
A BILL FOR AN ACT

RELATING TO FIREARMS.

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

1 SECTION 1. The legislature finds that United States
2 nationals, a category that includes persons born in American
3 Samoa who, although not citizens, owe permanent allegiance to
4 the United States, are being denied permits to acquire firearms
5 by county police departments. This is because section 134-2,
6 Hawaii Revised Statutes, limits the issuance of these permits to
7 "citizens of the United States".

8 The legislature also finds that the federal Gun Control Act
9 of 1968, codified in Title 18 United States Code Chapter 44,
10 does not explicitly prohibit United States nationals from owning
11 or possessing firearms. Chapter 44 prohibits the sale or
12 transfer of firearms or ammunition to only persons charged or
13 convicted of a felony, fugitives from justice, unlawful users of
14 controlled substances, persons committed to a mental
15 institution, illegal aliens, and aliens admitted to the United
16 States under a non-immigrant visa. Further, the federal Bureau
17 of Alcohol, Tobacco, Firearms, and Explosives' transaction



1 record form, which must accompany firearms sales by federally
2 licensed dealers, instructs firearms buyers who are United
3 States nationals that they may list their country of citizenship
4 as "U.S.A" and leave blank the "U.S.-issued alien number or
5 admission number". The form is consistent with the lack of an
6 explicit federal prohibition against firearm ownership or
7 possession by United States nationals.

8 The legislature further finds that there is no compelling
9 reason to deny United States nationals the ability to acquire
10 firearms under the Second Amendment of the United States
11 Constitution, given that they have sworn allegiance to the
12 United States, hold United States passports, and enjoy many of
13 the same rights as full citizens. The legislature believes that
14 the reasoning of the United States District Court for the
15 District of Hawaii in a 2014 decision, *Fotoudis v. City and*
16 *County of Honolulu*, 54 F.Supp.3d 1136, is directly relevant to
17 United States nationals. In *Fotoudis*, the district court held
18 that the State's categorical exclusion of lawful permanent
19 resident aliens from firearm ownership, based solely on their
20 non-citizen status, violated the equal protection clause and
21 Second Amendment of the United States Constitution. The



1 district court's analysis cited United States Supreme Court
2 cases holding that: the Second Amendment confers an individual
3 right to keep and bear arms for self-defense purposes (*District*
4 *of Columbia v. Heller*, 554 U.S. 570 (2008)); the Second
5 Amendment is applicable to the states through the due process
6 clause of the Fourteenth Amendment (*McDonald v. City of Chicago*,
7 561 U.S. 742 (2010)); and that lawful permanent residents,
8 despite being non-citizens, are part of a national community or
9 have a sufficient connection with this country to be considered
10 part of the community, such that they are among "the people" of
11 the United States protected by the Second Amendment (*United*
12 *States v. Verdugo-Urquidez*, 494 U.S. 259 (1990)).

13 Accordingly, the purpose of this Act is to explicitly
14 authorize county police chiefs to issue permits to acquire
15 firearms to nationals of the United States who otherwise meet
16 all of the applicable criteria under section 134-2, Hawaii
17 Revised Statutes.

18 SECTION 2. Section 134-1, Hawaii Revised Statutes, is
19 amended by adding a new definition to be appropriately inserted
20 and to read as follows:



1 "National of the United States" shall have the same
2 meaning as in title 8 United States Code section 1101."

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

5 "(d) The chief of police of the respective counties may
6 issue permits to acquire firearms to citizens and nationals of
7 the United States of the age of twenty-one years or more, or
8 duly accredited official representatives of foreign nations, or
9 duly commissioned law enforcement officers of the State who are
10 aliens; provided that any law enforcement officer who is the
11 owner of a firearm and who is an alien shall transfer ownership
12 of the firearm within forty-eight hours after termination of
13 employment from a law enforcement agency. The chief of police
14 of each county may issue permits to aliens of the age of
15 eighteen years or more for use of rifles and shotguns for a
16 period not exceeding sixty days, upon a showing that the alien
17 has first procured a hunting license under chapter 183D, part
18 II. The chief of police of each county may issue permits to
19 aliens of the age of twenty-one years or more for use of
20 firearms for a period not exceeding six months, upon a showing
21 that the alien is in training for a specific organized sport-



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1 shooting contest to be held within the permit period. The
2 attorney general shall adopt rules, pursuant to chapter 91, as
3 to what constitutes sufficient evidence that an alien is in
4 training for a sport-shooting contest. Notwithstanding any law
5 to the contrary and upon joint application, the chief of police
6 may issue permits to acquire firearms jointly to spouses who
7 otherwise qualify to obtain permits under this section."

8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 5. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval.
13

INTRODUCED BY:



JAN 25 2021



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Report Title:

Firearms; Permits to Acquire; U.S. Nationals

Description:

Authorizes county police chiefs to issue permits to acquire firearms to U.S. nationals who otherwise meet all of the applicable criteria under section 134-2, HRS.

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