

JAN 20 2023

A BILL FOR AN ACT

RELATING TO THE PUBLIC CARRYING OF FIREARMS.

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

1 SECTION 1. The legislature finds that law-abiding persons
2 in the State should be allowed to carry a firearm outside the
3 home for purposes of protection and self-defense. Reports of
4 violent crimes being committed across the State--many of them
5 brazen and perpetrated during daylight hours in public
6 places--have become increasingly commonplace. Residents are
7 feeling afraid and helpless, yet are largely resigned to relying
8 on understaffed county police departments to prevent crimes and
9 apprehend violent offenders.

10 The legislature recognizes that the United States Supreme
11 Court, in *New York State Rifle and Pistol Association, Inc. v.*
12 *Bruen*, 142 S.Ct. 2111 (2022), invalidated "proper cause"
13 requirements found in certain state licensing statutes that
14 restrict who may carry a firearm outside the home, such as those
15 set forth in section 134-9, Hawaii Revised Statutes. That
16 section creates a high bar for persons wishing to obtain a
17 license to legally carry a pistol or revolver while in public.



1 More specifically, an applicant must either show "reason to fear
2 injury" to receive a license to carry a concealed pistol or
3 revolver, or show sufficient "urgency or the need" to receive a
4 license to carry an unconcealed pistol or revolver. In the
5 aforementioned court case, the United States Supreme Court held
6 that the Second and Fourteenth Amendments to the United States
7 Constitution protect an individual's right to carry a handgun
8 for self-defense outside the home, and that "proper cause"
9 licensing laws such as those of New York and Hawaii are
10 unconstitutional because they require applicants to demonstrate
11 a special need for self-defense.

12 The legislature believes that, given the State's
13 unacceptably high rate of violent crime and the need for members
14 of the public to feel secure and be able to protect themselves
15 from victimization, Hawaii should be a "constitutional carry"
16 state that allows the public carrying of firearms without any
17 special licensing or permitting requirement, much like the
18 states of Alabama, Alaska, Arizona, Arkansas, Idaho, Indiana,
19 Iowa, Georgia, Kansas, Kentucky, Maine, Mississippi, Missouri,
20 Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South



1 Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and
2 Wyoming.

3 Accordingly, the purpose of this Act is to:

4 (1) Repeal the licensing procedure set forth in section
5 134-9, Hawaii Revised Statutes, under which county
6 police chiefs have the discretion to decide whether an
7 applicant may receive a license to carry, concealed or
8 unconcealed, a pistol or revolver and ammunition
9 therefor;

10 (2) Authorize a person who is a United States citizen aged
11 twenty-one or older to carry, concealed or
12 unconcealed, a firearm and ammunition therefor without
13 any requirement to demonstrate a special need for
14 self-defense, provided that certain other conditions
15 are met; and

16 (3) Repeal provisions of the Hawaii Revised Statutes
17 relating to prohibitions on where firearms and
18 ammunition may be kept.

19 SECTION 2. Section 134-5, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:



1 "(c) A person may carry unconcealed and use a lawfully
2 acquired pistol or revolver while actually engaged in hunting
3 game mammals, if that pistol or revolver and its suitable
4 ammunition are acceptable for hunting by rules adopted pursuant
5 to section 183D-3 and if that person is licensed pursuant to
6 part II of chapter 183D. [~~The pistol or revolver may be~~
7 ~~transported in an enclosed container, as defined in section~~
8 ~~134-25 in the course of going to and from the place of the hunt,~~
9 ~~notwithstanding section 134-26.] "~~

10 SECTION 3. Section 134-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§134-9 Licenses to carry.** [~~(a) In an exceptional case,~~
13 ~~when an applicant shows reason to fear injury to the applicant's~~
14 ~~person or property, the chief of police of the appropriate~~
15 ~~county may grant a license to an applicant] A person who is a
16 citizen of the United States of the age of twenty-one years or
17 more [~~or to~~], or a duly accredited official representative of a
18 foreign nation of the age of twenty-one years or more [~~to~~], may
19 carry a [~~pistol or revolver~~] firearm and ammunition therefor,
20 concealed on the person [~~within the county where the license is~~~~



