A BILL FOR AN ACT

RELATING TO FIREARMS.

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

SECTION 1. Chapter 134, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . ASSAULT WEAPONS

§134-A Definitions. As used in this part:

"Assault weapon", excluding any firearm modified to render it permanently inoperable, means:

(1) Any selective-fire firearm capable of fully automatic, semiautomatic, or burst fire at the option of the user or any of the following specified semiautomatic firearms: Algimec Agmi; Armalite AR-180; Australian Automatic Arms SAP Pistol; Auto-Ordnance Thompson type; Avtomat Kalashnikov AK-47 type; Barrett Light-Fifty model 82A1; Beretta AR-70; Bushmaster Auto Rifle and Auto Pistol; Calico models M-900, M-950, and 100-P; Chartered Industries of Singapore SR-88; Colt AR-15 and Sporter; Daewoo K-1, K-2, Max-1, and Max-2;
Encom MK-IV, MP-9, and MP-45; Fabrique Nationale
FN/FAL, FN/LAR, or FN/FNC; FAMAS MAS 223; Feather AT-9
and Mini-AT; Federal XC-900 and XC-450; Franchi
SPAS-12 and LAW-12; Galil AR and ARM; Goncz High-Tech
Carbine and High-Tech Long Pistol; Heckler & Koch
HK-91, HK-93, HK-94, and SP-89; Holmes MP-83; MAC-10,
MAC-11, and MAC-11 Carbine type; Intratec TEC-9 and
Scorpion; Iver Johnson Enforcer model 3000; Ruger
Mini-14/5F folding stock model only; Scarab Skorpion;
SIG 57 AMT and 500 series; Spectre Auto Carbine and
Auto Pistol; Springfield Armory BM59, SAR-48, and G-3;
Sterling MK-6 and MK-7; Steyr AUG; Street Sweeper and
Striker 12 revolving cylinder shotguns; USAS-12; UZI
Carbine, Mini-Carbine, and Pistol; Weaver Arms
Nighthawk; or Wilkinson "Linda" Pistol;
(2) A part or combination of parts designed or intended to
convert a firearm into an assault weapon, as defined
in paragraph (1) of this definition, or any
combination of parts from which an assault weapon, as
defined in paragraph (1) of this definition, may be
rapidly assembled if those parts are in the possession
or under the control of the same person;

(3) Any semiautomatic firearm not listed in paragraph (1)
of this definition that meets the following criteria:

(A) A semiautomatic rifle that has an ability to
accept a detachable magazine and has at least two
of the following:

(i) A folding or telescoping stock;

(ii) A pistol grip that protrudes conspicuously
beneath the action of the weapon;

(iii) A bayonet mount;

(iv) A flash or sound suppressor or threaded
barrel designed to accommodate a flash or
sound suppressor; and

(v) A grenade launcher; or

(B) A semiautomatic pistol that has an ability to
accept a detachable magazine and has at least two
of the following:

(i) An ammunition magazine that attaches to the
pistol outside of the pistol grip;
(ii) A threaded barrel capable of accepting a
barrel extender, flash or sound suppressor,
or forward handgrip;

(iii) A shroud that is attached to, or partially
or completely encircles, the barrel and that
permits the shooter to hold the firearm with
the nontrigger hand without being burned;

(iv) A manufactured weight of fifty ounces or
more when the pistol is unloaded;

(v) A centerfire pistol with an overall length
of twelve inches or more; and

(vi) A semiautomatic version of an automatic
firearm.

It does not include an antique pistol as defined
in this chapter or a curio or relic as those
terms are used in title 18 United States Code
section 921(a)(13) or title 27 Code of Federal
Regulations section 478.11; or

(C) A semiautomatic shotgun that has at least two of
the following:

(i) A folding or telescoping stock;
(ii) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(iii) A fixed magazine capacity in excess of five rounds; and

(iv) An ability to accept a detachable magazine;

or

(4) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in paragraph (3) of this definition, or any combination of parts from which an assault weapon, as defined in paragraph (3) of this definition, may be rapidly assembled if those parts are in the possession or under the control of the same person.

§134-B Distribution, transfer, etc., of assault weapons prohibited; penalty. (a) Any person who, within this State, distributes, transports, imports, brings, or causes to be brought into the State, keeps for sale, or offers or exposes for sale, or who transfers any assault weapon, shall be guilty of a class B felony.

