

1 "Law enforcement agency" means any county police
2 department, the department of public safety, the department of
3 the attorney general, the division of conservation and resources
4 enforcement of the department of land and natural resources, and
5 any other state or county public body that employs law
6 enforcement officers.

7 "Law enforcement officer" means a sheriff or deputy
8 sheriff, police officer, enforcement officer within the division
9 of conservation and resources enforcement of the department of
10 land and natural resources, special agent of the department of
11 the attorney general, and any other public servant vested by law
12 with a duty to maintain public order, to make arrests for
13 offenses, or to enforce criminal laws, whether that duty extends
14 to all offenses or is limited to a specific class of offenses.

15 "Licensee" means a person licensed to sell or distribute
16 electric guns pursuant to section 134-C.

17 "Person" means an individual, firm, corporation,
18 partnership, association, or any form of business or legal
19 entity.



1 "Transfer" means the granting of possession or ownership to
2 another, and includes the granting of temporary possession to
3 another.

4 **§134-B Restrictions on use, sale, and transfer of electric**
5 **guns.** (a) It shall be unlawful for any person to knowingly or
6 recklessly use an electric gun for any purpose except:

- 7 (1) Self-defense;
8 (2) Defense of another person; or
9 (3) Protection of property.

10 (b) It shall be unlawful for any person to knowingly sell,
11 offer for sale, distribute, or otherwise transfer an electric
12 gun or cartridge without a license obtained pursuant to section
13 134-C. It is an affirmative defense to prosecution pursuant to
14 this subsection that the person is an adult employee of a
15 licensee acting within the scope of the person's employment.

16 (c) It shall be unlawful for a licensee or an employee of
17 a licensee to knowingly sell, distribute, or otherwise transfer
18 an electric gun or cartridge at a place other than the
19 licensee's designated place of business.



1 (d) It shall be unlawful for any person to knowingly sell,
2 offer for sale, distribute, or otherwise transfer an electric
3 gun or cartridge to a minor.

4 (e) It shall be unlawful for any person, other than a
5 licensee, a law enforcement agency, or the army or air national
6 guard to knowingly or recklessly purchase, obtain, or otherwise
7 receive an electric gun or cartridge from a person who does not
8 have a license issued pursuant to section 134-C.

9 (f) Any person violating this section shall be guilty of a
10 misdemeanor.

11 **§134-C License to sell or distribute electric guns; fee.**

12 (a) Any person desiring to sell, offer for sale, distribute, or
13 otherwise transfer electric guns to a person in the State,
14 either at wholesale or retail, shall annually file an
15 application for a corresponding license to do so with the county
16 in which the person desires to conduct business or within the
17 county to which the person intends the electric guns to be
18 distributed, using forms prescribed by the county.

19 (b) If the applicant is an individual, the application and
20 supporting documentation must establish at least the following:



- 1 (1) The legal name, date of birth, and the last four
2 digits of the social security number of the
3 individual;
- 4 (2) The street address, telephone number, fax number, and
5 e-mail address of the individual;
- 6 (3) The name and location of the principal place of
7 business of the applicant and, if applicable, each
8 additional designated place of business from which the
9 applicant desires to sell electric guns;
- 10 (4) The applicant's Hawaii tax identification number;
- 11 (5) That the applicant has not been convicted of any
12 felony offense;
- 13 (6) That within the last three years, the applicant has
14 completed an electric gun safety or training course,
15 offered or approved by the county, that focuses on:
 - 16 (A) The safe use and handling of electric guns;
 - 17 (B) Current information about the effects, dangers,
18 risks, and limitations of electric guns; and
 - 19 (C) Education on the current state laws on electric
20 guns; and
- 21 (7) Any other information the county may require.



