

JAN 23 2015

A BILL FOR AN ACT

RELATING TO FIREARMS AND AMMUNITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 291E, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§291E- Refusal to submit to breath, blood, or urine
5 test; surrender of firearms and ammunition. If any person under
6 arrest who is not a law enforcement officer refuses to submit to
7 a breath, blood, or urine test, in addition to the procedures
8 and sanctions under this part, that person shall be disqualified
9 from ownership, possession, or control of firearms and
10 ammunition for the duration of the refusal to submit to a
11 breath, blood, or urine test and shall voluntarily surrender all
12 firearms and ammunition to the chief of police where the person
13 resides within forty-eight hours or dispose of all firearms and
14 ammunition within forty-eight hours."

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



1 "(c) An applicant who is not a law enforcement officer for
2 a permit shall sign a waiver at the time of application,
3 allowing the chief of police of the county issuing the permit
4 access to any records that have a bearing on the mental health
5 of the applicant[-] and shall include with the permit
6 application form an affirmation that neither the applicant nor
7 any family or household member, as defined in section 709-906,
8 is or has been diagnosed as having a significant behavioral,
9 emotional, or mental disorder, as defined by the most current
10 diagnostic and statistical manual of the American Psychiatric
11 Association, that impairs the judgment, perception, or reasoning
12 necessary for the safe operation of a firearm. The affirmation
13 shall also state that if an applicant is granted a permit and
14 the person is subsequently disqualified from ownership,
15 possession, or control of firearms and ammunition pursuant to
16 section 134-7(c) (3) or (4), the person shall lock the firearm
17 with its integrated locking device or safety device, should it
18 be so equipped, and secure all firearms and ammunition where the
19 person resides in an appropriate, secured enclosed container, as
20 defined in section 134-25, within forty-eight hours or dispose
21 of all firearms and ammunition within forty-eight hours. The



1 permit application form [~~and the~~] waiver form, and affirmation
2 shall be prescribed by the attorney general and shall be uniform
3 throughout the State."

4 SECTION 3. Section 134-7, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) No person who:

7 (1) Is or has been under treatment or counseling for
8 addiction to, abuse of, or dependence upon any
9 dangerous, harmful, or detrimental drug, intoxicating
10 compound as defined in section 712-1240, or
11 intoxicating liquor;

12 (2) Has been acquitted of a crime on the grounds of mental
13 disease, disorder, or defect pursuant to section 704-
14 411; [~~or~~]

15 (3) Is or has been diagnosed as having a significant
16 behavioral, emotional, or mental [~~disorders~~] disorder,
17 as defined by the most current diagnostic and
18 statistical manual of the American Psychiatric
19 Association, that impairs the judgment, perception, or
20 reasoning necessary for the safe operation of a



1 firearm [~~or for treatment for organic brain~~
2 ~~syndromes~~]; or
3 (4) Lives with a family or household member, as defined in
4 section 709-906, who is or has been diagnosed as
5 having a significant behavioral, emotional, or mental
6 disorder, as defined by the most current diagnostic
7 and statistical manual of the American Psychiatric
8 Association, that impairs the judgment, perception, or
9 reasoning necessary for the safe operation of a
10 firearm,
11 shall own, possess, or control any firearm or ammunition
12 therefor, unless the person or family or household member, as
13 the case may be, has been medically documented to be no longer
14 adversely affected by the addiction, abuse, dependence, mental
15 disease, disorder, or defect. The restrictions of this
16 subsection shall not apply to law enforcement officers."

17 SECTION 4. Section 134-7.3, Hawaii Revised Statutes, is
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) If any applicant is denied a permit~~[7]~~ and is not a
20 law enforcement officer, the chiefs of police of the respective
21 counties shall send, by certified mail, a notice setting forth



1 the reasons for the denial and may require that the applicant
2 voluntarily surrender all firearms and ammunition to the chief
3 of police where the applicant resides or dispose of all firearms
4 and ammunition. If an applicant fails to voluntarily surrender
5 or dispose of all firearms and ammunition within thirty days
6 from the date notice was mailed, the chief of police may seize
7 all firearms and ammunition.

