

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO FIREARMS.

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

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

4                           **"PART . FIREARM INDUSTRY RESPONSIBILITY**

5           **§134-A Definitions.** As used in this part:

6           "Firearm accessory" means an attachment or device designed  
7 or adapted to be inserted into, affixed onto, or used in  
8 conjunction with a firearm that is designed, intended, or  
9 functions to alter or enhance the firing capabilities of the  
10 firearm, the lethality of the firearm, or a shooter's ability to  
11 hold or use a firearm.

12           "Firearm industry member" means a person, firm,  
13 corporation, company, partnership, society, joint stock company,  
14 or any other entity or association engaged in the manufacture,  
15 distribution, importation, marketing, wholesale, or retail sale  
16 of firearm-related products.



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1 "Firearm precursor part" means any forging, casting,  
2 printing, extrusion, machined body, or similar article that has  
3 reached a state in manufacture where it may readily be  
4 completed, assembled, or converted to be used as the frame or  
5 receiver of a functional firearm, or that is marketed or sold to  
6 the public to become or be used as the frame or receiver of a  
7 functional firearm once completed, assembled, or converted.

8 "Firearm-related product" means a firearm, ammunition, a  
9 firearm precursor part, a firearm component, or a firearm  
10 accessory that meets any of the following conditions:

- 11 (1) The item is sold, made, or distributed in the State;
- 12 (2) The item is intended to be sold or distributed in the  
13 State; or
- 14 (3) The item is or was possessed in the State and it was  
15 reasonably foreseeable that the item would be  
16 possessed in the State.

17 "Reasonable controls" means reasonable procedures, acts, or  
18 practices that are designed, implemented, and enforced to do the  
19 following:

- 20 (1) Prevent the sale or distribution of a firearm-related  
21 product to a straw purchaser, a firearm trafficker, a



1 person prohibited from possessing a firearm under  
2 state or federal law, or a person who the firearm  
3 industry member has reasonable cause to believe is at  
4 substantial risk of using a firearm-related product to  
5 harm themselves or another or of possessing or using a  
6 firearm-related product unlawfully;

7 (2) Prevent the loss or theft of a firearm-related product  
8 from the firearm industry member; and

9 (3) Ensure that the firearm industry member complies with  
10 all provisions of state and federal law and does not  
11 otherwise promote the unlawful manufacture, sale,  
12 possession, marketing, or use of a firearm-related  
13 product.

14 **§134-B Firearm industry members; standards of conduct.**

15 (a) It shall be a violation of this part for a firearm industry  
16 member to fail to comply with any requirement of this part.

17 (b) A firearm industry member shall:

18 (1) Establish, implement, and enforce reasonable controls;

19 (2) Take reasonable precautions to ensure that the firearm  
20 industry member does not sell, distribute, or provide  
21 a firearm-related product to a downstream distributor



1           that is abnormally dangerous and likely to create an  
2           unreasonable risk of harm to public health and safety  
3           in the State; and

4           (3) Not engage in any conduct related to the sale or  
5           marketing of firearm-related products that is in  
6           violation of this chapter.

7           (c) For the purposes of this part, a firearm-related  
8           product shall not be considered abnormally dangerous and likely  
9           to create an unreasonable risk of harm to public health and  
10          safety based on a firearm's inherent capacity to cause injury or  
11          lethal harm.

12          (d) There shall be a presumption that a firearm-related  
13          product is abnormally dangerous and likely to create a public  
14          health and safety risk if any of the following is true:

15          (1) The firearm-related product's features render the  
16          product most suitable for assaultive purposes instead  
17          of lawful self-defense, hunting, or other legitimate  
18          sport and recreational activities;

19          (2) The firearm-related product is designed, sold, or  
20          marketed in a manner that foreseeably promotes the



1 conversion of legal firearm-related products into  
2 illegal firearm-related products; or

3 (3) The firearm-related product is designed, sold, or  
4 marketed in a manner that is targeted at minors or  
5 other individuals who are legally prohibited from  
6 accessing firearms.

7 **§134-C Violations; who may sue; relief.** (a) An act or  
8 omission by a firearm industry member in violation of this part  
9 shall constitute an actionable cause of action.

10 (b) A person who has suffered harm in the State because of  
11 a firearm member's violation of this part may bring an action in  
12 a court of competent jurisdiction.

13 (c) In addition to any lawsuit filed against a firearm  
14 owner pursuant to section 663-9.5, the attorney general or any  
15 county attorney or public prosecutor may bring a civil action in  
16 a court of competent jurisdiction in the name of the people of  
17 the State to enforce this part and remedy harm caused by a  
18 violation of this part.

19 (d) If a court determines that a firearm industry member  
20 engaged in conduct in violation of this part, the court may  
21 award any or all of the following:



1           (1) Injunctive relief sufficient to prevent the firearm  
2           industry member and any other defendant from further  
3           violating the law;

4           (2) Damages;

5           (3) Attorney's fees and costs; and

6           (4) Any other appropriate relief necessary to enforce this  
7           part and remedy the harm caused by the conduct.

8           (e) In an action alleging that a firearm industry member  
9           failed to establish, implement, and enforce reasonable controls  
10          in violation of section 134-B(b), there shall be a rebuttable  
11          presumption that the firearm industry member failed to implement  
12          reasonable controls if the following conditions are satisfied:

13          (1) The firearm industry member's action or failure to act  
14          created a reasonably foreseeable risk that the harm  
15          alleged by the claimant would occur; and

16          (2) The firearm industry member could have established,  
17          implemented, and enforced reasonable controls to  
18          prevent or substantially mitigate the risk that the  
19          harm would occur.

20          (f) If a rebuttable presumption is established pursuant to  
21          subsection (e), the firearm industry member shall have the



1 burden of showing through a preponderance of evidence that the  
2 firearm industry member established, implemented, and enforced  
3 reasonable controls.

4 (g) An intervening act by a third party, including but not  
5 limited to criminal use of a firearm-related product, shall not  
6 preclude a firearm industry member from liability under this  
7 part.

8 **§134-D Interpretation of part.** (a) Nothing in this part  
9 shall be construed to limit or impair in any way the right of a  
10 person or entity to pursue a legal action under any other  
11 authority.

12 (b) Nothing in this part shall be construed to limit or  
13 impair in any way an obligation or requirement placed on a  
14 firearm industry member by any other authority.

15 (c) This part shall be construed and applied in a manner  
16 that is consistent with the requirements of the Hawaii State  
17 Constitution and the United States Constitution."

18 SECTION 2. If any provision of this Act, or the  
19 application thereof to any person or circumstance, is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act that can be given effect without the



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1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. In codifying the new sections added by section  
7 1 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10 SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: \_\_\_\_\_

*Karl Rhoad*





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**Report Title:**

Firearms; Firearm Industry Members; Standards of Conduct;  
Liability; Right of Action

**Description:**

Establishes standards of conduct for firearm industry members.  
Authorizes the attorney general or any county attorney or public  
prosecutor to bring a civil action against a firearm industry  
member for violation of standards of conduct.

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