1 (c) If the applicant is not an individual, the application
2 and supporting documentation must establish at least the
3 following:

4 (1) The name of the applying entity and any other name
5 under which the applying entity does business, if
6 applicable;

7 (2) The street address, telephone number, fax number, and
8 e-mail address of the applying entity;

9 (3) The legal name, date of birth, and the last four
10 digits of the social security number of each of the
11 principals or members of the applying entity;

12 (4) The street address, telephone number, fax number, and
13 e-mail address of each of the principals or members of
14 the applying entity;

15 (5) The name and location of the principal place of
16 business of the applying entity and, if applicable,
17 each additional designated place of business from
18 which the applying entity desires to sell electric
19 guns;

20 (6) That the applying entity is registered to do business
21 in the State;



1 (7) That none of the applying entity's principal owners or
2 members have been convicted of any felony offense;

3 (8) That the applying entity has a Hawaii tax
4 identification number;

5 (9) That the applying entity has a federal employer
6 identification number;

7 (10) That within the last three years, at least one
8 principal owner or member of the applying entity has
9 completed an electric gun safety or training course as
10 described in subsection (b)(6); and

11 (11) Any other information the county may require.

12 (d) The applicant must certify that the applicant will
13 comply at all times with all provisions of law relative to the
14 acquisition, possession, storage, and sale of electric guns.

15 Further, if the applicant is not an individual, the applicant
16 must also certify that it is responsible for compliance by its
17 employees of all laws relating to the acquisition, possession,
18 and sale of electric guns.

19 (e) Upon receipt of the completed application form and the
20 annual licensing fee of \$50 payable to the county, the county
21 shall review the application and may issue a license to the



1 applicant if it determines that the applicant meets all the
2 requirements of this section. If requested by the licensee, the
3 county shall also provide certified copies of the license to the
4 licensee.

5 (f) A license issued hereunder shall expire on the June 30
6 following the date of issuance of the license, unless sooner
7 terminated. An application for the renewal of a license shall
8 be filed before July 1 of each year.

9 **§134-D The sale or transfer of electric guns.** (a) A
10 licensee shall post the license to sell or distribute electric
11 guns, or a certified copy thereof, in a location readily visible
12 to customers at each designated place of business. For internet
13 sales by a licensee, the license number shall be prominently
14 displayed and an electronic copy of the license shall be readily
15 accessible to the customer.

16 (b) An individual licensee shall complete, at least once
17 every three years, an electric gun safety or training course
18 offered or approved by the county that focuses on:

- 19 (1) The safe use and handling of electric guns;
20 (2) Current information about the effects, dangers, risks,
21 and limitations of electric guns; and



1 (3) Education on the current state laws on electric guns.

2 An individual licensee shall keep a copy of the certificate
3 of completion of the training course in the licensee's business
4 records.

5 (c) A licensee that is not an individual shall not allow
6 any employee to participate in the sale or transfer of electric
7 guns or cartridges unless the employee completes, at least once
8 every three years, an electric gun safety or training course
9 described in subsection (b). The licensee shall keep a copy of
10 each certificate of completion for each employee who has
11 completed the course in the licensee's business records.

12 (d) If there is no manufacturer serial number on an
13 electric gun or cartridge received into inventory by a licensee,
14 the licensee shall engrave on the electric gun or cartridge a
15 legible and unique serial number that begins with the licensee's
16 license number, followed by a hyphen and a unique identifying
17 number.

18 (e) A licensee shall keep records for all electric guns
19 and cartridges received into inventory within the State,
20 including:



- 1 (1) Information identifying the seller, distributor, or
- 2 transferor of the electric gun or cartridge; and
- 3 (2) The transaction record for the electric gun or
- 4 cartridge, including the date of receipt, a
- 5 description of the electric gun or cartridge, the
- 6 manufacturer's serial number or the unique identifying
- 7 serial number engraved by the licensee, and, if
- 8 available, the manufacturer and the model number.

9 (f) Prior to completing a sale or other transfer of an
10 electric gun, the licensee or an employee of the licensee shall
11 provide a briefing to the recipient that includes information
12 on:

- 13 (1) The safe use and handling of electric guns;
- 14 (2) Current information about the effects, dangers, risks,
- 15 and limitations of electric guns;
- 16 (3) Education on the current state laws on electric guns;
- 17 and
- 18 (4) The proper disposal of electric guns.

