

# S.B. NO. 3031

JAN 24 2024

## 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 or use of a firearm in the commission of  
8 a separate misdemeanor; penalty. (a) It shall be unlawful for  
9 a person to knowingly carry on the person or have within the  
10 person's immediate control or intentionally use or threaten to  
11 use a firearm while engaged in the commission of a separate  
12 misdemeanor offense, whether the firearm was loaded or not, and  
13 whether operable or not; provided that a person shall not be  
14 prosecuted under this section when the separate offense is an  
15 offense otherwise defined by this chapter or is the offense of  
16 criminally negligent storage of a firearm under section 707-  
17 714.5.

S.B. NO. 3031

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

10        "**§134-51 Deadly or dangerous weapons; prohibitions;**  
11 **penalty.** (a) Any person, not authorized by law, who knowingly  
12 carries concealed [~~upon~~] on the [~~person's self or within any~~  
13 ~~vehicle used or occupied by the person or who is found armed~~  
14 ~~with] person any dirk, dagger, blackjack, [~~slug shot, billy,~~  
15 metal knuckles, [~~pistol,~~] or other deadly or dangerous weapon  
16 shall be guilty of a misdemeanor [~~and may be immediately~~  
17 ~~arrested without warrant by any sheriff, police officer, or~~  
18 ~~other officer or person.~~]; provided that this subsection shall  
19 not apply to a billy. Any such weapon, [~~above enumerated,~~] upon  
20 conviction of the one carrying or possessing it under this  
21 section, shall be summarily destroyed by the chief of police or  
22 sheriff.~~

S.B. NO. 3031

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

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) Notwithstanding any provision to the contrary, this  
14 section shall not apply to:

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

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

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

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

20           (e) For purposes of this section, "billy" includes a  
21 cudgel, truncheon, police baton, collapsible baton, billy club,  
22 or nightstick.

S.B. NO. 303

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

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

6        "**§134-52 Switchblade knives; prohibitions; penalty.** (a)  
7 Whoever knowingly [~~manufactures, sells, transfers, possesses, or~~  
8 ~~transports~~] carries concealed on the person in the State any  
9 switchblade knife, being any knife having a blade [~~which~~] that  
10 opens automatically (1) by hand pressure applied to a button or  
11 other device in the handle of the knife, or (2) by operation of  
12 inertia, gravity, or both, shall be guilty of a misdemeanor.

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

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

S.B. NO. 3031

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

8 "[~~f~~]**\$134-53**[~~t~~] **Butterfly knives; prohibitions; penalty.**

9 (a) Whoever knowingly [~~manufactures, sells, transfers,~~  
10 ~~possesses, or transports~~] carries concealed on the person in the  
11 State any butterfly knife, being a knife having a blade encased  
12 in a split handle that manually unfolds with hand or wrist  
13 action with the assistance of inertia, gravity or both, shall be  
14 guilty of a misdemeanor.

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

21 (c) A conviction and sentence under subsection (b) shall  
22 be in addition to and not in lieu of any conviction and sentence

S.B. NO. 3031

1 for the separate felony or misdemeanor; provided that the  
2 sentence imposed under subsection (b) may run concurrently or  
3 consecutively with the sentence for the separate felony or  
4 misdemeanor.

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

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

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

20 SECTION 8. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

S.B. NO. 3031

1 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: 

4

BY REQUEST

# S.B. NO. 303)

**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, regarding switchblade knives, and regarding butterfly knives.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



## JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO WEAPONS.

PURPOSE: To clarify, update, and revise Hawaii's laws relating to weapons to address hazards to public health, safety, and welfare.

MEANS: Add a new section to part I of chapter 134, Hawaii Revised Statutes (HRS), and amend sections 134-51, 134-52, and 134-53, HRS.

JUSTIFICATION: The addition of a new section to part I of chapter 134 would create the offense of carrying or use of a firearm in the commission of a separate misdemeanor offense, which would address the heightened risks to public safety posed by the criminal use of firearms.

Updates to sections 134-51, 134-52, and 134-53, HRS, would address hazards to public health, safety, and welfare associated with deadly and dangerous weapons while respecting and protecting the lawful exercise of individual rights, and would remove ambiguous or obsolete wording from chapter 134 and implement the terms of a stipulated permanent injunction entered against the Attorney General in connection with *Yukutake v. Lopez*, 1:22-cv-00323-JAO-WRP (D. Haw. May 23, 2023).

Impact on the public: The public would benefit from revisions to State law that promote public health, safety, and welfare by protecting the public from hazards associated with dangerous or deadly weapons.

Impact on the department and other agencies: Should one or more aspects of this bill be subject to legal challenge, the Department of the Attorney General may be required to defend such challenges in litigation.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: The county police departments, the  
prosecutors' offices, and the Department of  
Law Enforcement.

EFFECTIVE DATE: Upon approval.