

JAN 23 2015

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 federal Law
2 Enforcement Officers Safety Act of 2003 (LEOSA) was intended to
3 afford active and retired law enforcement officers the privilege
4 of carrying a concealed firearm across state lines. However,
5 since the enactment of LEOSA, varying state approaches to
6 implementation have hindered the consistent and effective
7 operation of the federal law, especially with respect to retired
8 law enforcement officers.

9 Under LEOSA, a retired law enforcement officer who wishes
10 to carry a concealed firearm in any of the fifty states is
11 required to carry a photographic identification that is issued
12 by the agency from which the retired officer was employed that
13 indicates or is accompanied by a firearm certification. If the
14 photographic identification does not indicate that the retired
15 officer has met firearm training standards, then the
16 photographic identification is required to be accompanied by a
17 firearm certification that is issued by the state in which the



1 retired officer resides or by a certified firearms instructor
2 who is qualified to conduct firearms qualification tests for
3 active duty officers within that state and certifies that the
4 retired officer has met, within the most recent twelve-month
5 period, the active law enforcement standards for qualification,
6 as determined by the State, to carry a firearm of the same type
7 as the firearm the retired officer intends to conceal and carry.
8 If the state that the retired officer resides in has not
9 established any qualification standards, then such standards
10 established by any law enforcement agency within that state may
11 be used. Currently, Hawaii has not established a firearm
12 qualification standards for retired law enforcement officers
13 residing in the State or a statutory framework to uniformly
14 permit active and retired law enforcement officers to carry a
15 concealed weapon in Hawaii pursuant to LEOSA.

16 The purpose of this Act is to codify federal law to
17 authorize the department of the attorney general to develop and
18 implement a state program to allow active and retired law
19 enforcement officers to carry a concealed firearm in Hawaii
20 pursuant to LEOSA.



1 SECTION 2. 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 . CARRYING OF CONCEALED FIREARMS BY LAW ENFORCEMENT
5 OFFICERS

6 §134-A Definitions. As used in this part unless the
7 context indicates otherwise:

8 "Firearm" has the same meaning as in title 18 United States
9 Code section 921, but shall not include:

- 10 (1) Any machine gun as defined in section 5845 of the
11 National Firearms Act of 1934;
12 (2) Any firearm silencer as defined in title 18 United
13 States Code section 921; and
14 (3) Any destructive device as defined in title 18 United
15 States Code section 921.

16 "Firearms instructor" means a person who:

- 17 (1) Has a valid and current law enforcement instructor
18 certification from the National Rifle Association or
19 from another organization; and
20 (2) Has been approved by the department of the attorney
21 general.



1 "Qualified law enforcement officer" means an employee of a
2 government agency who:

3 (1) Is authorized by law to engage in or supervise the
4 prevention, detection, investigation, or prosecution
5 of or the incarceration of any person for any
6 violation of law and has statutory powers of arrest or
7 apprehension under article 7(b) of the Uniform
8 Military Code (10 U.S.C. 807(b));

9 (2) Is authorized by the government agency to carry a
10 firearm;

11 (3) Is not the subject of any disciplinary action by the
12 government agency that could result in suspension or
13 loss of police powers;

14 (4) Meets standards, if any, established by the government
15 agency that require the employee to regularly qualify
16 in the use of a firearm;

17 (5) Is not under the influence of alcohol or another
18 intoxicating or hallucinatory drug or substance;

19 (6) Is not prohibited by federal law from receiving a
20 firearm; and



1 (7) Complies with all applicable state firearm laws under
2 this chapter.

3 A law enforcement officer of the Amtrak Police Department,
4 Federal Reserve System, or executive branch of the federal
5 government qualifies as an employee of a government agency who
6 is authorized by law to engage in or supervise the prevention,
7 detection, investigation, or prosecution of or the incarceration
8 of any person for any violation of law and has statutory powers
9 of arrest or apprehension under article 7(b) of the Uniform
10 Military Code (10 U.S.C. 807(b)). "Qualified law enforcement
11 officer" does not include a third party contracted guard who has
12 the statutory power of arrest as part of a contract with a
13 government agency and an active duty armed forces personnel
14 assigned to a military police unit.

