
A BILL FOR AN ACT

RELATING TO FIREARMS.

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 . FIREARM INDUSTRY RESPONSIBILITY**

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

6 "Firearm accessory" means an attachment or device designed
7 or adapted to be inserted into, affixed onto, or used in
8 conjunction with a firearm that is designed, intended, or
9 functions to alter or enhance the firing capabilities of the
10 firearm, the lethality of the firearm, or a shooter's ability to
11 hold or use a firearm.

12 "Firearm industry member" means a person, firm,
13 corporation, company, partnership, society, joint stock company,
14 or any other entity or association engaged in the manufacture,
15 distribution, importation, marketing, wholesale, or retail sale
16 of firearm-related products.



1 "Firearm precursor part" means any forging, casting,
2 printing, extrusion, machined body, or similar article that has
3 reached a state in manufacture where it may readily be
4 completed, assembled, or converted to be used as the frame or
5 receiver of a functional firearm, or that is marketed or sold to
6 the public to become or be used as the frame or receiver of a
7 functional firearm once completed, assembled, or converted.

8 "Firearm-related product" means a firearm, ammunition, a
9 firearm precursor part, a firearm component, or a firearm
10 accessory that meets any of the following conditions:

- 11 (1) The item is sold, made, or distributed in the State;
- 12 (2) The item is intended to be sold or distributed in the
13 State; or
- 14 (3) The item is or was possessed in the State and it was
15 reasonably foreseeable that the item would be
16 possessed in the State.

17 "Reasonable controls" means reasonable procedures, acts, or
18 practices that are designed, implemented, and enforced to do the
19 following:

- 20 (1) Prevent the sale or distribution of a firearm-related
21 product to a straw purchaser, a firearm trafficker, a



1 person prohibited from possessing a firearm under
2 state or federal law, or a person who the firearm
3 industry member has reasonable cause to believe is at
4 substantial risk of using a firearm-related product to
5 harm themselves or another or of possessing or using a
6 firearm-related product unlawfully;

7 (2) Prevent the loss or theft of a firearm-related product
8 from the firearm industry member; and

9 (3) Ensure that the firearm industry member complies with
10 all provisions of state and federal law and does not
11 otherwise promote the unlawful manufacture, sale,
12 possession, marketing, or use of a firearm-related
13 product.

14 **§134-B Firearm industry members; standards of conduct.**

15 (a) It shall be a violation of this part for a firearm industry
16 member to fail to comply with any requirement of this part.

17 (b) A firearm industry member shall:

18 (1) Establish, implement, and enforce reasonable controls;

19 (2) Take reasonable precautions to ensure that the firearm
20 industry member does not sell, distribute, or provide
21 a firearm-related product to a downstream distributor



1 that is abnormally dangerous and likely to create an
2 unreasonable risk of harm to public health and safety
3 in the State; and

4 (3) Not engage in any conduct related to the sale or
5 marketing of firearm-related products that is in
6 violation of this chapter.

7 (c) For the purposes of this part, a firearm-related
8 product shall not be considered abnormally dangerous and likely
9 to create an unreasonable risk of harm to public health and
10 safety based on a firearm's inherent capacity to cause injury or
11 lethal harm.

12 (d) There shall be a presumption that a firearm-related
13 product is abnormally dangerous and likely to create a public
14 health and safety risk if any of the following is true:

15 (1) The firearm-related product's features render the
16 product most suitable for assaultive purposes instead
17 of lawful self-defense, hunting, or other legitimate
18 sport and recreational activities;

19 (2) The firearm-related product is designed, sold, or
20 marketed in a manner that foreseeably promotes the



1 conversion of legal firearm-related products into
2 illegal firearm-related products; or
3 (3) The firearm-related product is designed, sold, or
4 marketed in a manner that is targeted at minors or
5 other individuals who are legally prohibited from
6 accessing firearms.

7 **§134-C Violations; who may sue; relief.** (a) An act or
8 omission by a firearm industry member in violation of this part
9 shall constitute an actionable cause of action.

10 (b) A person who has suffered harm in the State because of
11 a firearm member's violation of this part may bring an action in
12 a court of competent jurisdiction.

13 (c) In addition to any lawsuit filed against a firearm
14 owner pursuant to section 663-9.5, the attorney general or any
15 county attorney or public prosecutor may bring a civil action in
16 a court of competent jurisdiction in the name of the people of
17 the State to enforce this part and remedy harm caused by a
18 violation of this part.

19 (d) If a court determines that a firearm industry member
20 engaged in conduct in violation of this part, the court may
21 award any or all of the following:



- 1 (1) Injunctive relief sufficient to prevent the firearm
2 industry member and any other defendant from further
3 violating the law;
- 4 (2) Damages;
- 5 (3) Attorney's fees and costs; and
- 6 (4) Any other appropriate relief necessary to enforce this
7 part and remedy the harm caused by the conduct.
- 8 (e) In an action alleging that a firearm industry member
9 failed to establish, implement, and enforce reasonable controls
10 in violation of section 134-B(b), there shall be a rebuttable
11 presumption that the firearm industry member failed to implement
12 reasonable controls if the following conditions are satisfied:
- 13 (1) The firearm industry member's action or failure to act
14 created a reasonably foreseeable risk that the harm
15 alleged by the claimant would occur; and
- 16 (2) The firearm industry member could have established,
17 implemented, and enforced reasonable controls to
18 prevent or substantially mitigate the risk that the
19 harm would occur.
- 20 (f) If a rebuttable presumption is established pursuant to
21 subsection (e), the firearm industry member shall have the



1 burden of showing through a preponderance of evidence that the
2 firearm industry member established, implemented, and enforced
3 reasonable controls.

4 (g) An intervening act by a third party, including but not
5 limited to criminal use of a firearm-related product, shall not
6 preclude a firearm industry member from liability under this
7 part.

8 **§134-D Interpretation of part.** (a) Nothing in this part
9 shall be construed to limit or impair in any way the right of a
10 person or entity to pursue a legal action under any other
11 authority.

12 (b) Nothing in this part shall be construed to limit or
13 impair in any way an obligation or requirement placed on a
14 firearm industry member by any other authority.

15 (c) This part shall be construed and applied in a manner
16 that is consistent with the requirements of the Hawaii State
17 Constitution and the United States Constitution."

18 SECTION 2. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. In codifying the new sections added by section
7 1 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 5. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY:



JAN 20 2023



H.B. NO. 426

Report Title:

Firearms; Firearm Industry Members; Standards of Conduct;
Liability; Right of Action

Description:

Establishes standards of conduct for firearm industry members. Authorizes any person who has suffered harm because of a firearm industry member's violation of the standards of conduct to bring a civil action. Authorizes the attorney general or any county attorney or public prosecutor to bring a civil action against a firearm industry member for violation of standards of conduct.

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