

JAN 23 2020

A BILL FOR AN ACT

RELATING TO ELECTRIC GUNS.

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

1 SECTION 1. The legislature finds the United States Supreme
2 Court decision in *Caetano v. Massachusetts*, 136 S. Ct. 1027
3 (2016), which overruled a decision of the Massachusetts Supreme
4 Judicial Court, has raised questions regarding the
5 constitutionality of bans on electric guns, and may make
6 amendments to Hawaii's law on electric guns advisable. The
7 purpose of the bill is to protect the health and safety of the
8 public by regulating the sale and use of electric guns.

9 SECTION 2. Chapter 134, Hawaii Revised Statutes, is
10 amended by adding a new part to be appropriately designated and
11 to read as follows:

12 **"PART . ELECTRIC GUNS**

13 **§134-A Definitions.** As used in this part:

14 "Cartridge" means any device or object that is designed to
15 be used with an electric gun to project a missile. "Cartridge"
16 includes but is not limited to a Taser cartridge.

17 "Law enforcement agency" means any county police
18 department, the department of public safety, the department of

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1 the attorney general, the division of conservation and resources
2 enforcement of the department of land and natural resources, and
3 any other state or county public body that employs law
4 enforcement officers.

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

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

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

18 "Transfer" means the granting of possession or ownership to
19 another, and includes the granting of temporary possession to
20 another.

21 **§134-B Restrictions on use, sale, and transfer of electric**
22 **guns.** (a) It shall be unlawful for any person to knowingly or
23 recklessly use an electric gun for any purpose except:

- 1 (1) Self-defense;
- 2 (2) Defense of another person; or
- 3 (3) Protection of property of the person or of another
- 4 person.

5 (b) It shall be unlawful for any person to knowingly sell,

6 offer for sale, distribute, or otherwise transfer an electric

7 gun or cartridge without a license obtained pursuant to section

8 134-C.

9 It is an affirmative defense to prosecution pursuant to

10 this subsection, that the person is an adult employee of a

11 licensee acting within the scope of the person's employment.

12 (c) It shall be unlawful for a licensed person or employee

13 of a licensee to knowingly sell, distribute, or otherwise

14 transfer an electric gun or cartridge at a place other than the

15 licensee's designated place of business.

16 (d) It shall be unlawful for any person to knowingly sell,

17 offer for sale, distribute, or otherwise transfer an electric

18 gun or cartridge to a minor.

19 (e) It shall be unlawful for any person, other than a

20 licensee, a law enforcement agency, or the army or air national

21 guard to knowingly or recklessly purchase, obtain, or otherwise

22 receive an electric gun or cartridge from a person who does not

23 have a license issued pursuant to section 134-C.

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1 (f) Any person violating this section shall be guilty of a
2 misdemeanor.

3 **§134-C License to sell or distribute electric guns; fee.**

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

11 (b) If the applicant is an individual, the application and
12 supporting documentation must establish at least the following,
13 in addition to any other information the county may require:

14 (1) The legal name, date of birth, and the last four
15 digits of the social security number of the
16 individual;

17 (2) The street address, telephone number, fax number, and
18 email address of the individual;

19 (3) The name and location of the principal place of
20 business of the applicant and, if applicable, each
21 additional designated place of business from which the
22 applicant desires to sell electric guns;

23 (4) The applicant's Hawaii tax identification number;

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1 (5) The applicant has had no convictions for any felony
2 offense; and

3 (6) Within the last three years, the applicant has
4 completed an electric gun safety or training course,
5 offered by the county, or approved by the county, that
6 focuses on:

7 (i) The safe use and handling of electric guns;

8 (ii) Current information about the effects, dangers,
9 risks, and limitations of electric guns; and

10 (iii) Education on the current state laws on electric
11 guns.

12 (c) If the applicant is not an individual, the application
13 and supporting documentation must establish at least the
14 following, in addition to any other information the county may
15 require:

16 (1) The name of the applying entity and any other name
17 under which the applying entity does business, if
18 applicable;

19 (2) The street address, telephone number, fax number, and
20 email address of the applying entity;

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

- 1 (4) The street address, telephone number, fax number, and
2 email address of each of the principals or members of
3 the applying entity;
- 4 (5) The name and location of the principal place of
5 business of the applying entity and, if applicable,
6 each additional designated place of business from
7 which the applying entity desires to sell electric
8 guns;
- 9 (6) The applying entity is registered to do business in
10 the State;
- 11 (7) The applying entity is composed of principals or
12 members who have had no convictions for any felony
13 offense;
- 14 (8) The applying entity has a Hawaii tax identification
15 number;
- 16 (9) The applying entity has a federal employer
17 identification number; and
- 18 (10) Within the last three years, at least one principal or
19 member of the applying entity has completed an
20 electric gun safety or training course, offered by the
21 county, or approved by the county, that focuses on:
22 (i) The safe use and handling of electric guns;
23 (ii) Current information about the effects, dangers,

1 risks, and limitations of electric guns; and
2 (iii) Education on the current state laws on electric
3 guns.