15 "Qualified retired law enforcement officer" means a person
16 who:

17 (1) Has separated in good standing from service with a
18 government agency as a law enforcement officer,
19 including separation from service as a law enforcement
20 officer of the Amtrak Police Department, Federal



1 Reserve System, or executive branch of the federal
2 government;

3 (2) Before separation from service in good standing, was
4 authorized by law to engage in or supervise the
5 prevention, detection, investigation, or prosecution
6 of or the incarceration of any person for any
7 violation of law and had statutory powers of arrest or
8 apprehension under article 7(b) of the Uniform
9 Military Code (10 U.S.C. 807(b));

10 (3) Before separation from service in good standing,
11 served as a law enforcement officer for an aggregate
12 of ten years or more, or separated from service with a
13 government agency after completing any applicable
14 probationary period of service due to a service
15 connected disability, as determined by the government
16 agency;

17 (4) During the immediately previous twelve-month period
18 and at the person's own expense, has met:

19 (A) The standards for qualification in firearms
20 training for active law enforcement officers, as



1 determined by the former government agency of the
2 retired officer;

3 (B) If the state has not established qualification
4 standards:

5 (i) The standards for qualification in firearms
6 training of a law enforcement agency within
7 the state in which the retired officer
8 resides; or

9 (ii) The standards used by a firearms instructor
10 who is qualified to conduct a firearms
11 qualification test for active law
12 enforcement officers within that state; or

13 (C) The requirements of the state firearm
14 certification program under section 134-D if the
15 qualified retired law enforcement officer resides
16 in this State;

17 (5) Has not:

18 (A) Been officially found by a qualified medical
19 professional employed by the government agency to
20 be unqualified for reasons relating to mental
21 health and, as a result of this finding, not to



1 be issued a photographic identification pursuant
2 to section 134-C; or

3 (B) Entered into an agreement with the government
4 agency from which the retired officer is
5 separating from service in which the retired
6 officer acknowledges that the retired officer is
7 not qualified for reasons relating to mental
8 health and shall not receive or accept a
9 photographic identification pursuant to section
10 134-C;

11 (6) Is not under the influence of alcohol or another
12 intoxicating or hallucinatory drug or substance;

13 (7) Is not prohibited under federal law from receiving a
14 firearm; and

15 (8) Complies with all applicable state firearm laws under
16 this chapter.

17 **§134-B Qualified law enforcement officer; carrying of a**
18 **concealed firearm; photographic identification. (a)**

19 Notwithstanding any other law to the contrary, a person who is a
20 qualified law enforcement officer and possesses an
21 identification required under subsection (c) may carry a



1 concealed firearm that has been shipped or transported in
2 intrastate, interstate, or foreign commerce except as provided
3 under subsection (b).

4 (b) This section shall not be construed to supersede any
5 state laws that:

6 (1) Permit private persons or entities to prohibit or
7 restrict the possession of concealed firearms on their
8 property; or

9 (2) Prohibit or restrict the possession of firearms on any
10 state or county property, installation, building,
11 base, or park.

12 (c) To carry a concealed firearm that has been shipped or
13 transported in interstate or foreign commerce in this State, or
14 carry or transport a concealed firearm between islands of this
15 State, a qualified law enforcement officer shall possess a
16 photographic identification issued by the government agency for
17 which the qualified law enforcement officer is employed that
18 identifies the qualified law enforcement officer as a law
19 enforcement officer of that government agency.

20 **§134-C Qualified retired law enforcement officer; carrying**
21 **of a concealed firearm; photographic identification. (a)**



1 Notwithstanding any other law to the contrary, a person who is a
2 qualified retired law enforcement officer and possesses an
3 identification required under subsection (c) may carry a
4 concealed firearm that has been shipped or transported in
5 intrastate, interstate, or foreign commerce except as provided
6 under subsection (b).

7 (b) This section shall not be construed to supersede any
8 state laws that:

9 (1) Permit private persons or entities to prohibit or
10 restrict the possession of concealed firearms on their
11 property; or

12 (2) Prohibit or restrict the possession of firearms on any
13 state or county property, installation, building,
14 base, or park.

15 (c) To carry a concealed firearm that has been shipped or
16 transported in interstate or foreign commerce in this State, or
17 carry or transport a concealed firearm between islands of this
18 State, a qualified retired law enforcement officer shall possess
19 a photographic identification issued by the government agency
20 for which the qualified retired law enforcement officer was



1 employed as a law enforcement officer of that government agency.

