

## ACT 21

H.B. NO. 2342

A Bill for an Act Relating to Weapons.

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

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

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

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

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

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- (c) Any person violating this section shall be guilty of a class C felony.
- (d) For the purposes of this section, “misdemeanor” does not include a petty misdemeanor.”

SECTION 3. Section 134-2, Hawaii Revised Statutes, is amended to read as follows:

**“§134-2 Permits to acquire.** (a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section. When title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of the firearm; provided that upon presentation of a copy of the death certificate of the owner making the bequest, any heir or legatee may transfer the inherited or bequested firearm directly to a dealer licensed under section 134-31 or licensed by the United States Department of Justice without complying with the requirements of this section.

- (b) The permit application form shall:
  - (1) Include:
    - (A) The applicant’s name, address, gender, height, weight, date of birth, place of birth, country of citizenship, social security number, alien or admission number;
    - (B) Information regarding the applicant’s mental health history;
    - (C) Any aliases or other names previously used by the applicant;
    - (D) Information that is or may be relevant in determining whether the applicant is disqualified under section 134-7 from the ownership, possession, or control of a firearm; and
    - (E) Information that is or may be relevant in determining whether the applicant lacks the essential character or temperament necessary to be entrusted with a firearm as set forth in subsection (e); and
  - (2) Require the fingerprinting and photographing of the applicant by the police department of the county of registration; provided that where fingerprints and a photograph are already on file with the department, these may be waived.
- (c) An applicant for a permit shall:
  - (1) Sign a waiver at the time of application, allowing the chief of police of the county issuing the permit or a designee of the chief of police access to all records that have a bearing on the mental health of the applicant; and
  - (2) Identify any health care providers who possess or may possess the records described in paragraph (1).
- (d) The chief of police of the respective counties shall issue permits to acquire firearms to:
  - (1) Citizens, nationals, or lawful permanent residents of the United States of the age of twenty-one years or more;
  - (2) Duly accredited official representatives of foreign nations;
  - (3) Duly commissioned law enforcement officers of the State who are aliens; provided that any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the fire-

arm within forty-eight hours after termination of employment from a law enforcement agency;

- (4) Aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, upon a showing that the alien has first procured a hunting license under chapter 183D, part II; and
- (5) Aliens of the age of twenty-one years or more for use of firearms for a period not exceeding six months, upon a showing that the alien is in training for a specific organized sport-shooting contest to be held within the permit period.

The attorney general may adopt rules, pursuant to chapter 91, as to what constitutes sufficient evidence that an alien is in training for a sport-shooting contest.

Notwithstanding any law to the contrary and upon joint application, the chief of police may, upon request, issue permits to acquire firearms jointly to spouses who otherwise qualify to obtain permits under this section.

(e) The permit application form shall be signed by the applicant and issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, dealers licensed by the United States Department of Justice, law enforcement officers, or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the fortieth day from the date of application. Permits issued to acquire any pistol or revolver shall be void unless used within thirty days after the date of issue. Permits to acquire a pistol or revolver shall require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134-7 and revocation under section 134-13; provided that if a permittee is arrested for committing a felony, a crime of violence, a criminal offense relating to firearms, or for the illegal sale or distribution of any drug, the permit shall be impounded and surrendered to the issuing authority. The issuing authority shall perform an inquiry on an applicant by using the International Justice and Public Safety Network, including the United States Immigration and Customs Enforcement query, National Crime Information Center, and National Instant Criminal Background Check System, pursuant to section 846-2.7 before any determination to issue a permit or to deny an application is made. The issuing authority shall not issue a permit to acquire the ownership of a firearm if an applicant is disqualified under section 134-7 from the ownership, possession, or control of a firearm, or if the issuing authority determines that issuance would not be in the interest of public health, safety, or welfare because the person lacks the essential character or temperament necessary to be entrusted with a firearm. In determining whether a person lacks the essential character or temperament necessary to be entrusted with a firearm, the issuing authority shall consider whether the person poses a danger of causing a self-inflicted bodily injury or unlawful injury to another person, as evidenced by:

