

JAN 17 2020

A BILL FOR AN ACT

RELATING TO ELECTRIC GUNS.

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

1 SECTION 1. 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 . ELECTRIC GUNS**

5 **§134-A Definitions.** As used in this part:

6 "Cartridge" means any device or object that is designed to
7 be used with an electric gun to project a missile. "Cartridge"
8 includes a taser cartridge.

9 "Law enforcement agency" means any county police
10 department, the department of public safety, the department of
11 the attorney general, the division of conservation and resources
12 enforcement of the department of land and natural resources, and
13 any other state or county public body that employs law
14 enforcement officers.

15 "Law enforcement officer" means a sheriff or deputy
16 sheriff, police officer, enforcement officer within the division
17 of conservation and resources enforcement of the department of



1 land and natural resources, special agent of the department of
2 the attorney general, and any other public servant vested by law
3 with a duty to maintain public order, to make arrests for
4 offenses, or to enforce criminal laws, whether that duty extends
5 to all offenses or is limited to a specific class of offenses.

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

8 "Person" means an individual, firm, corporation,
9 partnership, association, or any form of business or legal
10 entity.

11 "Transfer" means the granting of possession or ownership to
12 another, and includes the granting of temporary possession to
13 another.

14 **§134-B Restrictions on use, sale, and transfer of electric**
15 **guns; penalty.** (a) It shall be unlawful for any person to
16 knowingly or recklessly use an electric gun for any purpose
17 except:

- 18 (1) Self-defense;
19 (2) Defense of another person; or
20 (3) Protection of property.



1 (b) It shall be unlawful for any person to knowingly sell,
2 offer for sale, distribute, or otherwise transfer an electric
3 gun or cartridge without a license obtained pursuant to section
4 134-C. It is an affirmative defense to prosecution pursuant to
5 this subsection that the person is an adult employee of a
6 licensee acting within the scope of the person's employment.

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

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

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

19 (f) Any person violating this section shall be guilty of a
20 misdemeanor.



1 §134-C License to sell or distribute electric guns; fee.

2 (a) Any person desiring to sell, offer for sale, distribute, or
3 otherwise transfer electric guns to a person in the State,
4 either at wholesale or retail, shall annually file an
5 application for a corresponding license to do so with the county
6 in which the person desires to conduct business or within the
7 county to which the person intends the electric guns to be
8 distributed, using forms prescribed by the county.

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

- 11 (1) The legal name, date of birth, and the last four
12 digits of the social security number of the
13 individual;
- 14 (2) The street address, telephone number, fax number, and
15 electronic mail address of the individual;
- 16 (3) The name and location of the principal place of
17 business of the applicant and, if applicable, each
18 additional designated place of business from which the
19 applicant desires to sell electric guns;
- 20 (4) The applicant's Hawaii tax identification number;



- 1 (5) That the applicant has not been convicted of any
2 felony offense;
- 3 (6) That within the last three years, the applicant has
4 completed an electric gun safety or training course,
5 offered or approved by the county, that focuses on:
6 (A) The safe use and handling of electric guns;
7 (B) Current information about the effects, dangers,
8 risks, and limitations of electric guns; and
9 (C) Education on the current state laws on electric
10 guns; and
- 11 (7) Any other information the county may require.
- 12 (c) If the applicant is not an individual, the application
13 and supporting documentation must establish at least the
14 following:
- 15 (1) The name of the applying entity and any other name
16 under which the applying entity does business, if
17 applicable;
- 18 (2) The street address, telephone number, fax number, and
19 electronic mail address of the applying entity;



- 1 (3) The legal name, date of birth, and the last four
2 digits of the social security number of each of the
3 principals or members of the applying entity;
- 4 (4) The street address, telephone number, fax number, and
5 electronic mail address of each of the principals or
6 members of the applying entity;
- 7 (5) The name and location of the principal place of
8 business of the applying entity and, if applicable,
9 each additional designated place of business from
10 which the applying entity desires to sell electric
11 guns;
- 12 (6) That the applying entity is registered to do business
13 in the State;
- 14 (7) That none of the applying entity's principal owners or
15 members have been convicted of any felony offense;
- 16 (8) That the applying entity has a Hawaii tax
17 identification number;
- 18 (9) That the applying entity has a federal employer
19 identification number;
- 20 (10) That within the last three years, at least one
21 principal owner or member of the applying entity has



