

## ACT 187

H.B. NO. 1176

A Bill for an Act Relating to Electric Guns.

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

SECTION 1. The legislature finds that electric guns provide law enforcement officers a viable alternative to escalation to the use of deadly force when dealing with non-compliant, combative suspects. Electric guns reduce the risk of serious injury or death by providing a less-than-lethal means of exerting force when necessary.

Existing state laws authorize certain law enforcement officers, including police officers, sheriffs, conservation and resources enforcement officers of the department of land and natural resources, and members of the army and air national guard to use electric guns, but exclude enforcement officers at state commercial harbors, also known as harbor police. Harbor police officers are appointed by the director of transportation to execute warrants, arrest offenders, and serve notices and orders, are authorized to carry firearms, and should also have access to electric guns when performing their duties.

The purpose of this Act is to authorize law enforcement officers of the department of transportation to use electric guns while performing their duties.

SECTION 2. Section 134-16, Hawaii Revised Statutes, is amended to read as follows:

**“§134-16 Restriction on possession, sale, gift, or delivery of electric guns.**

(a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, offer for sale, hold for sale, sell, give, lend, or deliver any electric gun.

(b) Any electric gun possessed, offered for sale, held for sale, sold, given, lent, or delivered in violation of subsection (a) shall be confiscated and disposed of by the chief of police.

(c) This section shall not apply to:

- (1) Law enforcement officers of county police departments;
- (2) Law enforcement officers of the department of public safety;
- (3) Conservation and resources enforcement officers of the department of land and natural resources;
- (4) Members of the Army or Air National Guard when assisting civil authorities in disaster relief, emergency management, or law enforcement functions, subject to the requirements of section 121-34.5; ~~and~~

(5) Law enforcement officers appointed by the director of transportation pursuant to section 266-24; and

~~[(5)]~~ (6) Vendors providing electric guns to the individuals described in paragraphs (1) through [(4); (5)];

provided that electric guns shall at all times remain in the custody and control of the law enforcement officers of the county police departments, the law enforcement officers of the department of public safety, the conservation and resources enforcement officers of the department of land and natural resources, ~~or~~ the members of the Army or Air National Guard~~[-]~~, or law enforcement officers appointed by the director of transportation.

(d) The county police departments of this State, the department of public safety, the department of land and natural resources, ~~and~~ the army and air national guard, and the department of transportation shall maintain records regarding every electric gun in their custody and control. The records shall report every instance of usage of the electric guns; in particular, records shall be maintained in a similar manner as for those of discharging of firearms. The county police departments, the department of public safety, the department of land and natural resources, ~~and~~ the army and air national guard, and the department of transportation shall annually report to the legislature regarding these records no later than twenty days before the beginning of each regular session of the legislature.

(e) The department of land and natural resources, ~~and~~ the department of public safety, and the department of transportation shall ensure that each of its conservation and resources enforcement officers and law enforcement officers who is authorized to use an electric gun and related equipment shall first receive training from the manufacturer or from a manufacturer-approved training program, as well as by manufacturer-certified or approved instructors in the use of electric guns prior to deployment of the electric guns and related equipment in public. Training for conservation and resources enforcement officers of the department of land and natural resources, ~~and~~ law enforcement officers of the department of public safety, and law enforcement officers of the department of transportation may be done concurrently to ensure cost savings.

(f) No later than June 30, 2018, the conservation and resources enforcement program of the department of land and natural resources shall meet the law enforcement accreditation or recognition standards of the Commission on Accreditation for Law Enforcement Agencies, Inc., in the use of electric guns.

(g) No later than June 30, 2024, the law enforcement officers appointed by the director of transportation shall meet the law enforcement accreditation or recognition standards of the Commission on Accreditation for Law Enforcement Agencies, Inc., in the use of electric guns.”

SECTION 3. Section 266-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of transportation shall enforce this chapter and all rules thereunder, except for the rules relative to the control and management of the beaches encumbered with easements in favor of the public and ocean waters which shall be enforced by the department of land and natural resources. For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. The director of transportation and any employee, agent, or representative of the department of transportation appointed as enforcement officers by the director, and every state and county officer charged with the enforcement of any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

- (1) Conduct any enforcement action hereunder in any commercial harbor area and any area over which the department of transportation and the director of transportation has jurisdiction under this chapter;
- (2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where harbors or harbor facilities are situated, or where harbor-related activities are operated or conducted; and
- (3) Subject to limitations as may be imposed by the director of transportation, serve and execute warrants, arrest offenders, and serve notices and orders.

Any employee appointed as a law enforcement officer by the director of transportation pursuant to this section who has been qualified by training may use electric guns, as specifically provided in section 134-16, when exercising powers of police officers and carrying out the responsibilities described herein; provided that training for the purposes of this section means a course of instruction or training in the use of any electric gun that is provided, authorized, or approved by the manufacturer of the electric gun prior to deployment or issuance of electric guns and related equipment.

For purposes of this subsection, the term “agents and representatives” includes persons performing services at harbors or harbor areas under contract with the department of transportation.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 2019.)