(b) This section shall not apply to the sale of assault weapons to the department of public safety, police departments,
state department of defense, or to the armed services of the United States in connection with the discharge of official duties.

§134-C Ownership, etc., of assault weapons prohibited; penalty. (a) Any person who, within this State, manufactures, possesses, sells, barters, trades, gifts, or acquires any assault weapon, shall be guilty of a class C felony.

(b) This section shall not apply to the sale of assault weapons to the department of public safety, police departments, state department of defense, or to the armed services of the United States in connection with the discharge of official duties.

§134-D Relinquishment of assault weapon to law enforcement. Any individual may arrange in advance to relinquish an assault weapon to a county police department or the department of public safety for disposal, without penalty."

SECTION 2. Section 134-1, Hawaii Revised Statutes, is amended by repealing the definition of "assault pistol".

[""Assault pistol" means a semiautomatic pistol that accepts a detachable magazine and has two or more of the following characteristics:}
(1) An ammunition magazine that attaches to the pistol outside of the pistol grip;
(2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward hand grip, or silencer;
(3) A shroud that is attached to or partially or completely encircles the barrel and permits the shooter to hold the firearm with the second hand without being burned;
(4) A manufactured weight of fifty ounces or more when the pistol is unloaded;
(5) A centerfire pistol with an overall length of twelve inches or more; or
(6) It is a semiautomatic version of an automatic firearm; but does not include a firearm with a barrel sixteen or more inches in length, an antique pistol as defined in this section, or a curio or relic as those terms are used in 18 United States Code section 921(a)(13) or 27 Code of Federal Regulations section 478.11.

SECTION 3. Section 134-4, Hawaii Revised Statutes, is amended to read as follows:
"§134-4 Transfer, possession of firearms. (a) No transfer of any rifle having a barrel length of sixteen inches or over or any shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner, or unregistered shall be made to any person under the age of eighteen years, except as provided by section 134-5.

(b) No person shall possess any firearm that is owned by another, regardless of whether the owner has consented to possession of the firearm, without a permit from the chief of police of the appropriate county, except as provided in subsection (c) and section 134-5.

(c) Any lawfully acquired rifle or shotgun may be lent to an adult for use within the State for a period not to exceed fifteen days without a permit; provided that where the rifle or shotgun is to be used outside of the State, the loan may be for a period not to exceed seventy-five days.

(d) No person shall knowingly lend a firearm to any person who is prohibited from ownership or possession of a firearm under section 134-7.
[(e) After July 1, 1992, no person shall bring or cause to be brought into the State an assault pistol. No assault pistol may be sold or transferred on or after July 1, 1992, to anyone within the State other than to a dealer licensed under section 134-32 or the chief of police of any county except that any person who obtains title by bequest or intestate succession to an assault pistol registered within the State shall, within ninety days, render the weapon permanently inoperable, sell or transfer the weapon to a licensed dealer or the chief of police of any county, or remove the weapon from the State.]

SECTION 4. Section 134-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any of the following is prohibited: [assault pistols, except as provided by section 134-4(e)], automatic firearms; rifles with barrel lengths less than sixteen inches; shotguns with barrel lengths less than eighteen inches; cannons; mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms; hand grenades, dynamite, blasting caps, bombs, or bombshells, or other explosives; or any type of ammunition or any projectile
component thereof coated with teflon or any other similar coating designed primarily to enhance its capability to penetrate metal or pierce protective armor; and any type of ammunition or any projectile component thereof designed or intended to explode or segment upon impact with its target."

SECTION 5. Section 706-660.1, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

"§706-660.1 Sentence of imprisonment for use of a firearm, [semi-automatic firearm-] assault weapon, or automatic firearm in a felony."

2. By amending subsections (3) and (4) to read:

"(3) A person convicted of a felony, where the person had [a semi-automatic firearm] an assault weapon or automatic firearm in the person's possession or used or threatened its use while engaged in the commission of the felony, whether the [semi-automatic firearm] assault weapon or automatic firearm was loaded or not, and whether operable or not, shall in addition to the indeterminate term of imprisonment provided for the grade of offense be sentenced to a mandatory minimum term of imprisonment
without possibility of parole or probation the length of which shall be as follows:

(a) For murder in the second degree and attempted murder in the second degree—twenty years;
(b) For a class A felony—fifteen years;
(c) For a class B felony—ten years; and
(d) For a class C felony—five years.