1 completed an electric gun safety or training course as
2 described in subsection (b)(6); and

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

4 (d) The applicant must certify that the applicant will
5 comply at all times with all provisions of law relative to the
6 acquisition, possession, storage, and sale of electric guns.
7 Further, if the applicant is not an individual, the applicant
8 must also certify that it is responsible for compliance by its
9 employees of all laws relating to the acquisition, possession,
10 and sale of electric guns.

11 (e) Upon receipt of the completed application form and the
12 annual licensing fee of \$50 payable to the county, the county
13 shall review the application and may issue a license to the
14 applicant if it determines that the applicant meets all the
15 requirements of this section. If requested by the licensee, the
16 county shall also provide certified copies of the license to the
17 licensee.

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



1 §134-D The sale or transfer of electric guns. (a) A
2 licensee shall post the license to sell or distribute electric
3 guns, or a certified copy thereof, in a location readily visible
4 to customers at each designated place of business. For internet
5 sales by a licensee, the license number shall be prominently
6 displayed and an electronic copy of the license shall be readily
7 accessible to the customer.

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

- 11 (1) The safe use and handling of electric guns;
- 12 (2) Current information about the effects, dangers, risks,
13 and limitations of electric guns; and
- 14 (3) Education on the current state laws on electric guns.

15 An individual licensee shall keep a copy of the certificate
16 of completion of the training course in the licensee's business
17 records.

18 (c) A licensee that is not an individual shall not allow
19 any employee to participate in the sale or transfer of electric
20 guns or cartridges unless the employee completes, at least once
21 every three years, an electric gun safety or training course



1 described in subsection (b). The licensee shall keep a copy of
2 each certificate of completion for each employee who has
3 completed the course in the licensee's business records.

4 (d) If there is no manufacturer serial number on an
5 electric gun or cartridge received into inventory by a licensee,
6 the licensee shall engrave on the electric gun or cartridge a
7 legible and unique serial number that begins with the licensee's
8 license number, followed by a hyphen and a unique identifying
9 number.

10 (e) A licensee shall keep records for all electric guns
11 and cartridges received into inventory within the State,
12 including:

13 (1) Information identifying the seller, distributor, or
14 transferor of the electric gun or cartridge; and

15 (2) The transaction record for the electric gun or
16 cartridge, including the date of receipt, a
17 description of the electric gun or cartridge, the
18 manufacturer's serial number or the unique identifying
19 serial number engraved by the licensee, and, if
20 available, the manufacturer and the model number.



1 (f) Prior to completing a sale or other transfer of an
2 electric gun, the licensee or an employee of the licensee shall
3 provide a briefing to the recipient that includes information
4 on:

- 5 (1) The safe use and handling of electric guns;
- 6 (2) Current information about the effects, dangers, risks,
7 and limitations of electric guns;
- 8 (3) Education on the current state laws on electric guns;
9 and
- 10 (4) The proper disposal of electric guns.

11 (g) Upon completion of the informational briefing, the
12 licensee shall provide a certification that includes the names
13 of the recipient and the person who provided the informational
14 briefing and the date of the briefing. The certificate shall be
15 signed and dated by the recipient and the person who provided
16 the briefing, with both persons acknowledging the completion of
17 the briefing. Further, the recipient shall affirm that the
18 recipient understood the briefing. The form of the
19 certification shall be as provided by the county office that
20 issued the license to the licensee.



