

GOV. MSG. NO. 771

#### EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE

May 30, 2008

The Honorable Colleen Hanabusa, President and Members of the Senate Twenty-Fourth State Legislature State Capitol, Room 409 Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 30, 2008, the following bill was signed into law:

HB2204 HD1 SD1 CD1

A BILL FOR AN ACT RELATING TO THE LIABILITY OF A FIREARM OWNER. (ACT 129)

Sincerely,

LINDA LINGLE

Approved by the Governor MAY 3 0 2008

HOUSE OF REPRESENTATIVES TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII

### ACT 129 H.B. NO. <sup>2204</sup> H.D. 1 S.D. 1 C.D. 1

## A BILL FOR AN ACT

RELATING TO THE LIABILITY OF A FIREARM OWNER.

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

1	SECTION 1. Section 663-9.5, Hawaii Revised Statutes, is
2	amended to read as follows:
3	"§663-9.5 Liability of firearm owners. (a) The owner of
4	a firearm, if the discharge of the firearm proximately causes
5	either personal injury or property damage to any person, shall
6	be absolutely liable for [ <del>such</del> ] <u>the</u> damage.
7	(b) It shall be an affirmative defense to [ <del>such</del> ] <u>the</u>
8	absolute liability that [the]:
9	(1) The firearm was not in the possession of the owner
10	[ <del>and was</del> ] <u>;</u>
11	(2) The firearm was taken from the owner's possession
12	without the owner's permission; and [the]
13	(3) The owner either [had reported]:
14	(A) Reported the theft to the police prior to the
15	discharge; or[ <del>, despite</del> ]
16	(B) Despite the exercise of reasonable care[, had]:

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covered	the	theft	prior	to	the	

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1	(i) Had not discovered the theft prior to the			
2	discharge <u>;</u> or [ <del>was</del> ]			
3	(ii) Was not reasonably able to report the theft			
4	to the police prior to the discharge.			
5	(c) This section shall not apply when the discharge of the			
6	firearm was legally justified.			
7	(d) The absolute liability under subsection (a) shall not			
8	apply to the State or counties for the use of a firearm owned by			
9	the State or county, as applicable, and used by a law			
10	enforcement officer employed by the State or county, outside of			
11	the course and scope of employment as a law enforcement officer;			
12	provided that this section shall not be construed to relieve the			
13	State and counties from any other tort liability that may be			
14	applicable to the State or counties."			
15	SECTION 2. This Act does not affect rights and duties that			
16	matured, penalties that were incurred, and proceedings that were			
17	begun, before its effective date.			
18	SECTION 3. Statutory material to be repealed is bracketed			
19	and stricken. New statutory material is underscored.			
20	SECTION 4. This Act shall take effect upon its approval.			

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APPROVED this 30 day of

MAY , 2008

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GOVERNOR OF THE STATE OF HAWAII