

HOUSE OF REPRESENTATIVES

H.B. NO.

981

THIRTY-SECOND LEGISLATURE, 2023

H.D. 1

STATE OF HAWAII

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A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY BACKGROUND CHECKS.

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

SECTION 1. Section 134-83, Hawaii Revised Statutes, is amended to read as follows:

**"[~~F~~§134-83[~~F~~] License to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges; fee.** (a) Any person desiring to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges to a person in the State, either at wholesale or retail, shall annually file an application for a license to do so with the county in which the person desires to conduct business or within the county to which the person intends the electric guns or cartridges to be sold, offered for sale, distributed, or otherwise transferred using forms prescribed by the county.

(b) If the applicant is an individual, the application and supporting documentation shall establish at least the following:

(1) The legal name, date of birth, and [~~the~~] last four digits of the social security number of the individual;

- (2) The street address, telephone number, fax number, and electronic mail address of the individual;
  - (3) The name and location of the principal place of business of the individual and, if applicable, each additional designated place of business from which the individual desires to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges;
  - (4) The individual's Hawaii tax identification number;
  - (5) That the individual has had no convictions for any felony offense;
  - (6) Within the last three years, that the individual has completed an electric gun safety or training course offered or approved by the county that focuses on:
    - (A) The safe use and handling of electric guns;
    - (B) Current information about the effects, dangers, risks, and limitations of electric guns; and
    - (C) Education on the existing state laws on electric guns; and
  - (7) Any other information the county may require.
- (c) If the applicant is not an individual, the application and supporting documentation shall establish at least the following:
- (1) The name of the applying entity and any other name under which the applying entity does business, if applicable;
  - ~~(2). The legal name of the responsible person and any other names used by the responsible person, if applicable;~~
  - ~~(2)~~ (3). The street address, telephone number, fax number, and electronic mail address of the applying entity;
  - ~~(3)~~ (4). The ~~[legal name,]~~ date of birth~~;~~ and ~~[the]~~ last four digits of the social security number of ~~[each of the principal owners or members of the applying entity;]~~ the responsible person;
  - ~~(4)~~ (5). The street address, telephone number, fax number, and electronic mail address of ~~[each of the principal owners or members of the applying entity;]~~ the responsible person;
  - ~~(5)~~ (6). The name and location of the principal place of business of the applying entity and, if applicable, each additional designated place of business from which the applying entity desires to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges;
  - ~~(6)~~ (7). That the applying entity is registered to do business in the State;
  - ~~(7)~~ (8). That the ~~[applying entity is composed of principal owners or members who have]~~ responsible person has had no convictions for any felony offense;
  - ~~(8)~~ (9). The applying entity's Hawaii tax identification number;
  - ~~(9)~~ (10). The applying entity's federal employer identification number;
  - ~~(10)~~ (11). Within the last three years, ~~[that at least one principal owner or member of the applying entity]~~ the responsible person has completed an electric gun safety or training course, as described in subsection (b)(6); and
  - ~~(11)~~ (12). Any other information the county may require.

(d) The applicant shall certify that the applicant will comply at all times with, and is responsible for compliance by its employees with, all provisions of law relative to the acquisition, possession, storage, sale, offer for sale, distribution, and transfer of electric guns and cartridges.

(e) Every applicant or, in the case of an applying entity, every responsible person shall be fingerprinted and photographed by the police department of the county of application; provided that this requirement shall be waived where fingerprints and photographs are already on file with the police department for a prior application under this section. The police department may perform a fingerprint-based criminal history record check pursuant to section 846-2.7, before any determination to issue a license is made. The applicant, responsible person, or applying entity shall be responsible for all applicable fees. No license shall issue if the applicant or responsible person has any conviction for any felony offense.

~~[(e)]~~ (f) Upon receipt of the completed application form and the annual licensing fee of \$50 payable to the county, the county shall review the application and may issue a license to the applicant if it determines that the applicant meets all the requirements of this section. If requested by the licensee, the county shall also provide certified copies of the license to the licensee.

~~[(f)]~~ (g) A license issued pursuant to this section shall expire on June 30 next following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before July 1 of each year.

(h) For the purposes of this section:

"Applying entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, that applies for a license to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges to a person in the State.

"Responsible person" means a partner of an applying entity, or anyone having the power to direct the management, policies, and practices of an applying entity as it pertains to electric guns. In a corporation, "responsible person" includes corporate officers, shareholders, board members, or any other employees with the legal authority described above."

SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;

(18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;

(19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;

(20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;

(21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;

(22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;

(23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;

(24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;

(25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;

(26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;

(27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

(28) The department of commerce and consumer affairs on:

(A) Each principal of every non-corporate applicant for a money transmitter license;

(B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and

(C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,

as provided by sections 489D-9 and 489D-15;

(29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;

(30) The Hawaii health systems corporation on:

- (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors,
- in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
- (A) An applicant for a mortgage loan originator license, or license renewal; and
  - (B) Each control person, executive officer, director, general partner, and managing member of an applicant for a mortgage loan originator company license or license renewal,
- as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions that involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions that involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on:
- (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
  - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and
  - (C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;

- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
- (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
- (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 ~~and~~, on individuals registering their firearms pursuant to section 134-3~~;~~, and on applicants and responsible persons, as defined in section 134-83(h), for licenses to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges pursuant to section 134-83;
- (44) The department of commerce and consumer affairs on:
- (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
  - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of such application,
- as provided by chapter 449;
- (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;
- (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
- (47) The department of human services on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees, or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5;
- (49) The department of the attorney general on current or prospective employees or employees or agents of contractors who have access to federal tax information to comply with requirements of federal law, regulation, or procedure, as provided by section 28-17;
- ~~[(50)]~~ The department of commerce and consumer affairs on each control person, executive office, director, general partner, and managing member of an installment loan licensee, or an application for an installment loan license, as provided in chapter 480J;
- ~~[(51)]~~ The University of Hawaii on current and prospective employees and contractors whose duties include ensuring the security of campus facilities and persons; and
- ~~[(52)]~~ Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that the amendments made to section 846-2.7, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 28 of Act 278, Session Laws of Hawaii 2022, takes effect on January 1, 2024.

**Report Title:**

Electric Guns; Sellers; Distributors; Licensing; Criminal History Record Check

**Description:**

Authorizes a fingerprint-based criminal history record check by the county police departments of applicants for licenses to sell, offer to sell, distribute, or otherwise transfer electric guns or cartridges. (HD1)

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