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

3 (i) A licensee shall keep records of all sales,
4 distributions, and other transactions of electric guns and
5 cartridges sold or distributed in the State or to a recipient in
6 the State, including:

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

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

11 (3) The transaction record for the electric gun or
12 cartridge, including the date of the transaction, a
13 description of the electric gun or cartridge, the name
14 of the manufacturer, serial and model numbers, and, if
15 necessary, the unique serial number engraved by the
16 licensee; and

17 (4) A copy of the certification required under subsection
18 (g), signed and dated by the recipient and the person
19 who provided the briefing.

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



1 (k) During normal business hours, a licensee shall allow
2 the chief of police of the appropriate county or the chief's
3 designee to inspect the licensee's books and records for all
4 records required to be kept by licensees under this section. At
5 the discretion of the chief of police, the inspection of the
6 records may be conducted via facsimile transmittal of the
7 records.

8 (l) A licensee shall keep records required by this section
9 for a minimum of ten years. If the licensee, as a result of
10 death or dissolution, cannot maintain the records, the records
11 shall be turned over to the chief of police of the appropriate
12 county.

13 (m) When displaying or storing electric guns or cartridges
14 at designated places of business, a licensee shall display or
15 store the electric guns and cartridges in a locked cabinet or
16 area not accessible to the general public.

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



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

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

5 **§134-E Disposal of electrical gun.** A person who is not a
6 licensee pursuant to section 134-C may sell or otherwise
7 transfer an electric gun or cartridge to a licensee or may
8 surrender the electric gun or cartridge to the chief of police
9 of the appropriate county. The chief of police may either
10 destroy the electric gun or cartridge, or use the electric gun
11 or cartridge for educational purposes. The chief of police
12 shall maintain records of all surrendered electric guns and
13 cartridges, including their disposition.

14 **§134-F Ownership or possession prohibited; penalty.** (a)
15 No person who is a fugitive from justice shall purchase, own,
16 possess, or control an electric gun.

17 (b) No person who is under indictment for, has waived
18 indictment for, has been bound over to the circuit court for, or
19 has been convicted in this State or elsewhere of having
20 committed a felony, any crime of violence, or any illegal sale



1 of any drug shall purchase, own, possess, or control an electric
2 gun.

3 (c) No person who:

4 (1) Is or has been under treatment or counseling for
5 addiction to, abuse of, or dependence upon any
6 dangerous, harmful, or detrimental drug, intoxicating
7 compound, or intoxicating liquor, all as defined in
8 section 712-1240;

9 (2) Has been acquitted of a crime on the grounds of mental
10 disease, disorder, or defect pursuant to section
11 704-411; or

12 (3) Is or has been diagnosed as having a significant
13 behavioral, emotional, or mental disorder, as defined
14 by the most current diagnostic manual of the American
15 Psychiatric Association, or for treatment for organic
16 brain syndromes,

17 shall purchase, own, possess, or control an electric gun, unless
18 the person has been medically documented to be no longer
19 adversely affected by the addiction, abuse, dependence, disease,
20 disorder, or defect.



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

6 (e) No minor shall purchase, own, possess, or control an
7 electric gun.

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

11 (g) No person who has been restrained pursuant to an order
12 of any court, including an ex parte order as provided in this
13 subsection, from contacting, threatening, or physically abusing
14 any person, shall purchase, possess, control, or transfer
15 ownership of an electric gun, so long as the protective order,
16 restraining order, or any extension is in effect, unless the
17 order, for good cause shown, specifically permits the possession
18 of an electric gun. The restraining order or order of
19 protection shall specifically include a statement that purchase,
20 possession, control, or transfer of an electric gun by the
21 person named in the order is prohibited. That person shall



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

18 For the purposes of this subsection, good cause shall not
19 be based solely upon the consideration that the person subject
20 to restraint pursuant to an order of any court, including an ex
21 parte order as provided for in this subsection, is required to



1 possess or carry an electric gun during the course of the
2 person's employment. Good cause may include but need not be
3 limited to the protection and safety of the person to whom a
4 restraining order is granted.

5 (h) Any person disqualified from purchase, ownership,
6 possession, control, or the right to transfer ownership of an
7 electric gun under this section shall surrender or dispose of
8 all electric guns in compliance with section 134-E.