19 (g) Upon completion of the informational briefing, the
20 licensee shall provide a certification that includes the names
21 of the recipient and the person who provided the informational



1 briefing and the date of the briefing. The certificate shall be
2 signed and dated by the recipient and the person who provided
3 the briefing, with both persons acknowledging the completion of
4 the briefing. Further, the recipient shall affirm that the
5 recipient understood the briefing. The form of the
6 certification shall be as provided by the county office that
7 issued the license to the licensee.

8 (h) A licensee shall keep a record of the information
9 provided to recipients during the informational briefings.

10 (i) A licensee shall keep records of all sales,
11 distributions, and other transactions of electric guns and
12 cartridges sold or distributed in the State or to a recipient in
13 the State, including:

14 (1) The recipient's name, date of birth, address, and
15 telephone number;

16 (2) A copy of the recipient's government-issued
17 identification card or document;

18 (3) The transaction record for the electric gun or
19 cartridge, including the date of the transaction, a
20 description of the electric gun or cartridge, the name
21 of the manufacturer, serial and model numbers, and, if



1 necessary, the unique serial number engraved by the
2 licensee; and

3 (4) A copy of the certification required under subsection
4 (f), signed and dated by the recipient and the person
5 who provided the briefing.

6 (j) A licensee shall keep a record of the licensee's
7 current inventory of electric guns and cartridges.

8 (k) During normal business hours, a licensee shall allow
9 the chief of police of the appropriate county or the chief's
10 designee to inspect the licensee's books and records for all
11 records required to be kept by licensees under this section. At
12 the discretion of the chief of police, the inspection of the
13 records may be conducted via facsimile transmittal of the
14 records.

15 (l) A licensee shall keep records required by this section
16 for a minimum of ten years. If the licensee, as a result of
17 death or dissolution, cannot maintain the records, the records
18 shall be turned over to the chief of police of the appropriate
19 county.

20 (m) When displaying or storing electric guns or cartridges
21 at designated places of business, a licensee shall display or



1 store the electric guns and cartridges in a locked cabinet or
2 area not accessible to the general public.

3 (n) During normal business hours, a licensee shall allow
4 the chief of police of the appropriate county or the chief's
5 designee to physically inspect all electric guns and cartridges
6 in the possession and control of the licensee wherever they may
7 be located within the State.

8 (o) Any person, including any licensee, who violates this
9 section shall be guilty of a misdemeanor.

10 (p) A license may be suspended or revoked for a violation
11 of any of the requirements of this section.

12 **§134-E Disposal of electrical gun.** A person who is not a
13 licensee pursuant to section 134-C may sell or otherwise
14 transfer an electric gun or cartridge to a licensee or may
15 surrender the electric gun or cartridge to the chief of police
16 of the appropriate county. The chief of police may either
17 destroy the electric gun or cartridge, or use the electric gun
18 or cartridge for educational purposes. The chief of police
19 shall maintain records of all surrendered electric guns and
20 cartridges, including their disposition.



1 **§134-F Ownership or possession prohibited.** (a) No person
2 who is a fugitive from justice shall own, possess, or control an
3 electric gun.

4 (b) No person who is under indictment for, has waived
5 indictment for, has been bound over to the circuit court for, or
6 has been convicted in this State or elsewhere of having
7 committed a felony, any crime of violence, or any illegal sale
8 of any drug shall own, possess, or control an electric gun.

9 (c) No person who:

10 (1) Is or has been under treatment or counseling for
11 addiction to, abuse of, or dependence upon any
12 dangerous, harmful, or detrimental drug, intoxicating
13 compound, as defined in section 712-1240, or
14 intoxicating liquor;

15 (2) Has been acquitted of a crime on the grounds of mental
16 disease, disorder, or defect pursuant to section
17 704-411; or

18 (3) Is or has been diagnosed as having a significant
19 behavioral, emotional, or mental disorder, as defined
20 by the most current diagnostic manual of the American



1 Psychiatric Association, or for treatment for organic
2 brain syndromes,
3 shall own, possess, or control an electric gun, unless the
4 person has been medically documented to be no longer adversely
5 affected by the addiction, abuse, dependence, mental disease,
6 disorder, or defect.

