

JAN 25 2017

A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. With certain exceptions, Hawaii law requires
2 gun purchasers to obtain a permit prior to purchasing a new
3 firearm. Pursuant to statute, a permit to purchase a firearm
4 may not be obtained until at least fourteen calendar days after
5 the date of the permit application. This waiting period applies
6 to applicants who are purchasing their first firearm and to
7 those who already lawfully own a firearm.

8 On August 22, 2014, however, the United States District
9 Court for the Eastern District of California determined that a
10 law requiring a ten-day waiting period for individuals who
11 already lawfully own a firearm and pass the background check
12 prior to the end of the ten-day waiting period, violates the
13 Second Amendment of the United States Constitution, regarding
14 the right to bear arms. In *Silvester v. Harris*, the defendants
15 argued that the California ten-day waiting period is justified
16 as necessary for the permitting agency to perform a background
17 check; to provide a cooling off period for the purchaser; and to



1 allow law enforcement officers time to investigate straw
2 purchases. After a thorough analysis, the Court determined that
3 these justifications did not pass constitutional muster when
4 applied to those who already lawfully own a firearm and pass the
5 background check prior to the end of the waiting period. Among
6 other things, the Court noted that a mandatory waiting period,
7 or a cooling off period, will not deter a person who already
8 owns a firearm from committing impulsive acts of violence with a
9 firearm. In December 2016, the United States Ninth Circuit
10 Court of Appeals upheld the district court's ruling.

11 In light of the Court of Appeals' recent decision, the
12 legislature finds that Hawaii's law requiring a fourteen-day
13 waiting period, as applied to gun purchasers who already own
14 firearms, similarly violates the Second Amendment of the United
15 States Constitution, and should be amended accordingly. The
16 purpose of this Act is to remove the waiting period requirement
17 for firearm permit applicants who already own a lawfully
18 registered firearm.

19 SECTION 2. Section 134-2, Hawaii Revised Statutes, is
20 amended by amending subsection (e) to read as follows:



1 "(e) The permit application form shall be signed by the
2 applicant and by the issuing authority. One copy of the permit
3 shall be retained by the issuing authority as a permanent
4 official record. Except for sales to dealers licensed under
5 section 134-31, or dealers licensed by the United States
6 Department of Justice, or law enforcement officers, or where a
7 license is granted under section 134-9, or where any firearm is
8 registered pursuant to section 134-3(a), no permit shall be
9 issued to an applicant earlier than fourteen calendar days after
10 the date of the application; provided that [a]:

11 (1) There shall not be a waiting period for an applicant
12 who owns a firearm previously registered under this
13 section; and

14 (2) A permit shall be issued or the application denied
15 before the twentieth day from the date of application.

16 Permits issued to acquire any pistol or revolver shall be void
17 unless used within ten days after the date of issue. Permits to
18 acquire a pistol or revolver shall require a separate
19 application and permit for each transaction. Permits issued to
20 acquire any rifle or shotgun shall entitle the permittee to make
21 subsequent purchases of rifles or shotguns for a period of one



1 year from the date of issue without a separate application and
2 permit for each acquisition, subject to the disqualifications
3 under section 134-7 and subject to revocation under section
4 134-13; provided that if a permittee is arrested for committing
5 a felony or any crime of violence or for the illegal sale of any
6 drug, the permit shall be impounded and shall be surrendered to
7 the issuing authority. The issuing authority shall perform an
8 inquiry on an applicant by using the International Justice and
9 Public Safety Network, including the United States Immigration
10 and Customs Enforcement query, the National Crime Information
11 Center, and the National Instant Criminal Background Check
12 System, pursuant to section 846-2.7 before any determination to
13 issue a permit or to deny an application is made."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY:


By Request



S.B. NO. 876

Report Title:

Firearms; Registration; Waiting Period

Description:

Provides that owners of previously registered firearms in this State shall not be subject to the existing permit waiting period when seeking a permit to allow for the acquisition of another firearm.

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