9 (i) For the purposes of enforcing this section, and
10 notwithstanding section 571-84 or any other law to the contrary,
11 any agency within the State shall make its records relating to
12 family court adjudications available to law enforcement
13 officials.

14 (j) Any person violating subsection (a) or (b) shall be
15 guilty of a class C felony. Any person violating subsection
16 (c), (d), (e), (f), (g), or (h) shall be guilty of a
17 misdemeanor.

18 **§134-G Exemptions.** (a) Sections 134-B and 134-F(f) shall
19 not apply to:

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



1 (2) The army or air national guard and its members when
2 they are assisting civil authorities in disaster
3 relief, emergency management, or law enforcement
4 functions, subject to the requirements of section
5 121-34.5;

6 provided that the electric guns shall be acquired by the law
7 enforcement agencies or the army or air national guard and not
8 individual law enforcement officers or members of the army or
9 air national guard, and shall remain in the custody and control
10 of law enforcement agencies, or the army or air national guard.

11 (b) Law enforcement agencies that authorize use of
12 electric guns by its law enforcement officers and the army or
13 air national guard shall provide training from the manufacturer
14 or from a manufacturer-approved training program, as well as by
15 manufacturer-certified or manufacturer-approved instructors, in
16 the use of electric guns prior to deployment of the electric
17 guns and related equipment in public.

18 (c) The law enforcement agencies that authorize use of
19 electric guns by its law enforcement officers and the army or
20 air national guard shall maintain records regarding every
21 electric gun in its custody and control. The records shall



1 report every instance of usage of the electric guns. Records
2 shall be maintained in a similar manner as for those of
3 discharging of firearms. The law enforcement agencies and the
4 army and air national guard shall annually report to the
5 legislature regarding these records no later than twenty days
6 prior to the convening of each regular session.

7 (d) The licensing requirements of sections 134-B(b) and
8 134-C shall not apply to the sale of electric guns and
9 cartridges by the electric gun manufacturers distributing
10 directly to law enforcement agencies or the army or air national
11 guard.

12 **§134-H Storage of electric gun; responsibility with**
13 **respect to minors.** (a) No person shall store or keep any
14 electric gun on any premises under the person's control if the
15 person knows or reasonably should know that a minor is likely to
16 gain access to the electric gun, unless the person:

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



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

4 (b) Any person violating this section shall be guilty of a
5 misdemeanor.

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

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

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



1 §134-J Carrying or using an electric gun in the commission
2 of a separate felony. (a) It shall be unlawful for a person to
3 knowingly carry on the person or have within the person's
4 immediate control or intentionally use or threaten to use an
5 electric gun, whether operable or not, while engaged in the
6 commission of a separate felony; provided that a person shall
7 not be prosecuted under this section when the separate felony is
8 a felony offense established by this chapter.

9 (b) A conviction and sentence under this section shall be
10 in addition to and not in lieu of any conviction and sentence
11 for the separate felony; provided that the sentence imposed
12 under this section may run concurrently or consecutively with
13 the sentence for the separate felony.

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

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

18 "§121-34.5 Use of electric guns. Members of the army or
19 air national guard who have been qualified by training and are
20 authorized by their commanders may use electric guns, as
21 specifically provided in section [~~134-16(e) and (d)~~], 134-G,



1 when assisting civil authorities in disaster relief, emergency
2 management, or law enforcement functions; provided that
3 "training" for the purposes of this section means a course of
4 instruction or training in the use of any electric gun
5 authorized pursuant to this section, that is provided or
6 authorized by the manufacturer or is manufacturer-approved or is
7 an electric gun training program approved by the army or air
8 national guard, prior to deployment or issuance of electric guns
9 and related equipment."

10 SECTION 3. Section 134-17, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Any person who violates section 134-2, 134-4, 134-10,
13 or 134-15 [~~, or 134-16(a)~~] shall be guilty of a misdemeanor. Any
14 person who violates section 134-3(b) shall be guilty of a petty
15 misdemeanor and the firearm shall be confiscated as contraband
16 and disposed of, if the firearm is not registered within five
17 days of the person receiving notice of the violation."