1 ~~granted-]~~ or unconcealed, while frequenting any public place
2 within the State, provided that:

3 (1) The person is not prohibited by any provision of this
4 chapter or any other provision of applicable law from
5 owning or possessing a firearm;

6 (2) The firearm was acquired in accordance with the
7 requirements of section 134-2; and

8 (3) An owner or occupant of private property, including a
9 business that is open to the public in the normal
10 course of operations, or a place of public
11 accommodation as defined in section 489-2, may
12 prohibit persons carrying a concealed or unconcealed
13 firearm from entering the property if there is clear
14 and conspicuous signage posted at the property
15 entrance to indicate the no-firearm policy.

16 ~~[Where the urgency or the need has been sufficiently indicated,~~
17 ~~the respective chief of police may grant to an applicant of good~~
18 ~~moral character who is a citizen of the United States of the age~~
19 ~~of twenty one years or more, is engaged in the protection of~~
20 ~~life and property, and is not prohibited under section 134-7~~
21 ~~from the ownership or possession of a firearm, a license to~~



1 ~~carry a pistol or revolver and ammunition therefor unconcealed~~
2 ~~on the person within the county where the license is granted.~~
3 ~~The chief of police of the appropriate county, or the chief's~~
4 ~~designated representative, shall perform an inquiry on an~~
5 ~~applicant by using the National Instant Criminal Background~~
6 ~~Check System, to include a check of the Immigration and Customs~~
7 ~~Enforcement databases where the applicant is not a citizen of~~
8 ~~the United States, before any determination to grant a license~~
9 ~~is made. Unless renewed, the license shall expire one year from~~
10 ~~the date of issue.~~

11 ~~(b) The chief of police of each county shall adopt~~
12 ~~procedures to require that any person granted a license to carry~~
13 ~~a concealed weapon on the person shall:~~

- 14 ~~(1) Be qualified to use the firearm in a safe manner;~~
15 ~~(2) Appear to be a suitable person to be so licensed;~~
16 ~~(3) Not be prohibited under section 134-7 from the~~
17 ~~ownership or possession of a firearm; and~~
18 ~~(4) Not have been adjudged insane or not appear to be~~
19 ~~mentally deranged.~~

20 ~~(c) No person shall carry concealed or unconcealed on the~~
21 ~~person a pistol or revolver without being licensed to do so~~



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1 ~~under this section or in compliance with sections 134-5(c) or~~
2 ~~134-25.~~

3 ~~(d) A fee of \$10 shall be charged for each license and~~
4 ~~shall be deposited in the treasury of the county in which the~~
5 ~~license is granted.] "~~

6 SECTION 4. Section 134-11, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) Sections 134-7 to [~~134-9~~] 134-8 and 134-21 to
10 [~~134-27,~~] 134-22, except section 134-7(f), shall not apply:

11 (1) To state and county law enforcement officers; provided
12 that such persons are not convicted of an offense
13 involving abuse of a family or household member under
14 section 709-906;

15 (2) To members of the armed forces of the State and of the
16 United States and mail carriers while in the
17 performance of their respective duties if those duties
18 require them to be armed;

19 (3) To regularly enrolled members of any organization duly
20 authorized to purchase or receive the weapons from the
21 United States or from the State; provided the members



1 are either at, or going to or from, their places of
2 assembly or target practice;

3 (4) To persons employed by the State, or subdivisions
4 thereof, or the United States while in the performance
5 of their respective duties or while going to and from
6 their respective places of duty if those duties
7 require them to be armed;

8 (5) To aliens employed by the State, or subdivisions
9 thereof, or the United States while in the performance
10 of their respective duties or while going to and from
11 their respective places of duty if those duties
12 require them to be armed; and

13 (6) To police officers on official assignment in Hawaii
14 from any state which by compact permits police
15 officers from Hawaii while on official assignment in
16 that state to carry firearms without registration.
17 The governor of the State or the governor's duly
18 authorized representative may enter into compacts with
19 other states to carry out this paragraph."