7 (d) No person who is less than twenty-five years of age
8 and who has been adjudicated by the family court to have
9 committed a felony, two or more crimes of violence, or an
10 illegal sale of any drug shall own, possess, or control an
11 electric gun.

12 (e) No minor shall own, possess, or control an electric
13 gun.

14 (f) No person shall possess an electric gun that is owned
15 by another, regardless of whether the owner has consented to
16 possession of the electric gun.

17 (g) No person who has been restrained pursuant to an order
18 of any court, including an ex parte order as provided in this
19 subsection, from contacting, threatening, or physically abusing
20 any person, shall possess, control, or transfer ownership of an
21 electric gun, so long as the protective order, restraining



1 order, or any extension is in effect, unless the order, for good
2 cause shown, specifically permits the possession of an electric
3 gun. The restraining order or order of protection shall
4 specifically include a statement that possession, control, or
5 transfer of an electric gun by the person named in the order is
6 prohibited. That person shall relinquish possession and control
7 of any electric gun owned by that person to the police
8 department of the appropriate county for safekeeping for the
9 duration of the order or extension thereof. In the case of an
10 ex parte order that includes a restriction on the possession,
11 control, or transfer of an electric gun, the affidavit or
12 statement under oath that forms the basis for the order shall
13 contain a statement of the facts that support a finding that the
14 person to be restrained owns, intends to obtain or to transfer,
15 or possesses an electric gun, and that the electric gun may be
16 used to threaten, injure, or abuse any person. The ex parte
17 order shall be effective upon service pursuant to section 586-6.
18 At the time of service of a restraining order involving electric
19 guns issued by any court, the police officer may take custody of
20 any and all electric guns in plain sight, those discovered



1 pursuant to a consensual search, and those electric guns
2 surrendered by the person restrained.

3 For the purposes of this subsection, good cause shall not
4 be based solely upon the consideration that the person subject
5 to restraint pursuant to an order of any court, including an ex
6 parte order as provided for in this subsection, is required to
7 possess or carry an electric gun during the course of the
8 person's employment. Good cause may include but need not be
9 limited to the protection and safety of the person to whom a
10 restraining order is granted.

11 (h) Any person disqualified from ownership, possession,
12 control, or the right to transfer ownership of an electric gun
13 under this section shall surrender or dispose of all electric
14 guns in compliance with section 134-E.

15 (i) For the purposes of enforcing this section, and
16 notwithstanding section 571-84 or any other law to the contrary,
17 any agency within the State shall make its records relating to
18 family court adjudications available to law enforcement
19 officials.

20 (j) Any person violating subsection (a) or (b) shall be
21 guilty of a class C felony. Any person violating subsection



1 (c), (d), (e), (f), (g), or (h) shall be guilty of a
2 misdemeanor.

3 **§134-G Exemptions.** (a) Sections 134-B and 134-F(f) shall
4 not apply to:

5 (1) Law enforcement agencies and law enforcement officers
6 acting within the course of their duties; and

7 (2) The army or air national guard and its members when
8 they are assisting civil authorities in disaster
9 relief, emergency management, or law enforcement
10 functions, subject to the requirements of section
11 121-34.5;

12 provided that the electric guns shall be acquired by the law
13 enforcement agencies or the army or air national guard and not
14 individual law enforcement officers or members of the army or
15 air national guard, and shall remain in the custody and control
16 of law enforcement agencies, or the army or air national guard.

17 (b) Law enforcement agencies that authorize use of
18 electric guns by its law enforcement officers and the army or
19 air national guard shall provide training from the manufacturer
20 or from a manufacturer-approved training program, as well as by
21 manufacturer-certified or manufacturer-approved instructors, in



1 the use of electric guns prior to deployment of the electric
2 guns and related equipment in public.