18 SECTION 4. Section 134-16, Hawaii Revised Statutes, is
19 repealed.

20 [~~"§134-16 Restriction on possession, sale, gift, or~~
21 ~~delivery of electric guns. (a) It shall be unlawful for any~~



1 ~~person, including a licensed manufacturer, licensed importer, or~~
2 ~~licensed dealer, to possess, offer for sale, hold for sale,~~
3 ~~sell, give, lend, or deliver any electric gun.~~

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

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

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

9 ~~(2) Law enforcement officers of the department of public~~
10 ~~safety;~~

11 ~~(3) Conservation and resources enforcement officers of the~~
12 ~~department of land and natural resources;~~

13 ~~(4) Members of the Army or Air National Guard when~~
14 ~~assisting civil authorities in disaster relief,~~
15 ~~emergency management, or law enforcement functions,~~
16 ~~subject to the requirements of section 121 34.5; and~~

17 ~~(5) Vendors providing electric guns to the individuals~~
18 ~~described in paragraphs (1) through (4);~~

19 ~~provided that electric guns shall at all times remain in the~~
20 ~~custody and control of the law enforcement officers of the~~
21 ~~county police departments, the law enforcement officers of the~~



1 ~~department of public safety, the conservation and resources~~
2 ~~enforcement officers of the department of land and natural~~
3 ~~resources, or the members of the Army or Air National Guard.~~

4 ~~(d) The county police departments of this State, the~~
5 ~~department of public safety, the department of land and natural~~
6 ~~resources, and the army and air national guard shall maintain~~
7 ~~records regarding every electric gun in their custody and~~
8 ~~control. The records shall report every instance of usage of~~
9 ~~the electric guns; in particular, records shall be maintained in~~
10 ~~a similar manner as for those of discharging of firearms. The~~
11 ~~county police departments, the department of public safety, the~~
12 ~~department of land and natural resources, and the army and air~~
13 ~~national guard shall annually report to the legislature~~
14 ~~regarding these records no later than twenty days before the~~
15 ~~beginning of each regular session of the legislature.~~

16 ~~(e) The department of land and natural resources and the~~
17 ~~department of public safety shall ensure that each of its~~
18 ~~conservation and resources enforcement officers and law~~
19 ~~enforcement officers who is authorized to use an electric gun~~
20 ~~and related equipment shall first receive training from the~~
21 ~~manufacturer or from a manufacturer approved training program,~~



1 ~~as well as by manufacturer certified or approved instructors in~~
 2 ~~the use of electric guns prior to deployment of the electric~~
 3 ~~guns and related equipment in public. Training for conservation~~
 4 ~~and resources enforcement officers of the department of land and~~
 5 ~~natural resources and law enforcement officers of the department~~
 6 ~~of public safety may be done concurrently to ensure cost~~
 7 ~~savings.~~

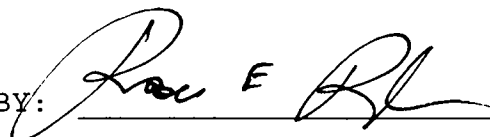


8 ~~(f) No later than June 30, 2018, the conservation and~~
 9 ~~resources enforcement program of the department of land and~~
 10 ~~natural resources shall meet the law enforcement accreditation~~
 11 ~~or recognition standards of the Commission on Accreditation for~~
 12 ~~Law Enforcement Agencies,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

13 SECTION 5. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.

19

INTRODUCED BY: 



S.B. NO. **2437**

Alvino



S.B. NO. 2437

Report Title:

Electric Guns; Licenses; Regulation; Prohibition

Description:

Repeals the ban on electric guns. Establishes a regulatory structure for the sale and transfer of electric guns by licensed persons. Allows for the use of electric guns for self-defense, defense of another person, and protection of property. 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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