illegal sale of any drug, the permit shall be impounded and
21 shall be surrendered to the issuing authority. The issuing



1 authority shall perform an inquiry on an applicant [~~who is a~~
2 ~~citizen of the United States by using the National Instant~~
3 ~~Criminal Background Check System]~~ using the Criminal Justice
4 Information Services, National Law Enforcement
5 Telecommunications System including the Immigration Alien Query,
6 National Crime Information Center, and National Instant Criminal
7 Background Check System, and pursuant to section 846-2.7 before
8 any determination to issue a permit or to deny an application is
9 made. [~~If the applicant is not a citizen of the United States~~
10 ~~and may be eligible to acquire a firearm under this chapter, the~~
11 ~~issuing authority shall perform an inquiry on the applicant, by~~
12 ~~using the National Instant Criminal Background Check System, to~~
13 ~~include a check of the Immigration and Customs Enforcement~~
14 ~~databases, before any determination to issue a permit or to deny~~
15 ~~an application is made.] "~~

16 3. By amending subsection (i) to read:

17 "(i) No fee shall be charged for permits, or applications
18 for permits, under this section, except for a single fee
19 chargeable by and payable to the issuing county, for individuals
20 applying for their first permit, in an amount equal to the fee
21 [~~actually~~] charged for background checks by the [~~Federal Bureau~~



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1 ~~of investigation to the issuing police department for a~~
2 ~~fingerprint check in connection with that application or~~
3 ~~permit.] Hawaii criminal justice data center pursuant to section~~
4 846-2.7. In the case of a joint application, the fee provided
5 for in this section may be charged to each person to whom no
6 previous permit has been issued."

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

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:



JAN 27 2016



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Report Title:

Firearms; Permits; Criminal History Record Checks; Rap Back System

Description:

Amends the qualification requirements to allow lawful permanent residents to apply for a permit to acquire a firearm. Clarifies the background check process for firearm permit applicants and authorizes county police departments to enroll firearm permit applicants into a criminal record monitoring service.

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