3 (c) The law enforcement agencies that authorize use of
4 electric guns by its law enforcement officers and the army or
5 air national guard shall maintain records regarding every
6 electric gun in its custody and control. The records shall
7 report every instance of usage of the electric guns. Records
8 shall be maintained in a similar manner as for those of
9 discharging of firearms. The law enforcement agencies and the
10 army and air national guard shall annually report to the
11 legislature regarding these records no later than twenty days
12 prior to the convening of each regular session.

13 (d) The licensing requirements of sections 134-B(b) and
14 134-C shall not apply to the sale of electric guns and
15 cartridges by the electric gun manufacturers distributing
16 directly to law enforcement agencies or the army or air national
17 guard.

18 **§134-H Storage of electric gun; responsibility with**
19 **respect to minors.** (a) No person shall store or keep any
20 electric gun on any premises under the person's control if the



1 person knows or reasonably should know that a minor is likely to
2 gain access to the electric gun, unless the person:

3 (1) Keeps the electric gun in a securely locked box or
4 other container or in a location that a reasonable
5 person would believe to be secure; or

6 (2) Carries the electric gun on the person or within such
7 close proximity thereto that the minor cannot gain
8 access or control of the electric gun.

9 (b) Any person violating this section shall be guilty of a
10 misdemeanor.

11 **§134-I Carrying or use of electric gun in the commission**
12 **of a separate misdemeanor.** (a) It shall be unlawful for a
13 person to knowingly carry on the person or have within the
14 person's immediate control or intentionally use or threaten to
15 use an electric gun, whether operable or not, while engaged in
16 the commission of a separate misdemeanor; provided that a person
17 shall not be prosecuted under this section when the separate
18 misdemeanor is a misdemeanor offense established by this
19 chapter.

20 (b) A conviction and sentence under this section shall be
21 in addition to and not in lieu of any conviction and sentence



1 for the separate misdemeanor; provided that the sentence imposed
2 under this section may run concurrently or consecutively with
3 the sentence for the separate misdemeanor.

4 (c) Any person violating this section shall be guilty of a
5 class C felony.

6 **§134-J Carrying or using an electric gun in the commission**
7 **of a separate felony.** (a) It shall be unlawful for a person to
8 knowingly carry on the person or have within the person's
9 immediate control or intentionally use or threaten to use an
10 electric gun, whether operable or not, while engaged in the
11 commission of a separate felony; provided that a person shall
12 not be prosecuted under this section when the separate felony is
13 a felony offense established by this chapter.

14 (b) A conviction and sentence under this section shall be
15 in addition to and not in lieu of any conviction and sentence
16 for the separate felony; provided that the sentence imposed
17 under this section may run concurrently or consecutively with
18 the sentence for the separate felony.

19 (c) Any person violating this section shall be guilty of a
20 class B felony."



1 SECTION 3. Section 121-34.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **§121-34.5 Use of electric guns.** Members of the army or
4 air national guard who have been qualified by training and are
5 authorized by their commanders may use electric guns, as
6 specifically provided in section [~~134-16(e) and (d)~~], 134-G,
7 when assisting civil authorities in disaster relief, emergency
8 management, or law enforcement functions; provided that
9 "training" for the purposes of this section means a course of
10 instruction or training in the use of any electric gun
11 authorized pursuant to this section, that is provided or
12 authorized by the manufacturer or is manufacturer-approved or is
13 an electric gun training program approved by the army or air
14 national guard, prior to deployment or issuance of electric guns
15 and related equipment."

16 SECTION 4. Section 134-17, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) Any person who violates section 134-2, 134-4, 134-10,
19 or 134-15[~~, or 134-16(a)~~] shall be guilty of a misdemeanor. Any
20 person who violates section 134-3(b) shall be guilty of a petty
21 misdemeanor and the firearm shall be confiscated as contraband



1 and disposed of, if the firearm is not registered within five
2 days of the person receiving notice of the violation."

