

ACT 127

S.B NO. 2151

A Bill for an Act Relating to Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

Part I.

SECTION 1. Chapter 134, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“§134-A Seizure of firearms upon disqualification. (a) If any applicant is denied a permit, the chiefs of police of the respective counties shall send, by certified mail, a notice setting forth the reasons for the denial and may require that the applicant voluntarily surrender all firearms and ammunition to the chief of police where the applicant resides or dispose of all firearms and ammunition. If an applicant fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date notice was mailed, the chief of police may seize all firearms and ammunition.

(b) Any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7 shall voluntarily surrender all firearms and ammunition to the chief of police where the person resides or dispose of all firearms and ammunition. If any person fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date of disqualification, the chief of police may seize all firearms and ammunition.

(c) For the purposes of this section, “dispose” means selling the firearms to a gun dealer licensed under section 134-31, transferring ownership of the firearms to any person who meets the requirements of section 134-2, or surrendering all firearms to the chief of police where the person resides for storage or disposal.

(d) The chief of police of the respective counties shall adopt procedures to implement and administer the provisions of this section by December 31, 2001.”

SECTION 2. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Any person disqualified from ownership, possession, or control of firearms and ammunition [by this chapter] under this section shall surrender or dispose of all firearms and ammunition in compliance with [this chapter] section 134-A.”

SECTION 3. Chapter 323C, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated to read as follows:

“§323C-A Disclosure for firearm permit and registration purposes. A health care provider or public health authority shall disclose health information, including protected health information, relating to an individual’s mental health history, to the appropriate county chief of police in response to a request for the information from the chief of police, provided that:

- (1) The information shall be used only for the purposes of evaluating the individual’s fitness to acquire or own a firearm; and

- (2) The individual has signed a waiver permitting release of the health information for that purpose.”

SECTION 4. Section 806-11, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§806-11**~~]]~~ **Disposal of firearms.** (a) At the time of arraignment, the court shall order a defendant who is under indictment for, or who has waived indictment for, or who has been bound over to the circuit court for a felony, or any crime of violence, or an illegal sale of any drug, to dispose of all firearms and ammunition within the defendant’s possession in a manner in compliance with the provisions of chapter 134 and shall inform the defendant of the provisions of section 134-7(b) and section 134-12.5. The defendant shall comply with an order issued pursuant to this section within forty-eight hours of the issuance of such order. A defendant’s compliance with the forty-eight hour requirement of this section shall not give rise to a prosecution for violations of sections 134-2, 134-3 or 134-4.

(b) The court shall immediately notify the chief of police of the county where the defendant resides that the defendant has been ordered to voluntarily surrender all firearms and ammunition to the chief of police or dispose of all firearms and ammunition within the defendant’s possession.

(c) If the defendant fails to voluntarily surrender all firearms and ammunition to the chief of police where the defendant resides or dispose of the firearms and ammunition within forty-eight hours of the issuance of the order, the chief of police may seize all firearms and ammunition.

(d) For the purposes of this section, “dispose” shall have the same meaning as provided in section 134-A.”

Part II.

SECTION 5. There is established the violent firearm crime coalition which shall be administratively attached to the department of the attorney general. The coalition shall provide consultation to the attorney general regarding the establishment of strategic partnerships among law enforcement, prosecution, corrections, and the community with the goal of reducing violent firearm crime. The coalition shall consist of the following members, who shall serve without compensation:

- (1) The attorney general or a designated representative;
- (2) The director of public safety or a designated representative;
- (3) One of the prosecuting attorneys selected by the prosecuting attorneys of the respective counties or a designated representative;
- (4) One of the chiefs of police selected by the chiefs of police of the respective counties or a designated representative;
- (5) The director of the department of health or a designated representative;
- (6) The chairperson of the Hawaii paroling authority or a designated representative; and
- (7) The administrator of adult probation administration or a designated representative.

The coalition may also include a representative of the judiciary, the United States department of justice and the bureau of alcohol, tobacco, and firearms. The coalition may consult with a representative of an Hawaii affiliate of a national organization representing providers of mental health services and a representative of an Hawaii affiliate of a national organization representing advocates for the right to bear arms. The attorney general shall serve as chairperson of the coalition.

The coalition shall clarify and articulate the best process to seize firearms from those individuals who are no longer qualified to own or possess firearms, and

who do not voluntarily relinquish firearms or transfer ownership of firearms. In addition, the coalition shall determine the best process to keep firearms from individuals who are no longer qualified to own or possess firearms for mental health reasons.

The department of the attorney general, in collaboration with the coalition, shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the 2001 and 2002 Regular Sessions.

Part III.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 26, 2000.)

Note

1. Edited pursuant to HRS §23G-16.5.