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, and
7 must also certify that it is responsible for compliance by its
8 employees of all provisions of law relative to the acquisition,
9 possession, and sale of electric guns.

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

17 (f) A license issued hereunder shall expire on June 30
18 next following the date of issuance of the license unless sooner
19 terminated. Application for renewal of license shall be filed
20 on or before July 1 of each year.

21 **§134-D The sale or transfer of electric guns.** (a) A
22 licensee shall post the license to sell or distribute electric
23 guns, or a certified copy thereof, in a location readily visible

1 to customers at each designated place of business. For internet
2 sales by a licensee, the license number shall be prominently
3 displayed and an electronic copy of the license shall be readily
4 accessible to the customer.

5 (b) An individual licensee shall complete, every three
6 years, an electric gun safety or training course, offered by the
7 county, or approved by the county, that focuses on:

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

13 A licensee shall keep copies of the certificates of
14 completion of these training courses in the licensee's business
15 records.

16 (c) A licensee shall require employees who participate in
17 the sale or transfer of electric guns or cartridges, to
18 complete, every three years, an electric gun safety or training
19 course, offered by the county, or approved by the county, that
20 focuses on:

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

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

3 A licensee shall not allow an employee to participate in
4 the sale or transfer of electric guns or cartridges until the
5 employee completes the electric gun safety or training course.

6 A licensee shall keep copies of the certificates of
7 completion of these training courses for each of these employees
8 in the licensee's business records.

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

15 (e) A licensee shall keep records for all electric guns
16 and cartridges received into inventory within the State,
17 including:

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

20 (2) The transaction record for the electric gun or
21 cartridge, including the date of receipt, a
22 description of the electric gun or cartridge, the
23 manufacturer's serial number or the unique identifying

1 serial number engraved by the licensee, and if
2 available, the manufacturer and the model number.

3 (f) Prior to completing a sale or other transfer of an
4 electric gun, the licensee or an employee of the licensee shall
5 provide an informational briefing to the recipient that
6 includes, but is not limited to, the following:

7 (1) The safe use and handling of electric guns;

8 (2) Current information about the effects, dangers,
9 risks, and limitations of electric guns;

10 (3) Education on the current state laws on electric
11 guns; and

12 (4) The proper disposal of electric guns.

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

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

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

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

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

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

15 (4) A copy of the certification of informational briefing
16 signed and dated by the recipient and the person who
17 provided the briefing.

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

20 (k) During normal business hours, a licensee shall allow
21 the chief of police of the appropriate county or designee to
22 inspect the licensee's books and records for all records
23 required to be kept by the licensee for electric guns and

1 cartridges. At the discretion of the chief of police of the
2 appropriate county or designee, the inspection of the records
3 may be conducted via facsimile transmittal of the records.

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

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

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

18 (o) Any person, including any licensee, violating this
19 section shall be guilty of a misdemeanor.

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

22 **§134-E Disposal of electrical gun.** A person who is not a
23 licensee pursuant to section 134-C may sell or otherwise

1 transfer an electric gun or cartridge to a licensee or may
2 surrender the electric gun or cartridge to the chief of police
3 of the appropriate county or designee. The chief of police may
4 either destroy the electric gun or cartridge, or utilize the
5 electric gun or cartridge for educational purposes. The chief
6 of police shall maintain records of all surrendered electric
7 guns and cartridges, including their disposition.

8 **§134-F Ownership or possession prohibited.** (a) No person
9 who is a fugitive from justice shall own, possess, or control an
10 electric gun.

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

16 (c) No person who:

17 (1) Is or has been under treatment or counseling for
18 addiction to, abuse of, or dependence upon any
19 dangerous, harmful, or detrimental drug, intoxicating
20 compound as defined in section 712-1240, or
21 intoxicating liquor;

22 (2) Has been acquitted of a crime on the grounds of mental

1 disease, disorder, or defect pursuant to section 704-
2 411; or

3 (3) Is or has been diagnosed as having a significant
4 behavioral, emotional, or mental disorders as defined
5 by the most current diagnostic manual of the American
6 Psychiatric Association or for treatment for organic
7 brain syndromes;

8 shall own, possess, or control an electric gun, unless the
9 person has been medically documented to be no longer adversely
10 affected by the addiction, abuse, dependence, mental disease,
11 disorder, or defect.

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

16 (e) No minor shall own, possess, or control an electric
17 gun.