3 SECTION 5. Section 134-16, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§134-16 Restriction on possession, sale, gift, or~~
6 ~~delivery of electric guns. (a) It shall be unlawful for any~~
7 ~~person, including a licensed manufacturer, licensed importer, or~~
8 ~~licensed dealer, to possess, offer for sale, hold for sale,~~
9 ~~sell, give, lend, or deliver any electric gun.~~

10 ~~(b) Any electric gun possessed, offered for sale, held for~~
11 ~~sale, sold, given, lent, or delivered in violation of subsection~~
12 ~~(a) shall be confiscated and disposed of by the chief of police.~~

13 ~~(c) This section shall not apply to:~~

14 ~~(1) Law enforcement officers of county police departments;~~

15 ~~(2) Law enforcement officers of the department of public~~
16 ~~safety;~~

17 ~~(3) Conservation and resources enforcement officers of the~~
18 ~~department of land and natural resources;~~

19 ~~(4) Members of the Army or Air National Guard when~~
20 ~~assisting civil authorities in disaster relief;~~



1 ~~emergency management, or law enforcement functions,~~
2 ~~subject to the requirements of section 121-34.5; and~~
3 ~~(5) Vendors providing electric guns to the individuals~~
4 ~~described in paragraphs (1) through (4);~~
5 ~~provided that electric guns shall at all times remain in the~~
6 ~~eustody and control of the law enforcement officers of the~~
7 ~~county police departments, the law enforcement officers of the~~
8 ~~department of public safety, the conservation and resources~~
9 ~~enforcement officers of the department of land and natural~~
10 ~~resources, or the members of the Army or Air National Guard.~~

11 ~~(d) The county police departments of this State, the~~
12 ~~department of public safety, the department of land and natural~~
13 ~~resources, and the army and air national guard shall maintain~~
14 ~~records regarding every electric gun in their custody and~~
15 ~~control. The records shall report every instance of usage of~~
16 ~~the electric guns; in particular, records shall be maintained in~~
17 ~~a similar manner as for those of discharging of firearms. The~~
18 ~~county police departments, the department of public safety, the~~
19 ~~department of land and natural resources, and the army and air~~
20 ~~national guard shall annually report to the legislature~~



1 ~~regarding these records no later than twenty days before the~~
2 ~~beginning of each regular session of the legislature.~~

3 ~~(e) The department of land and natural resources and the~~
4 ~~department of public safety shall ensure that each of its~~
5 ~~conservation and resources enforcement officers and law~~
6 ~~enforcement officers who is authorized to use an electric gun~~
7 ~~and related equipment shall first receive training from the~~
8 ~~manufacturer or from a manufacturer approved training program,~~
9 ~~as well as by manufacturer certified or approved instructors in~~
10 ~~the use of electric guns prior to deployment of the electric~~
11 ~~guns and related equipment in public. Training for conservation~~
12 ~~and resources enforcement officers of the department of land and~~
13 ~~natural resources and law enforcement officers of the department~~
14 ~~of public safety may be done concurrently to ensure cost~~
15 ~~savings.~~

16 ~~(f) No later than June 30, 2018, the conservation and~~
17 ~~resources enforcement program of the department of land and~~
18 ~~natural resources shall meet the law enforcement accreditation~~
19 ~~or recognition standards of the Commission on Accreditation for~~
20 ~~Law Enforcement Agencies, Inc., in the use of electric guns."]~~



1 SECTION 6. 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 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval.

7

INTRODUCED BY: *ACM. B. B.*

JAN 24 2019



H.B. NO. 1473

Report Title:

Electric Guns; Licenses; Regulation; Prohibitions

Description:

Repeals the ban on electric guns. Establishes a regulatory structure for the sale and transfer of electric guns by licensed persons. Restricts the use, storage, transfer, and disposal of electric guns. Requires training and education on electric guns. Prohibits certain individuals from possessing and using electric guns. Prohibits the use of electric guns in the commission of crimes.

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