8 If an applicant is denied a permit because the applicant is
9 prohibited from owning, possessing, or controlling a firearm and
10 ammunition pursuant to section 134-7(c)(3) or (4), the chief of
11 police of the respective county shall send, by certified mail, a
12 notice setting forth the reason for the denial and require that
13 the applicant lock the firearm with its integrated locking
14 device or safety device, should it be so equipped, and secure
15 all firearms and ammunition where the person resides in an
16 appropriate, secured enclosed container, as defined in section
17 134-25, within forty-eight hours or dispose of all firearms and
18 ammunition within forty-eight hours. If the applicant fails to
19 lock up and secure, or dispose of, all firearms and ammunition
20 within forty-eight hours, the applicant shall be fined \$50 per



1 day of noncompliance, and the chief of police may seize all
2 firearms and ammunition.

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

11 Any person disqualified from ownership, possession, or
12 control of firearms and ammunition pursuant to section 134-
13 7(c)(3) or (4) or 291E- shall lock the firearm with its
14 integrated locking device or safety device, should it be so
15 equipped, and secure all firearms and ammunition where the
16 person resides in an appropriate, secured enclosed container, as
17 defined in section 134-25, within forty-eight hours or dispose
18 of all firearms and ammunition within forty-eight hours. If
19 that person fails to lock up and secure, or dispose of, all
20 firearms and ammunition within forty-eight hours, the person



1 shall be fined \$50 per day of noncompliance, and the chief of
2 police may seize all firearms and ammunition."

3 SECTION 5. Section 134-13, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§134-13 Revocation of permits[-] and licenses. All
6 permits and licenses provided for under this part may be
7 revoked, for good cause, including failure to pay child or
8 spousal support, by the issuing authority or by the judge of any
9 court. This revocation of permit or license shall not apply to
10 law enforcement officers."

11 SECTION 6. Section 291E-15, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§291E-15 Refusal to submit to breath, blood, or urine
14 test; subject to administrative revocation proceedings. If a
15 person under arrest who refuses to submit to a breath, blood, or
16 urine test, none shall be given, except as provided in section
17 291E-21. Upon the law enforcement officer's determination that
18 the person under arrest has refused to submit to a breath,
19 blood, or urine test, if applicable, then a law enforcement
20 officer shall:




- 1 (1) Inform the person under arrest of the sanctions under
2 section 291E- , 291E-41, 291E-65, or 291E-68; and
3 (2) Ask the person if the person still refuses to submit
4 to a breath, blood, or urine test, thereby subjecting
5 the person to the procedures and sanctions under part
6 III or section 291E-65, as applicable;
7 provided that if the law enforcement officer fails to comply
8 with paragraphs (1) and (2), the person shall not be subject to
9 the refusal sanctions under part III or IV."

10 SECTION 7. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 2015.

16

INTRODUCED BY: 



S.B. NO. 783

Report Title:

Mental Health; Firearm Permit Requirements; Psychological Clearance Requirements

Description:

Specifies that an additional penalty for refusal to submit to a breath, blood, or urine test and requires the surrender of all firearms and ammunition within possession. Requires firearms permit application forms to be accompanied by an affirmation that neither the applicant nor any family or household member is or has been diagnosed with or treated for certain mental disorders and that if the applicant or family or household member is subsequently diagnosed, the applicant shall lock and secure or surrender all firearms and ammunition within 48 hours. Requires payment of a fine of \$50 per day of noncompliance with the requirement to lock and secure, or surrender, firearms and ammunition within 48 hours. Specifies failure to pay child or spousal support as a good cause for revocation of a firearm permit or license. Creates an exemption for law enforcement officers.

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