- (1) Information from a health care provider indicating that the person has had suicidal or homicidal thoughts or tendencies within the preceding five years;
- (2) Statements or actions by the person indicating any dangerous propensity or violent animus toward one or more individuals or groups, including groups based on race, color, national origin, ancestry, sex,

gender identity, gender expression, sexual orientation, age, disability, religion, or any other characteristic, and the propensity or animus is of a nature or to an extent that would objectively indicate to a reasonable observer that it would not be in the interest of the public health, safety, or welfare for the person to own, possess, or control a firearm or ammunition; or

- (3) Other information that would lead a reasonable, objective observer to conclude that the person presents or would present a danger to the community as a result of acquiring or possessing a firearm or intends or is likely to use a firearm for an unlawful purpose or in an unlawful manner.

(f) In all cases where a pistol or revolver is acquired from another person within the State, the permit shall be signed in ink by the person to whom title to the pistol or revolver is transferred and shall be delivered to the person who is transferring title to the firearm, who shall verify that the person to whom the firearm is to be transferred is the person named in the permit and enter on the permit in the space provided the following information: name, address, and telephone number of the person who transferred the firearm; name, address, and telephone number of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number, as applicable. The person who is transferring title to the firearm shall sign the permit in ink and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after transferring the firearm.

In all cases where receipt of a firearm is had by mail, express, freight, or otherwise from sources outside the State, the person to whom the permit has been issued shall make the prescribed entries on the permit, sign the permit in ink, and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm.

In all cases where a rifle or shotgun is acquired from another person within the State, the person who is transferring title to the rifle or shotgun shall submit, within forty-eight hours after transferring the firearm, to the authority that issued the permit to acquire, the following information, in writing: name, address, and telephone number of the person who transferred the firearm; name, address, and telephone number of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number, as applicable.

(g) No person shall be issued a permit under this section for the acquisition of a firearm unless the person, within the four years before the issuance of the permit, has completed:

- (1) An approved hunter education course as authorized under section 183D-28, unless the applicant seeks to acquire a pistol or revolver, in which case the applicant shall complete a training satisfying the requirements of paragraph (2), (3), or (4);
- (2) A firearms safety or training course or class available to the general public offered by a law enforcement agency of the State or of any county;
- (3) A firearms safety or training course offered to law enforcement officers, security guards, investigators, deputy sheriffs, or any division or subdivision of law enforcement or security enforcement by a state or county law enforcement agency; or
- (4) A firearms training or safety course or class conducted by a firearms instructor certified or verified by the chief of police of the respective county or a designee of the chief of police or certified by a nongov-

ernmental organization approved for such purposes by the chief of police of the respective county or a designee of the chief of police, or conducted by a certified military firearms instructor; provided that the firearms training or safety course or class provides, at a minimum, a total of at least two hours of firing training at a firing range and a total of at least four hours of classroom instruction, which may include a video, that focuses on:

- (A) The safe use, handling, and storage of firearms and firearm safety in the home, as well as a component on mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence; and
- (B) Education on the firearm laws of the State.

An affidavit signed by the certified or verified firearms instructor who conducted or taught the course, providing the name, address, and phone number of the instructor and attesting to the successful completion of the course by the applicant shall constitute evidence of certified successful completion under this paragraph; provided that an instructor shall not submit an affidavit signed by the instructor for the instructor's own permit application.

(h) No person shall sell, give, lend, or deliver into the possession of another any firearm except in accordance with this chapter.

(i) No fee shall be charged for permits, or applications for permits, under this section, except for a single fee chargeable by and payable to the issuing county in an amount equal to the fee charged by the Hawaii criminal justice data center pursuant to section 846-2.7. In the case of a joint application, the fee provided for in this section may be charged to each person. If an application under this section is denied, the chief of police or a designee of the chief of police shall notify the applicant of the denial in writing, stating the ground or grounds for the denial and informing the applicant of the right to seek review of the denial through a hearing pursuant to subsection (k).