20 2. By amending subsection (c) to read:



1 "(c) Sections 134-8 [~~7-134-9,~~] and 134-21 to [~~134-27,~~
2 134-22 shall not apply to the possession, transportation, or
3 use, with blank cartridges, of any firearm or explosive solely
4 as props for motion picture film or television program
5 production when authorized by the chief of police of the
6 appropriate county pursuant to section 134-2.5 and not in
7 violation of federal law."

8 SECTION 5. Section 134-23, Hawaii Revised Statutes, is
9 repealed.

10 ~~"[§134-23] Place to keep loaded firearms other than
11 pistols and revolvers; penalty. (a) Except as provided in
12 section 134-5, all firearms shall be confined to the possessor's
13 place of business, residence, or sojourn; provided that it shall
14 be lawful to carry unloaded firearms in an enclosed container
15 from the place of purchase to the purchaser's place of business,
16 residence, or sojourn, or between these places upon change of
17 place of business, residence, or sojourn, or between these
18 places and the following:~~

- 19 ~~(1) A place of repair;~~
20 ~~(2) A target range;~~
21 ~~(3) A licensed dealer's place of business;~~



- 1 ~~(4) An organized, scheduled firearms show or exhibit;~~
- 2 ~~(5) A place of formal hunter or firearm use training or~~
- 3 ~~instruction; or~~
- 4 ~~(6) A police station.~~

5 ~~"Enclosed container" means a rigidly constructed~~
6 ~~receptacle, or a commercially manufactured gun case, or the~~
7 ~~equivalent thereof that completely encloses the firearm.~~

8 ~~(b) Any person violating this section by carrying or~~
9 ~~possessing a loaded firearm other than a pistol or revolver~~
10 ~~shall be guilty of a class B felony."]~~

11 SECTION 6. Section 134-24, Hawaii Revised Statutes, is
12 repealed.

13 ~~["~~§134-24~~ Place to keep unloaded firearms other than~~
14 ~~pistols and revolvers; penalty. (a) Except as provided in~~
15 ~~section 134-5, all firearms shall be confined to the possessor's~~
16 ~~place of business, residence, or sojourn; provided that it shall~~
17 ~~be lawful to carry unloaded firearms in an enclosed container~~
18 ~~from the place of purchase to the purchaser's place of business,~~
19 ~~residence, or sojourn, or between these places upon change of~~
20 ~~place of business, residence, or sojourn, or between these~~
21 ~~places and the following:~~



- 1 ~~(1) A place of repair;~~
- 2 ~~(2) A target range;~~
- 3 ~~(3) A licensed dealer's place of business;~~
- 4 ~~(4) An organized, scheduled firearms show or exhibit;~~
- 5 ~~(5) A place of formal hunter or firearm use training or~~
6 ~~instruction; or~~
- 7 ~~(6) A police station.~~

8 ~~"Enclosed container" means a rigidly constructed~~
9 ~~receptacle, or a commercially manufactured gun case, or the~~
10 ~~equivalent thereof that completely encloses the firearm.~~

11 ~~(b) Any person violating this section by carrying or~~
12 ~~possessing an unloaded firearm other than a pistol or revolver~~
13 ~~shall be guilty of a class C felony."]~~

14 SECTION 7. Section 134-25, Hawaii Revised Statutes, is
15 repealed.

16 ~~[" §134-25] Place to keep pistol or revolver; penalty.~~

17 ~~(a) Except as provided in sections 134-5 and 134-9, all~~
18 ~~firearms shall be confined to the possessor's place of business,~~
19 ~~residence, or sojourn; provided that it shall be lawful to carry~~
20 ~~unloaded firearms in an enclosed container from the place of~~
21 ~~purchase to the purchaser's place of business, residence, or~~



