
A BILL FOR AN ACT

RELATING TO WEAPONS.

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

1 SECTION 1. The purpose of this Act is to clarify, update,
2 and revise Hawaii's laws relating to weapons in order to address
3 hazards to public health, safety, and welfare.

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

7 "§134- Carrying of a firearm in the commission of a
8 separate misdemeanor; penalty. (a) It shall be unlawful for a
9 person to knowingly carry on the person or have within the
10 person's immediate control a firearm while engaged in the
11 commission of a separate misdemeanor offense, whether the
12 firearm was loaded or not, and whether operable or not; provided
13 that a person shall not be prosecuted under this section when
14 the separate offense is an offense otherwise defined by this
15 chapter or is the offense of criminally negligent storage of a
16 firearm under section 707-714.5.



1 (b) A conviction and sentence under this section shall be
2 in addition to and not in lieu of any conviction and sentence
3 for the separate misdemeanor; provided that the sentence imposed
4 under this section may run concurrently or consecutively with
5 the sentence for the separate misdemeanor.

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

8 (d) For the purposes of this section, "misdemeanor" does
9 not include a petty misdemeanor."

10 SECTION 3. Section 134-51, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§134-51 Deadly or dangerous weapons; prohibitions;**
13 **penalty.** (a) Any person, not authorized by law, who knowingly
14 carries concealed [~~upon~~] on the [~~person's self or within any~~
15 ~~vehicle used or occupied by the person or who is found armed~~
16 ~~with]~~ person, or in a bag or other container carried by the
17 person, any dirk, dagger, blackjack, [~~slug shot, billy,~~] metal
18 knuckles, [~~pistol,~~] or other deadly or dangerous weapon shall be
19 guilty of a misdemeanor [~~and may be immediately arrested without~~
20 warrant by any sheriff, police officer, or other officer or
21 person. Any weapon, above enumerated, upon conviction of the



1 ~~one carrying or possessing it under this section, shall be~~
2 ~~summarily destroyed by the chief of police or sheriff.];~~
3 provided that this subsection shall not apply to a billy.

4 (b) ~~[Whoever]~~ Any person who knowingly possesses or
5 intentionally uses or threatens to use a dirk, dagger,
6 blackjack, metal knuckles, or other deadly or dangerous weapon,
7 or a billy, while engaged in the commission of a ~~[crime]~~
8 separate felony or misdemeanor shall be guilty of a class C
9 felony.

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

16 (d) Upon conviction of a person for carrying or possessing
17 a deadly or dangerous weapon pursuant to this section, the
18 deadly or dangerous weapon shall be summarily destroyed by the
19 chief of police or sheriff.

20 (e) Notwithstanding any provision to the contrary, this
21 section shall not apply to:



1 (1) A firearm, whether loaded or not, and whether operable
2 or not;

3 (2) A switchblade knife as defined in section 134-52;

4 (3) A butterfly knife as defined in section 134-53; or

5 (4) An electric gun as defined in section 134-81.

6 (f) For purposes of this section, "billy" includes a
7 cudgel, truncheon, police baton, collapsible baton, billy club,
8 or nightstick.

9 (g) It shall be a defense to a prosecution under
10 subsection (a) that a person was lawfully present in the
11 person's own home at the time of the offense."

12 SECTION 4. Section 134-52, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§134-52 Switchblade knives; prohibitions; penalty.** (a)
15 Whoever knowingly [~~manufactures, sells, transfers, possesses, or~~
16 ~~transports in the State~~] carries concealed on the person, or in
17 a bag or other container carried by the person, any switchblade
18 knife [~~, being any knife having a blade which opens automatically~~
19 ~~(1) by hand pressure applied to a button or other device in the~~
20 ~~handle of the knife, or (2) by operation of inertia, gravity, or~~
21 ~~both,~~] shall be guilty of a misdemeanor.



1 (b) Whoever knowingly possesses or intentionally uses or
2 threatens to use a switchblade knife while engaged in the
3 commission of a [~~crime~~] separate felony or misdemeanor shall be
4 guilty of a class C felony[+]; provided that a person shall not
5 be prosecuted under this subsection when the separate felony or
6 misdemeanor is an offense otherwise defined by this chapter.

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

13 (d) It shall be a defense to a prosecution under
14 subsection (a) that the person was lawfully present in the
15 person's own home at the time of the offense.

16 (e) For the purposes of this section, "switchblade knife"
17 means any knife having a blade that opens automatically by:

18 (1) Hand pressure applied to a button or other device in
19 the handle of the knife; or

20 (2) Operation of inertia, gravity, or both."



1 SECTION 5. Section 134-53, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§134-53[+] **Butterfly knives; prohibitions; penalty.**

4 (a) Whoever knowingly [~~manufactures, sells, transfers,~~
5 ~~possesses, or transports in the State]~~ carries concealed on the
6 person, or in a bag or other container carried by the person,
7 any butterfly knife [~~, being a knife having a blade encased in a~~
8 ~~split handle that manually unfolds with hand or wrist action~~
9 ~~with the assistance of inertia, gravity or both,~~] shall be
10 guilty of a misdemeanor.

11 (b) Whoever knowingly possesses or intentionally uses or
12 threatens to use a butterfly knife while engaged in the
13 commission of a [~~crime]~~ separate felony or misdemeanor shall be
14 guilty of a class C felony [~~-~~]; provided that a person shall not
15 be prosecuted under this subsection when the separate felony or
16 misdemeanor is an offense otherwise defined by this chapter.

17 (c) A conviction and sentence under subsection (b) shall
18 be in addition to and not in lieu of any conviction and sentence
19 for the separate felony or misdemeanor; provided that the
20 sentence imposed under subsection (b) may run concurrently or



1 consecutively with the sentence for the separate felony or
2 misdemeanor.

3 (d) It shall be a defense to a prosecution under
4 subsection (a) that the person was lawfully present in the
5 person's own home at the time of the offense.

6 (e) For the purposes of this section, "butterfly knife"
7 means any knife having a blade encased in a split handle that
8 manually unfolds with hand or wrist action with the assistance
9 of inertia, gravity or both."

10 SECTION 6. Every provision in this Act and every
11 application of each provision in this Act is severable from each
12 other. If any application of any provision in this Act to any
13 person or group of persons or circumstances is determined by any
14 court to be invalid, the remainder of this Act and the
15 application of the Act's provisions to all other persons and
16 circumstances shall not be affected because it is the
17 legislature's intent that all valid applications shall remain in
18 force..

19 SECTION 7. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and enforcement
21 proceedings that were begun before its effective date.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

Weapons; Deadly or Dangerous Weapons

Description:

Prohibits carrying or using a firearm in the commission of a separate misdemeanor offense. Amends and clarifies prohibitions regarding deadly or dangerous weapons, switchblade knives, and butterfly knives. Effective 7/1/3000. (HD1)

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