2 The photographic identification shall:

3 (1) Indicate that during the immediately previous twelve-
4 month period and at the retired officer's own expense,
5 the retired officer has met the active duty standards
6 for qualification in firearms training as established
7 by the former government agency of the retired officer
8 to carry a firearm of the same type as the concealed
9 firearm; or

10 (2) Be accompanied by a certification issued by the state
11 in which the qualified retired law enforcement officer
12 resides or by a firearms instructor that is qualified
13 to conduct a firearms qualification test for active
14 duty officers within that state indicating that not
15 less than one year before the date the qualified
16 retired law enforcement officer is carrying the
17 concealed firearm, the retired officer has been tested
18 or otherwise been found by the state in which the
19 retired officer resides or by the firearms instructor
20 to meet:



1 (A) The active duty standards for qualification in
2 firearms training, as established by the state in
3 which the qualified retired law enforcement
4 officer resides, to carry a firearm of the same
5 type as the concealed firearm; or

6 (B) If the state in which the qualified retired law
7 enforcement officer reside has not established
8 such standard, then the standards set by the law
9 enforcement agency within that state to carry a
10 firearm of the same type as the concealed
11 firearm; or

12 (3) If the qualified retired law enforcement officer
13 resides in this State, be accompanied with a
14 certification issued by the department of the attorney
15 general indicating that not less than one year before
16 the date the qualified retired law enforcement officer
17 is carrying the concealed firearm, the retired officer
18 has met the requirements of the state firearm
19 certification program pursuant to section 134-D.

20 **§134-D Qualified retired law enforcement officer; state**
21 **firearm certification for state residents.** (a) During the



1 immediately previous twelve-month period and at the retired
2 officer's own expense, a qualified retired law enforcement
3 officer who resides in this State shall meet the requirements of
4 the state firearm certification program in order to carry a
5 concealed firearm in this State.

6 (b) The state firearm certification program for qualified
7 retired law enforcement officers residing in this State shall be
8 conducted by a firearms instructor and shall be the same
9 generally recognized standards of law enforcement firearms
10 training for active law enforcement officers in this State. The
11 format, requirements, and scoring of the certification testing
12 shall be determined by the department of the attorney general
13 and include the following:

- 14 (1) Firearms proficiency;
- 15 (2) Firearms safety;
- 16 (3) Firearms handling; and
- 17 (4) Review of state laws relating to firearms, ammunition,
18 dangerous weapons, and use of force;

19 provided that the format, requirements, and scoring of the
20 certification testing shall be identical or substantially



1 similar to the law enforcement firearms training for active law
2 enforcement officers in this State.

3 (c) A qualified retired law enforcement officer who
4 resides in this State and seeks to participate in the state
5 firearm certification program shall apply for firearm
6 certification using forms prescribed and providing information
7 requested by the department of the attorney general.
8 Applications for firearm certification shall be filed with the
9 department of the attorney general. All costs and fees for a
10 firearm certification under this section shall be paid by the
11 applicant and shall be nonrefundable.

12 (d) The department of the attorney general may issue a
13 firearm certification identification to each applicant who meets
14 all qualifications and requirements for a state firearm
15 certification. The format and information contained on the
16 state firearm certification identification shall be determined
17 by and forms shall be prescribed by the department of the
18 attorney general.

19 (e) All state firearm certification identifications shall:

20 (1) Be valid for one year from date of issuance;



1 (2) Be returned to the department of the attorney general
2 after expiration or immediately upon written request
3 by the department of the attorney general; and

4 (3) Remain property of the State.

5 (f) A qualified retired law enforcement officer who
6 resides in this State shall renew a state firearm certification
7 annually as long as the qualified retired law enforcement
8 officer:

9 (1) Meets all requirements under title 18 United States
10 Code section 926C, this part, and applicable state
11 law;

12 (2) Carries a concealed firearm pursuant to title 18
13 United States Code section 926C and section 134-C; and

14 (3) Resides in this State.

15 The requirements, format, and any information requested for a
16 renewal of a state firearm certification shall be determined by
17 and forms shall be prescribed by the department of the attorney
18 general; provided that the department of the attorney general
19 shall establish renewal requirements and procedures that are
20 condensed, nonidentical versions of the application requirements
21 for a new state firearm certification.



1 (g) The department of the attorney general may reinstate,
2 restore, revoke, suspend, deny, or refuse to renew a state
3 firearm certification of any applicant who violates any
4 requirements under this part or state law, or established by
5 rule, including by not limited to:

- 6 (1) Failing to meet all of the requirements necessary to
7 maintain state firearm certification, including
8 maintaining a residence address in the State while
9 certified;
- 10 (2) Submitting an application for a new, renewed, or
11 reinstatement of a suspended state firearm
12 certification that contains a false statement, an
13 omission of fact, or a substantial misstatement;
- 14 (3) Obtaining or allowing the state firearm certification
15 to be used in a deceptive, fraudulent, or false or
16 misleading manner;
- 17 (4) Being treated for addiction to any dangerous, harmful,
18 or detrimental drug, intoxicating compound as defined
19 in section 712-1240, or intoxicating liquor;
- 20 (5) Being diagnosed with, or receiving treatment for, a
21 significant behavioral, emotional, or mental disorder



1 as defined by the most current diagnostic manual of
2 the American Psychiatric Association; and

3 (6) Using or carrying a firearm while being impaired by
4 alcohol, drugs, or mental illness, or substantially
5 impaired by a physical disability.

