

JAN 27 2016

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 criminal background
2 checks for applicants to acquire firearms are critical to ensure
3 the safety of the community. The rap back system will provide a
4 mechanism to alert a county police department when the owner of
5 a firearm is arrested for a criminal offense anywhere in the
6 country. This notification will allow the county police
7 department to evaluate whether the firearm owner may continue to
8 legally possess and own firearms.

9 In the case of *Steven Fotoudis v. City and County of*
10 *Honolulu*, United States District Judge Michael Seabright ruled
11 that section 134-2(d), Hawaii Revised Statutes, is
12 unconstitutional because it prevented the opportunity for
13 plaintiff to apply for a permit to acquire a firearm because he
14 was a permanent resident alien and not a United States citizen.
15 There has been no appeal of this ruling.



1 The purpose of this Act is to clarify the background check
2 process and to allow county police departments to enroll firearm
3 applicants into the rap back system.

4 SECTION 2. Section 134-2, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsections (d) and (e) to read:

7 "(d) The chief of police of the respective counties may
8 issue permits to acquire firearms to citizens of the United
9 States or permanent resident aliens of the age of twenty-one
10 years or more, or duly accredited official representatives of
11 foreign nations [~~, or duly commissioned law enforcement officers~~
12 ~~of the State who are aliens, provided that any law enforcement~~
13 ~~officer who is the owner of a firearm and who is an alien shall~~
14 ~~transfer ownership of the firearm within forty eight hours after~~
15 ~~termination of employment from a law enforcement agency. The~~
16 ~~chief of police of each county may issue permits to aliens of~~
17 ~~the age of eighteen years or more for use of rifles and shotguns~~
18 ~~for a period not exceeding sixty days, upon a showing that the~~
19 ~~alien has first procured a hunting license under chapter 183D,~~
20 ~~part II. The chief of police of each county may issue permits~~
21 ~~to aliens of the age of twenty one years or more for use of~~



1 ~~firearms for a period not exceeding six months, upon a showing~~
2 ~~that the alien is in training for a specific organized sport~~
3 ~~shooting contest to be held within the permit period. The~~
4 ~~attorney general shall adopt rules, pursuant to chapter 91, as~~
5 ~~to what constitutes sufficient evidence that an alien is in~~
6 ~~training for a sport shooting contest. Notwithstanding any~~
7 ~~provision of the law to the contrary and upon joint application,~~
8 ~~the chief of police may issue permits to acquire firearms~~
9 ~~jointly to spouses who otherwise qualify to obtain permits under~~
10 ~~this section].~~

11 (e) The permit application form shall be signed by the
12 applicant and by the issuing authority. One copy of the permit
13 shall be retained by the issuing authority as a permanent
14 official record. Except for sales to dealers licensed under
15 section 134-31, or dealers licensed by the United States
16 Department of Justice, or law enforcement officers, or where a
17 license is granted under section 134-9, or where any firearm is
18 registered pursuant to section 134-3(a), no permit shall be
19 issued to an applicant earlier than fourteen calendar days after
20 the date of the application; provided that a permit shall be
21 issued or the application denied before the twentieth day from



1 the date of application. Permits issued to acquire any pistol
2 or revolver shall be void unless used within ten days after the
3 date of issue. Permits to acquire a pistol or revolver shall
4 require a separate application and permit for each transaction.
5 Permits issued to acquire any rifle or shotgun shall entitle the
6 permittee to make subsequent purchases of rifles or shotguns for
7 a period of one year from the date of issue without a separate
8 application and permit for each acquisition, subject to the
9 disqualifications under section 134-7 and subject to revocation
10 under section 134-13; provided that if a permittee is arrested
11 for committing a felony or any crime of violence or for the
12 illegal sale of any drug, the permit shall be impounded and
13 shall be surrendered to the issuing authority. The issuing
14 authority shall perform an inquiry on an applicant [~~who is a~~
15 ~~citizen of the United States by using the National Instant~~
16 ~~Criminal Background Check System~~] using the Criminal Justice
17 Information System, National Law Enforcement Telecommunications
18 System including the United States Immigration and Customs
19 Enforcement query therein, National Crime Information Center and
20 National Instant Criminal Background Check System and pursuant
21 to section 846-2.7 before any determination to issue a permit or



1 to deny an application is made. [~~If the applicant is not a~~
2 ~~citizen of the United States and may be eligible to acquire a~~
3 ~~firearm under this chapter, the issuing authority shall perform~~
4 ~~an inquiry on the applicant, by using the National Instant~~
5 ~~Criminal Background Check System, to include a check of the~~
6 ~~Immigration and Customs Enforcement databases, before any~~
7 ~~determination to issue a permit or to deny an application is~~
8 ~~made.] "~~

9 2. By amending subsection (i) to read:

10 "(i) No fee shall be charged for permits, or applications
11 for permits, under this section, except for a single fee
12 chargeable by and payable to the issuing county, for individuals
13 applying for their first permit, in an amount equal to the fee
14 [actually] charged by the [~~Federal Bureau of Investigation to~~
15 ~~the issuing police department for a fingerprint check in~~
16 ~~connection with that application or permit.] Hawaii criminal
17 justice data center pursuant to section 846-2.7. In the case of
18 a joint application, the fee provided for in this section may be
19 charged to each person to whom no previous permit has been
20 issued."~~



S.B. NO. 2955

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

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

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S.B. NO. 2955

Report Title:

Firearms; Background Checks; Permit; Permanent Resident Alien

Description:

Allows permanent resident aliens to receive a permit to acquire a firearm. Requires the issuing authority for firearms permits to perform an inquiry on an applicant using the Criminal Justice Information System (CJIS), National Law Enforcement Telecommunications System (NLETS) including the Immigration and Customs Enforcement query in NLETS, National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS). Adds permanent resident aliens to required background checks. Clarifies requirements for permanent resident aliens to obtain a firearms permit.

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

