

JAN 21 2022

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 that electric guns, which
2 include stun guns and Tasers, are associated with certain
3 physiological effects, high levels of pain, and foreseeable risk
4 of physical injury. The legislature further finds that electric
5 guns have been used in abusive ways by some law enforcement
6 officers in the State. For example, it has been alleged that
7 unarmed students have been tased in the back while on public
8 school campuses. Additionally, there is a documented case of an
9 unarmed adult male who died after being subjected to multiple
10 Taser applications by police officers who apprehended him for
11 jaywalking.

12 In the case of *Bryan v. MacPherson*, 630 F.3d 805 (2010),
13 the United States Court of Appeals for the Ninth Circuit held
14 that Tasers and similar devices, when used in dart mode,
15 constitute an "intermediate, significant level of force that
16 must be justified by the governmental interest involved." In
17 *Jones v. Las Vegas Metropolitan Police Department*, 873 F.3d 1123



(2017), the same court held that "[a]ny reasonable officer would have known that such use [continuous, repeated, and simultaneous tasing] can only be justified by an immediate or significant risk of serious injury or death to officers or the public."

Therefore, the purpose of this Act is to:

- (1) Specify the conditions under which law enforcement officers may deploy electric guns; and
- (2) Require law enforcement agencies to establish policies and provide training on compliant use of electric guns.

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

"§134- Limitations on use by law enforcement officers.

(a) A law enforcement officer shall not deploy an electric gun unless the law enforcement officer reasonably believes that the use of the electric gun is necessary to address an immediate or significant threat of serious bodily injury or death to the law enforcement officer or to a member of the public.

(b) The requirements of subsection (a) shall apply in settings such as, but not limited to, school campuses when law



1 enforcement officers are present in response to alleged student
2 conduct.

3 (c) As used in this section, "law enforcement officer"
4 includes the law enforcement officers described in section
5 134-81 and includes members of the Army and Air National Guard
6 when assisting civil authorities pursuant to section 121-34.5."

7 SECTION 3. Section 134-87, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Law enforcement agencies that authorize use of
10 electric guns by its law enforcement officers, and the Army [e#]
11 and Air National Guard, shall:

12 (1) Provide training from the manufacturer or from a
13 manufacturer-approved training program conducted by
14 manufacturer-certified or manufacturer-approved
15 instructors in the use of electric guns before
16 deployment of the electric guns and related equipment
17 in public;

18 (2) Establish policies designed to ensure compliance with
19 section 134- and provide appropriate training on
20 those policies;



1 [~~(2)~~] (3) Maintain records regarding every electric gun in
2 its custody and control, including every instance of
3 usage of the electric guns, in a similar manner as
4 records are maintained for the discharge of firearms;
5 and

6 [~~(3)~~] (4) Report to the legislature on the information in,
7 and maintenance of, these records no later than
8 twenty days prior to the convening of each regular
9 session."

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

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

16
INTRODUCED BY: _____

Laura Alcosio



S.B. NO. 2414

Report Title:

Law Enforcement Officers; Electric Guns

Description:

Specifies the conditions under which law enforcement officers may deploy electric guns when acting within the course of employment. Requires law enforcement agencies to establish policies and provide training relevant to compliance with the conditions.

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