6 **§134-E Firearms instructors; limited civil liability.** No
7 firearms instructor who provides firearms training and
8 qualification for active law enforcement officers or qualified
9 retired law enforcement officers in this State shall be civilly
10 liable to any person for injury or damage sustained during the
11 course of providing firearms training or safety courses or
12 classes at a firing range to active law enforcement officers or
13 qualified retired law enforcement officer residing in this State
14 who are seeking to obtain a firearm certification pursuant to
15 section 134-D; provided that this section shall not be construed
16 to relieve a firearms instructor from any other tort liability
17 that may be applicable.

18 **§134-F Firearm registration.** All concealed firearms
19 carried by any qualified law enforcement officer or qualified
20 retired law enforcement officer shall be registered with the
21 chief of police in the county of the officer's place of



1 business, residence, or place of sojourn pursuant to section
2 134-3.

3 **§134-G Compliance with federal and state laws.** (a) To
4 carry a concealed firearm in this State pursuant to title 18
5 United States Code section 926B, a qualified law enforcement
6 officer shall comply with all state laws, including but not
7 limited to this chapter. If a qualified law enforcement officer
8 is not on official duty with the officer's government agency and
9 is carrying a concealed firearm pursuant to title 18 United
10 States Code 926B in this State, state law shall apply to this
11 officer as a person with no law enforcement powers.

12 (b) To carry a concealed firearm in this State pursuant to
13 title 18 United States Code section 926C, a qualified retired
14 law enforcement officer shall comply with all state laws,
15 including but not limited to this chapter. Title 18 United
16 States Codes section 926C and state law shall not authorize a
17 qualified retired law enforcement officer to act as a law
18 enforcement officer in this State.

19 **§134-H Rules.** The department of the attorney general
20 shall adopt rules pursuant to chapter 91 to effectuate the
21 purposes of this part."



1 SECTION 3. Section 134-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Every person arriving in the State who brings or by
4 any other manner causes to be brought into the State a firearm
5 of any description, whether usable or unusable, serviceable or
6 unserviceable, modern or antique, shall register the firearm
7 within five days after arrival of the person or of the firearm,
8 whichever arrives later, with the chief of police of the county
9 of the person's place of business or, if there is no place of
10 business, the person's residence or, if there is neither a place
11 of business nor residence, the person's place of sojourn. A
12 nonresident alien may bring firearms not otherwise prohibited by
13 law into the State for a continuous period not to exceed ninety
14 days; provided that the person meets the registration
15 requirement of this section and the person possesses:

- 16 (1) A valid Hawaii hunting license procured under chapter
17 183D, part II, or a commercial or private shooting
18 preserve permit issued pursuant to section 183D-34;
19 (2) A written document indicating the person has been
20 invited to the State to shoot on private land; [~~or~~]



- 1 (3) Written notification from a firing range or target
2 shooting business indicating that the person will
3 actually engage in target shooting[-];
- 4 (4) A photographic identification issued by the government
5 agency for which a qualified law enforcement officer
6 is employed that identifies the qualified law
7 enforcement officer as a law enforcement officer of
8 that government agency who is permitted to carry a
9 concealed firearm that has been shipped or transported
10 in interstate or foreign commerce in this State, or
11 carried or transported between islands of this State,
12 pursuant to section 134-B; provided that the qualified
13 law enforcement officer is on official duty; or
- 14 (5) A photographic identification issued by the government
15 agency for which a qualified retired law enforcement
16 officer was employed as a law enforcement officer and
17 documentation certifying that during the immediately
18 previous twelve-month period, the officer has met the
19 standards for qualification in firearms training for
20 active law enforcement officers pursuant to section
21 134-C.



1 The nonresident alien shall be limited to a nontransferable
2 registration of not more than ten firearms for the purpose of
3 the above activities.

4 Every person registering a firearm under this subsection
5 shall be fingerprinted and photographed by the police department
6 of the county of registration; provided that this requirement
7 shall be waived where fingerprints and photographs are already
8 on file with the police department. The police department shall
9 perform an inquiry on the person by using the National Instant
10 Criminal Background Check System before any determination to
11 register a firearm is made."

