

ACT 248

S.B. NO. 2845

A Bill for an Act Relating to Firearms.

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

SECTION 1. The legislature finds that the State has some of the strongest gun safety laws in the nation and had the third lowest number of gun deaths per capita in the nation as of 2021. Despite this, state laws restricting the sale, ownership, and possession of ammunition do not currently align with the State's gun safety laws. Existing law prohibits the ownership of firearms by persons under the age of twenty-one, but state law does not restrict the purchase, ownership, or possession of ammunition by persons under the age of twenty-one. Numerous states, including Arizona, California, Connecticut, Delaware, Idaho, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, have set a minimum age requirement for ammunition sales. Setting a minimum age requirement to purchase, own, or possess ammunition that conforms to the existing minimum age requirement to purchase, own, or possess a firearm in the State will help to ensure the safety of residents and reduce incidents of gun violence in the State.

Accordingly, the purpose of this Act is to prohibit:

- (1) A person from selling ammunition to a person under the age of twenty-one; and
- (2) A person under the age of twenty-one from owning, possessing, or controlling ammunition, with exceptions.

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

“§134- Sale of ammunition to a person under the age of twenty-one; prohibition; penalty. (a) No person shall intentionally, knowingly, or recklessly sell, offer to sell, distribute, or otherwise transfer ammunition for any firearm to any person who is under the age of twenty-one; provided that it shall not be a violation of this section to sell, offer to sell, distribute, or otherwise transfer ammunition to a person who:

- (1) Meets the criteria to possess a firearm under section 134-5; and
- (2) Is actively engaged in hunting or target shooting or going to or from the place of hunting or target shooting.

(b) Any person who sells, offers for sale, distributes, or otherwise transfers ammunition for any firearm shall check the government-issued photographic identification of the buyer or recipient to establish the age of the buyer or recipient before making the transfer.

(c) It shall be an affirmative defense to subsection (a) that the seller, distributor, or transferor of the ammunition had requested, examined, and reasonably relied upon a government-issued photographic identification establishing the age of the buyer or recipient as at least twenty-one years of age before selling, offering to sell, distributing, or otherwise transferring the ammunition.

(d) Any person violating subsection (a) shall be guilty of a misdemeanor.”

SECTION 3. Section 134-7, Hawaii Revised Statutes, is amended to read as follows:

“§134-7 Ownership, possession, or control prohibited, when; penalty. (a) No person who is a fugitive from justice or prohibited from possessing a firearm or ammunition under title 18 United States Code section 922 or any other provision of federal law shall own, possess, or control any firearm or ammunition.

(b) No person who is being prosecuted for one or more charges for a felony, a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug in a court in this State or elsewhere, or who has been convicted in this State or elsewhere of having committed a felony, a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug shall own, possess, or control any firearm or ammunition.

(c) No person shall own, possess, or control any firearm or ammunition if the person:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411 or any similar provision under federal law, or the law of another state, a United States territory, or the District of Columbia;
- (3) Is or has been diagnosed with or treated for a medical, behavioral, psychological, emotional, or mental condition or disorder that causes or is likely to cause impairment in judgment, perception, or impulse control to an extent that presents an unreasonable risk to public health, safety, or welfare if the person were in possession or control of a firearm; or
- (4) Has been adjudged to:
 - (A) Meet the criteria for involuntary hospitalization under section 334-60.2; or
 - (B) Be an “incapacitated person”, as defined in section 560:5-102,

unless the person establishes, with appropriate medical documentation, that the person is no longer adversely affected by the criteria or statuses identified in this subsection.

(d) No person who is less than twenty-five years old and has been adjudicated by the family court to have committed a felony, a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug shall own, possess, or control any firearm or ammunition.

(e) No minor shall own, possess, or control any firearm or ammunition if the minor:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Is a fugitive from justice; or
- (3) Has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect,

unless the minor establishes, with appropriate medical documentation, that the minor is no longer adversely affected by the addiction, mental disease, disorder, or defect.

For the purposes of enforcing this section, and notwithstanding section 571-84 or any other law to the contrary, any agency within the State shall make its records relating to family court adjudications available to law enforcement officials.

(f) No person who has been restrained pursuant to an order of any court, including a gun violence protective order issued pursuant to part IV, from contacting, threatening, or physically abusing any person, shall possess, control, or transfer ownership of any firearm or ammunition, so long as the protective order, restraining order, or any extension is in effect. The protective order or restraining order shall specifically include a statement that possession, control, or transfer of ownership of a firearm or ammunition by the person named in the order is prohibited. The person shall relinquish possession and control of any firearm and ammunition owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof. At the time of service of a protective order or restraining order involving firearms and ammunition issued by any court, a police officer may take custody of any and all firearms and ammunition in plain sight, those discovered pursuant to a consensual search, and those firearms surrendered by the person restrained. If the person restrained is the registered owner of a firearm and knows the location of the firearm, but refuses to surrender the firearm or disclose the location of the firearm, the person restrained shall be guilty of a misdemeanor. In any case, when a police officer is unable to locate the firearms and ammunition either registered under this chapter or known to the person granted protection by the court, the police officer shall apply to the court for a search warrant pursuant to chapter 803 for the limited purpose of seizing the firearm and ammunition.

(g) Except as provided in section 134-5, no person who is under the age of twenty-one shall own, possess, or control any ammunition for any firearm; provided that this subsection shall not apply to a person in an exempt category identified in section 134-11(a).

~~(g)~~ (h) Any person disqualified from ownership, possession, control, or the right to transfer ownership of firearms and ammunition under this section shall surrender or dispose of all firearms and ammunition in compliance with section 134-7.3.

~~[(h)]~~ (i) Any person who otherwise would be prohibited under subsection (b) from owning, possessing, or controlling a firearm and ammunition solely as a result of a conviction for a crime that is not a felony, and who is not prohibited from owning, possessing, or controlling a firearm or ammunition for any reason under any other provision of this chapter or under title 18 United States Code section 922 or another provision of federal law, shall not be prohibited under this section from owning, possessing, or controlling a firearm and ammunition if twenty years have elapsed from the date of the conviction.

~~[(i)]~~ (j) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a class B felony. Any person violating subsection (c), (d), (e), (f), ~~[(g)]~~, or ~~(h)~~ shall be guilty of a misdemeanor.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved July 9, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.