1 ~~sojourn, or between these places upon change of place of~~
2 ~~business, residence, or sojourn, or between these places and the~~
3 ~~following:~~

- 4 ~~(1) A place of repair;~~
- 5 ~~(2) A target range;~~
- 6 ~~(3) A licensed dealer's place of business;~~
- 7 ~~(4) An organized, scheduled firearms show or exhibit;~~
- 8 ~~(5) A place of formal hunter or firearm use training or~~
9 ~~instruction; or~~
- 10 ~~(6) A police station.~~

11 ~~"Enclosed container" means a rigidly constructed~~
12 ~~receptacle, or a commercially manufactured gun case, or the~~
13 ~~equivalent thereof that completely encloses the firearm.~~

14 ~~(b) Any person violating this section by carrying or~~
15 ~~possessing a loaded or unloaded pistol or revolver shall be~~
16 ~~guilty of a class B felony."]~~

17 SECTION 8. Section 134-26, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§134-26] Carrying or possessing a loaded firearm on a~~
20 ~~public highway, penalty. (a) It shall be unlawful for any~~
21 ~~person on any public highway to carry on the person, or to have~~



1 ~~in the person's possession, or to carry in a vehicle any firearm~~
 2 ~~loaded with ammunition; provided that this section shall not~~
 3 ~~apply to any person who has in the person's possession or~~
 4 ~~carries a pistol or revolver in accordance with a license issued~~
 5 ~~as provided in section 134-9.~~

6 ~~(b) Any vehicle used in the commission of an offense under~~
 7 ~~this section shall be forfeited to the State, subject to the~~
 8 ~~notice and hearing requirements of chapter 712A.~~

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

11 SECTION 9. Section 134-27, Hawaii Revised Statutes, is
 12 repealed.

13 ~~["§134-27] Place to keep ammunition; penalty. (a)~~
 14 ~~Except as provided in sections 134-5 and 134-9, all ammunition~~
 15 ~~shall be confined to the possessor's place of business,~~
 16 ~~residence, or sojourn; provided that it shall be lawful to carry~~
 17 ~~ammunition in an enclosed container from the place of purchase~~
 18 ~~to the purchaser's place of business, residence, or sojourn, or~~
 19 ~~between these places upon change of place of business,~~
 20 ~~residence, or sojourn, or between these places and the~~
 21 ~~following:~~



- 1 ~~(1) A place of repair;~~
- 2 ~~(2) A target range;~~
- 3 ~~(3) A licensed dealer's place of business;~~
- 4 ~~(4) An organized, scheduled firearms show or exhibit;~~
- 5 ~~(5) A place of formal hunter or firearm use training or~~
6 ~~instruction; or~~
- 7 ~~(6) A police station.~~

8 ~~"Enclosed container" means a rigidly constructed~~
9 ~~receptacle, or a commercially manufactured gun case, or the~~
10 ~~equivalent thereof that completely encloses the ammunition.~~

11 ~~(b) Any person violating this section shall be guilty of a~~
12 ~~misdemeanor."]~~

13 SECTION 10. This Act does not affect rights and duties
14 that matured, penalties that were incurred, and proceedings that
15 were begun before its effective date.

16 SECTION 11. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



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1 SECTION 12. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Kurt Favelle



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Report Title:

Firearms; Concealed Carry; Open Carry; Licensing; Place To Keep; Repeal

Description:

Provides that Hawaii is a "constitutional carry" state. Repeals the licensing procedure set forth in section 134-9, HRS, under which county police chiefs have the discretion to decide whether an applicant may receive a license to carry, concealed or unconcealed, a pistol or revolver and ammunition therefor. Authorizes a person who is a United States citizen aged 21 or older to carry, concealed or unconcealed, a firearm and ammunition therefor without any requirement to demonstrate a special need for self-defense, provided that certain other conditions are met. Repeals "place to keep" provisions of the HRS.

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