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

21 (g) No person who has been restrained pursuant to an order
22 of any court, including an ex parte order as provided in this
23 subsection, from contacting, threatening, or physically abusing

1 any person, shall possess, control, or transfer ownership of an
2 electric gun, so long as the protective order, restraining
3 order, or any extension is in effect, unless the order, for good
4 cause shown, specifically permits the possession of an electric
5 gun. The restraining order or order of protection shall
6 specifically include a statement that possession, control, or
7 transfer of an electric gun by the person named in the order is
8 prohibited. Such person shall relinquish possession and control
9 of any electric gun owned by that person to the police
10 department of the appropriate county for safekeeping for the
11 duration of the order or extension thereof.

12 In the case of an ex parte order that includes a
13 restriction on the possession, control, or transfer of an
14 electric gun, the affidavit or statement under oath that forms
15 the basis for the order shall contain a statement of the facts
16 that support a finding that the person to be restrained owns,
17 intends to obtain or to transfer, or possesses an electric gun,
18 and that the electric gun may be used to threaten, injure, or
19 abuse any person. The ex parte order shall be effective upon
20 service pursuant to section 586-6.

21 At the time of service of a restraining order involving
22 electric guns issued by any court, the police officer may take
23 custody of any and all electric guns in plain sight, those

1 discovered pursuant to a consensual search, and those electric
2 guns 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
22 (c), (d), (e), (f), (g), or (h) shall be guilty of a
23 misdemeanor.

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1 **§134-G Exemptions.** (a) Sections 134-B and 134-F(f) shall
2 not apply to:

3 (1) Law enforcement agencies and law enforcement officers
4 acting within the course of their employment; and

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

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

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

22 (c) The law enforcement agencies that authorize use of
23 electric guns by its law enforcement officers and the army or

1 air national guard shall maintain records regarding every
2 electric gun in its custody and control. The records shall
3 report every instance of usage of the electric guns; in
4 particular, records shall be maintained in a similar manner as
5 for those of discharging of firearms. The law enforcement
6 agencies and the army and air national guard shall annually
7 report to the legislature regarding these records no later than
8 twenty days before the beginning of each regular session of the
9 legislature.

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

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

- 20 (1) Keeps the electric gun in a securely locked box or
21 other container or in a location that a reasonable
22 person would believe to be secure; or
23 (2) Carries the electric gun on the person or within such

1 close proximity thereto that the minor cannot gain
2 access or control of the electric gun.

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

5 **§134-I Carrying or use of electric gun in the commission**
6 **of a separate misdemeanor.** (a) It shall be unlawful for a
7 person to knowingly carry on the person or have within the
8 person's immediate control or intentionally use or threaten to
9 use an electric gun, whether operable or not, while engaged in
10 the commission of a separate misdemeanor, provided that a person
11 shall not be prosecuted under this subsection when the separate
12 misdemeanor is a misdemeanor defined by this chapter.

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

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

20 **§134-J Carrying or use of electric gun in the commission**
21 **of a separate felony.** (a) It shall be unlawful for a person to
22 knowingly carry on the person or have within the person's
23 immediate control or intentionally use or threaten to use an

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1 electric gun, whether operable or not, while engaged in the
2 commission of a separate felony, provided that a person shall
3 not be prosecuted under this subsection when the separate felony
4 is a felony defined by this chapter.

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

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

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

14 "**§121-34.5 Use of electric guns.** Members of the army or
15 air national guard who have been qualified by training and are
16 authorized by their commanders may use electric guns, as
17 specifically provided in section [~~134-16(c) and (d)~~], 134-G,
18 when assisting civil authorities in disaster relief, emergency
19 management, or law enforcement functions; provided that
20 "training" for the purposes of this section means a course of
21 instruction or training in the use of any electric gun
22 authorized pursuant to this section, that is provided or
23 authorized by the manufacturer or is manufacturer-approved or is

1 an electric gun training program approved by the army or air
2 national guard, prior to deployment or issuance of electric guns
3 and related equipment."

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

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

12 SECTION 5. Section 134-16, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§134-16 Restriction on possession, sale, gift, or~~
15 ~~delivery of electric guns.~~ (a) It shall be unlawful for any
16 person, including a licensed manufacturer, licensed importer, or
17 licensed dealer, to possess, offer for sale, hold for sale,
18 sell, give, lend, or deliver any electric gun.