12 SECTION 4. Section 134-7.2, Hawaii Revised Statutes, is
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) Notwithstanding any provision of chapter 127A or any
15 other law to the contrary, no person or government entity shall
16 seize or confiscate, under any emergency or disaster relief
17 powers or functions conferred, or during any emergency period,
18 as defined in section 127A-2, or during any time of national
19 emergency or crisis, as defined in section 134-34, any firearm
20 or ammunition from any individual who is lawfully permitted to
21 carry or possess the firearm or ammunition under part I or _____



1 of this chapter and who carries, possesses, or uses the firearm
2 or ammunition in a lawful manner and in accordance with the
3 criminal laws of this State.

4 (b) Notwithstanding any provision of chapter 127A or any
5 other law to the contrary, no person or government entity shall
6 suspend, revoke, or limit, under any emergency or disaster
7 relief powers or functions conferred, any lawfully acquired and
8 maintained permit or license obtained under and in accordance
9 with part I or of this chapter."

10 SECTION 5. Section 134-8, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The manufacture, possession, sale, barter, trade,
13 gift, transfer, or acquisition of detachable ammunition
14 magazines with a capacity in excess of ten rounds which are
15 designed for or capable of use with a pistol is prohibited.

16 This subsection shall not apply to [magazines]:

17 (1) Magazines originally designed to accept more than ten
18 rounds of ammunition which have been modified to
19 accept no more than ten rounds and which are not
20 capable of being readily restored to a capacity of
21 more than ten rounds[-]; and



1 (2) Qualified law enforcement officers and qualified
2 retired law enforcement officers subject to part ."

3 SECTION 6. Section 134-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§134-9 Licenses to carry.** (a) In an exceptional case,
6 when an applicant shows reason to fear injury to the applicant's
7 person or property, the chief of police of the appropriate
8 county may grant a license to an applicant who is a citizen of
9 the United States of the age of twenty-one years or more or to a
10 duly accredited official representative of a foreign nation of
11 the age of twenty-one years or more to carry a pistol or
12 revolver and ammunition therefor concealed on the person within
13 the county where the license is granted. Where the urgency or
14 the need has been sufficiently indicated, the respective chief
15 of police may grant to an applicant of good moral character who
16 is a citizen of the United States of the age of twenty-one years
17 or more, is engaged in the protection of life and property, and
18 is not prohibited under section 134-7 from the ownership or
19 possession of a firearm, a license to carry a pistol or revolver
20 and ammunition therefor unconcealed on the person within the
21 county where the license is granted. The chief of police of the



1 appropriate county, or the chief's designated representative,
2 shall perform an inquiry on an applicant by using the National
3 Instant Criminal Background Check System, to include a check of
4 the Immigration and Customs Enforcement databases where the
5 applicant is not a citizen of the United States, before any
6 determination to grant a license is made. Unless renewed, the
7 license shall expire one year from the date of issue.

8 (b) The chief of police of each county shall adopt
9 procedures to require that any person granted a license to carry
10 a concealed weapon on the person shall:

- 11 (1) Be qualified to use the firearm in a safe manner;
- 12 (2) Appear to be a suitable person to be so licensed;
- 13 (3) Not be prohibited under section 134-7 from the
14 ownership or possession of a firearm; and
- 15 (4) Not have been adjudged insane or not appear to be
16 mentally deranged.

17 (c) No person shall carry concealed or unconcealed on the
18 person a pistol or revolver without being licensed to do so
19 under this section or in compliance with sections 134-5(c) or
20 134-25.



1 (d) A fee of \$10 shall be charged for each license and
2 shall be deposited in the treasury of the county in which the
3 license is granted.

4 (e) This section shall not apply to qualified law
5 enforcement officers or qualified retired law enforcement
6 officers subject to part ."

7 SECTION 7. 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 8. In codifying the new sections added by section
11 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 9. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16



1 SECTION 10. This Act shall take effect upon its approval;
2 provided that the department of the attorney general shall
3 comply with section 2 of this Act until it adopts rules pursuant
4 to chapter 91, Hawaii Revised Statutes, to effectuate section 2
5 of this Act.

6

INTRODUCED BY: ~~_____~~ _____

Makela
Han'Gosh
[Signature]
[Signature]



S.B. NO. 473

Report Title:

Firearms; Law Enforcement Officers; Carrying of a Concealed Firearm; Magazine Exemption

Description:

Codifies federal law to authorize the department of the attorney general to develop and implement a state program to allow active and retired law enforcement officers to carry a concealed firearm in Hawaii pursuant to the federal Law Enforcement Officers Safety Act of 2003. Makes conforming amendments to state firearm laws.

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