The sentence of imprisonment for a felony involving the use of an assault weapon or automatic firearm as provided in this subsection shall not be subject to the procedure for determining a minimum term of imprisonment prescribed under section 706-669; provided that a person who is imprisoned in a correctional institution as provided in this subsection shall become subject to the parole procedure as prescribed in section 706-670 only upon expiration of the term of mandatory imprisonment fixed under paragraph (a), (b), (c), or (d).

(4) In this section:

"Assault weapon" has the same meaning as defined in section 134-A.
"Automatic firearm" has the same meaning as defined in section 134-1.

"Firearm" has the same meaning as defined in section 134-1 except that it does not include ["semiautomatic firearm"] "assault weapon" or "automatic firearm".

["Semiautomatic firearm" means any firearm that uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.]"

SECTION 6. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

"§706-662 Criteria for extended terms of imprisonment. A defendant who has been convicted of a felony may be subject to an extended term of imprisonment under section 706-661 if it is proven beyond a reasonable doubt that an extended term of imprisonment is necessary for the protection of the public and that the convicted defendant satisfies one or more of the following criteria:

(1) The defendant is a persistent offender in that the defendant has previously been convicted of two or more
felonies committed at different times when the defendant was eighteen years of age or older;

(2) The defendant is a professional criminal in that:

(a) The circumstances of the crime show that the defendant has knowingly engaged in criminal activity as a major source of livelihood; or

(b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity;

(3) The defendant is a dangerous person in that the defendant has been subjected to a psychiatric or psychological evaluation that documents a significant history of dangerousness to others resulting in criminally violent conduct, and this history makes the defendant a serious danger to others. Nothing in this section precludes the introduction of victim-related data to establish dangerousness in accord with the Hawaii rules of evidence;

(4) The defendant is a multiple offender in that:
(a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for any felony; or
(b) The maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively, would equal or exceed in length the maximum of the extended term imposed or would equal or exceed forty years if the extended term imposed is for a class A felony;
(5) The defendant is an offender against the elderly, handicapped, or a minor eight years of age or younger in that:
(a) The defendant attempts or commits any of the following crimes: murder, manslaughter, a sexual offense that constitutes a felony under chapter 707, robbery, felonious assault, burglary, or kidnapping; and
(b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who has the status of being:
(i) Sixty years of age or older;

(ii) Blind, a paraplegic, or a quadriplegic; or

(iii) Eight years of age or younger; and

the person's status is known or reasonably should

be known to the defendant;

(6) The defendant is a hate crime offender in that:

(a) The defendant is convicted of a crime under

chapter 707, 708, or 711; and

(b) The defendant intentionally selected a victim or,

in the case of a property crime, the property

that was the object of a crime, because of

hostility toward the actual or perceived race,

religion, disability, ethnicity, national origin,

gender identity or expression, or sexual

orientation of any person. For purposes of this

subsection, "gender identity or expression"

includes a person's actual or perceived gender,

as well as a person's gender identity, gender-

related self-image, gender-related appearance, or

gender-related expression, regardless of whether

that gender identity, gender-related self-image,
gender-related appearance, or gender-related
expression is different from that traditionally
associated with the person's sex at birth; [ex]

(7) The defendant is convicted under section 707-702.5 and
the defendant did not remain at the scene of the crime
and render reasonable assistance to an injured person,
including acts and omissions in violation of section
291C-12[-]; or

(8) The defendant uses an assault weapon, as defined in
section 134-A, in the course of committing murder in
the first or second degree, manslaughter, kidnapping,
sexual assault, assault in the first or second degree,
robbery, burglary, or theft.

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

SECTION 8. If any provision of this Act, or the
application thereof to any person or circumstance, is held
invalid, the invalidity does not affect other provisions or
applications of the Act that can be given effect without the
invalid provision or application, and to this end the provisions
of this Act are severable.

SECTION 9. In codifying the new sections added by section
1 of this Act, the revisor of statutes shall substitute
appropriate section numbers for the letters used in designating
the new sections in this Act.

SECTION 10. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

INTRODUCED BY:
Report Title:
Firearms; Assault Weapons; Ban

Description:
Prohibits any person from distributing, transporting, importing, bringing, or causing to be brought into the State; keeping for sale, or offering or exposing for sale; or transferring, manufacturing, possessing, selling, bartering, trading, gifting, or acquiring any assault weapon. Defines assault weapon. Authorizes the courts to impose an extended term of imprisonment for an offender who uses an assault weapon in the course of committing certain crimes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.