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

22 (c) This section shall not apply to:

23 (1) Law enforcement officers of county police departments;

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

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

5 ~~(4) Members of the Army or Air National Guard when~~
6 ~~assisting civil authorities in disaster relief,~~
7 ~~emergency management, or law enforcement functions,~~
8 ~~subject to the requirements of section 121-34.5;~~

9 ~~(5) Law enforcement officers appointed by the director of~~
10 ~~transportation pursuant to section 266-24; and~~

11 ~~(6) Vendors providing electric guns to the individuals~~
12 ~~described in paragraphs (1) through (5);~~

13 ~~provided that electric guns shall at all times remain in the~~
14 ~~custody and control of the law enforcement officers of the~~
15 ~~county police departments, the law enforcement officers of the~~
16 ~~department of public safety, the conservation and resources~~
17 ~~enforcement officers of the department of land and natural~~
18 ~~resources, the members of the Army or Air National Guard, or law~~
19 ~~enforcement officers appointed by the director of~~
20 ~~transportation.~~

21 ~~(d) The county police departments of this State, the~~
22 ~~department of public safety, the department of land and natural~~
23 ~~resources, the army and air national guard, and the department~~

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

11 ~~(c) The department of land and natural resources, the~~
12 ~~department of public safety, and the department of~~
13 ~~transportation shall ensure that each of its conservation and~~
14 ~~resources enforcement officers and law enforcement officers who~~
15 ~~is authorized to use an electric gun and related equipment shall~~
16 ~~first receive training from the manufacturer or from a~~
17 ~~manufacturer-approved training program, as well as by~~
18 ~~manufacturer-certified or approved instructors in the use of~~
19 ~~electric guns prior to deployment of the electric guns and~~
20 ~~related equipment in public. Training for conservation and~~
21 ~~resources enforcement officers of the department of land and~~
22 ~~natural resources, law enforcement officers of the department of~~

1 ~~public safety, and law enforcement officers of the department of~~
2 ~~transportation may be done concurrently to ensure cost savings.~~

3 ~~(f) No later than June 30, 2018, the conservation and~~
4 ~~resources enforcement program of the department of land and~~
5 ~~natural resources shall meet the law enforcement accreditation~~
6 ~~or recognition standards of the Commission on Accreditation for~~
7 ~~Law Enforcement Agencies, Inc., in the use of electric guns.~~

8 ~~(g) No later than June 30, 2024, the law enforcement~~
9 ~~officers appointed by the director of transportation shall meet~~
10 ~~the law enforcement accreditation or recognition standards of~~
11 ~~the Commission on Accreditation for Law Enforcement Agencies,~~
12 ~~Inc., in the use of electric guns."]~~

13 SECTION 6. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before the effective date of this Act.

16 SECTION 7. In codifying the new sections added to chapter
17 134, Hawaii Revised Statutes, by section 2 and referenced in
18 section 3 of this Act, the revisor of statutes shall substitute
19 appropriate section number for the letters used in designating
20 the new sections in this Act.

21 SECTION 8. Statutory material to be repealed is bracketed
22

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1 and stricken. New statutory material is underscored.

2 SECTION 9. This Act shall take effect upon its approval.

3

4

INTRODUCED BY: *Mu J. W.*

5

BY REQUEST

6

S.B. NO. 2848

Report Title:

Electric Guns

Description:

Repeals section 134-16, Hawaii Revised Statutes, the current law that bans electric guns, and replaces it with a law that restricts the use, storage, transfer, and disposal of electric guns, regulates the sale of electric guns, requires training and education on electric guns, prohibits certain individuals from the possession and use of electric guns, and prohibits the use of electric guns in the commission of crimes.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO ELECTRIC GUNS.

PURPOSE: To protect the health and safety of the public by regulating the sale and use of electric guns.

MEANS: Add a new part to chapter 134, Hawaii Revised Statutes, amend sections 121-34.5 and 134-17(c), and repeal section 134-16, Hawaii Revised Statutes.

JUSTIFICATION: The United States Supreme Court decision in Caetano v. Massachusetts, 136 S. Ct. 1027 (2016), raised the question of the constitutionality of a complete ban on electric guns. A pending lawsuit in the United States District Court for the District of Hawaii, Roberts v. Ballard, 18-00125 HG-KSC, is seeking a declaratory judgment and injunction to invalidate Hawaii's electric gun ban.

The bill repeals the Hawaii's electric gun ban and creates a regulatory scheme that restricts the use of electric guns to self defense and requires the sellers of electric guns to be licensed and keep records of inventory and sales. This bill also creates criminal offenses for using electric guns in the commission of crimes.

Impact on the public: Allows the public to purchase and use electric guns for self defense.

Impact on the department and other agencies: The counties will be responsible for issuing licenses to sellers of electric guns. The county police departments will be responsible for the disposal of unregistered or surrendered electric guns.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Law enforcement agencies may allow their
officers to carry electric guns subject to
training and reporting requirements.

EFFECTIVE DATE: Upon approval.