(j) In all cases where a permit application under this section is denied because an applicant is prohibited from owning, possessing, receiving, or controlling firearms under federal or state law, the chief of police of the applicable county shall, within ten business days from the date of denial, send written notice of the denial, including the identity of the applicant and the reasons for the denial, to the:

- (1) Prosecuting attorney in the county where the permit was denied;
- (2) Attorney general;
- (3) United States Attorney for the District of Hawaii; and
- (4) Director of corrections and rehabilitation.

If the permit to acquire was denied because the applicant is subject to an order described in section 134-7(f), the chief of police shall, within three business days from the date of denial, send written notice of the denial to the court that issued the order.

When the director of corrections and rehabilitation receives notice that an applicant has been denied a permit because of a prior criminal conviction, the director of corrections and rehabilitation shall determine whether the applicant is currently serving a term of probation or parole, and if the applicant is serving such a term, send written notice of the denial to the applicant's probation or parole officer.

(k) If an application under this section is denied, a person or entity aggrieved by the denial shall be entitled to a hearing before the chief of police of the appropriate county or a designee of the chief of police. A person or entity aggrieved by the denial shall submit a request for a hearing in writing to the chief

of police of the appropriate county no later than thirty days following the date of the decision or determination notice. The hearing shall constitute a contested case hearing for purposes of chapter 91. Following the hearing and final decision, an aggrieved party shall be entitled to a judicial review proceeding in state circuit court in accordance with section 91-14.

(l) The permit application form and the waiver form required under this section shall be prescribed by the issuing authority.

(m) The requirements of subsection (g) shall not apply to an applicant for a permit to acquire a rifle or shotgun who:

- (1) Has been issued a hunter education certificate under section 183D-28 that is valid for the life of the person; or
- (2) Has received a written exemption under section 183D-28.”

SECTION 4. Section 134-51, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

- (1) A firearm, whether loaded or not, and whether operable or not;
- (2) A switchblade knife as defined in section 134-52;
- (3) A butterfly knife as defined in section 134-53; or
- (4) An electric gun as defined in section 134-81.
- (f) For purposes of this section, “billy” includes a cudgel, truncheon, police baton, collapsible baton, billy club, or nightstick.

(g) It shall be a defense to a prosecution under subsection (a) that a person was lawfully present in the person’s own home at the time of the offense.”

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

**“§134-52 Switchblade knives; prohibitions; penalty.** (a) Whoever knowingly ~~[manufactures, sells, transfers, possesses, or transports in the State]~~

carries concealed on the person, or in a bag or other container carried by the person, any switchblade knife[~~-, being any knife having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both,~~] shall be guilty of a misdemeanor.

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

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

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

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

- (1) Hand pressure applied to a button or other device in the handle of the knife; or
- (2) Operation of inertia, gravity, or both."

SECTION 6. Section 134-53, Hawaii Revised Statutes, is amended to read as follows:

**"[§134-53] Butterfly knives; prohibitions; penalty.** (a) Whoever knowingly [manufactures, sells, transfers, possesses, or transports in the State] carries concealed on the person, or in a bag or other container carried by the person, any butterfly knife[~~-, being a knife having a blade encased in a split handle that manually unfolds with hand or wrist action with the assistance of inertia, gravity or both,~~] shall be guilty of a misdemeanor.

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

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

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

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

SECTION 7. Every provision in this Act and every application of each provision in this Act is severable from each other. If any application of any provision in this Act to any person or group of persons or circumstances is determined by any court to be invalid, the remainder of this Act and the application of the Act's provisions to all other persons and circumstances shall not be affected because it is the legislature's intent that all valid applications shall remain in force.

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SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and enforcement proceedings that were begun before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect upon its approval.

(Approved May 13, 2024.)

### Note

1. Edited pursuant to HRS §23G-16.5.