

JAN 18 2007

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# A BILL FOR AN ACT

RELATING TO OPEN CARRY LICENSE OF 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 section to be appropriately designated  
3 and to read as follows:

4           The licensee shall carry the license, together with valid  
5 identification, at all times in which the licensee is in actual  
6 possession of a concealed firearm and shall display both the  
7 license and proper identification upon demand by a law  
8 enforcement officer. Violations of this subsection shall  
9 constitute a petty misdemeanor, provided that the maximum term  
10 of imprisonment shall be three days, and the maximum fine shall  
11 be \$500.

12           (b) The appropriate chief of police shall issue a license  
13 if the applicant:

14           (1) Is a citizen of the United States;

15           (2) Has resided in the State for at least six months or is  
16 a member of, or spouse of a member of, the military  
17 stationed in the State, or a retired law enforcement;



- 1        (3) Is twenty-three years of age or older;
- 2        (4) Is not ineligible to possess a firearm pursuant to
- 3        section 134-7;
- 4        (5) Has demonstrated competence with a firearm by meeting
- 5        the training requirements of 134-2(g), to include
- 6        practical training in drawing and replacing a handgun
- 7        from and to a holster or any other practical means of
- 8        carrying a concealed handgun. A photocopy of an
- 9        affidavit from the certified instructor or standard
- 10       government form from the government agency providing
- 11       said training, attesting to the successful completion
- 12       of the training, shall constitute evidence of
- 13       qualification under this paragraph.
- 14       (6) Does not chronically and habitually use intoxicating
- 15       liquor or other substances to the extent that the
- 16       person's normal faculties are impaired. It shall be
- 17       presumed that an applicant chronically and habitually
- 18       uses intoxicating liquor or other substances to the
- 19       extent that the person's normal faculties are impaired
- 20       if the applicant:
- 21            (A) Has been committed under the substance abuse
- 22                    provisions of chapter 334;



- 1           (B) Has been convicted of any offense relating to  
2                   dangerous, harmful, or detrimental drug,  
3                   intoxicating compound or liquor, or marijuana  
4                   under part IV of chapter 712;
- 5           (C) Has been deemed a habitual offender under section  
6                   291E-61.5; or
- 7           (D) Has had two or more convictions under section  
8                   291E-61, or similar laws of any other state,  
9                   within the three-year period immediately  
10                  preceding the date on which the application is  
11                  submitted;
- 12          (7) Desires a legal means to carry a concealed firearm for  
13                  lawful purposes;
- 14          (8) Has not been adjudicated an incapacitated person as  
15                  defined under section 554B-1 or 560:5-102, or similar  
16                  laws of any other state, unless five years have  
17                  elapsed since the applicant's restoration to capacity  
18                  by court order;
- 19          (9) Has not been committed to a mental institution under  
20                  chapter 334, or similar laws of any other state,  
21                  unless the applicant produces a certificate from a  
22                  licensed psychiatrist that the applicant has not



1 suffered from disability for at least five years prior  
2 to the date of submission of the application, and is  
3 highly unlikely to relapse; and

4 (10) Has not had adjudication of guilt withheld or  
5 imposition of sentence suspended on any felony, unless  
6 three years have elapsed since probation or any other  
7 conditions set by the court have been fulfilled, or  
8 the record has been sealed or expunged.

9 (c) The appropriate chief of police may deny a license if  
10 the applicant has been found guilty of one or more crimes of  
11 violence constituting a misdemeanor, unless three years have  
12 elapsed since probation or any other conditions set by the court  
13 have been fulfilled, or the record has been sealed or expunged.  
14 The chief of police may deny a license if the applicant has been  
15 found guilty of one or more crimes of violence constituting a  
16 felony, unless the record has been expunged. The chief of  
17 police, may revoke a license if the licensee has been found  
18 guilty of one or more misdemeanor or felony crimes of violence  
19 within the preceding three years and shall revoke the license if  
20 so ordered by the court. The chief of police, upon notification  
21 by a law enforcement agency, a court, or the attorney general,  
22 and subsequent written verification, shall suspend a license or



1 the processing of an application for a license if the licensee  
2 or applicant is arrested or formally charged with a crime that  
3 would disqualify the person from having a license under this  
4 section, until final disposition of the case.

5 (d) The application shall be completed, under oath, on a  
6 form prescribed by the attorney general, which shall be uniform  
7 throughout the State, and shall include:

8 (1) The name, address, place and date of birth, race, and  
9 occupation of the applicant;

10 (2) A statement that the applicant is in compliance with  
11 criteria contained within subsections (b) and (c);

12 (3) A statement that the applicant has been furnished a  
13 copy of this chapter and is knowledgeable of its  
14 provisions;

15 (4) A conspicuous warning that the application is executed  
16 under oath and that a false answer to any question, or  
17 the submission of any false document by the applicant,  
18 subjects the applicant to criminal prosecution under  
19 section 134-17(a); and

20 (5) A statement that the applicant desires a concealed  
21 weapon or firearm license for lawful purposes.



1        (e) The applicant shall submit to the appropriate chief of  
2 police:

3        (1) A completed application as described in subsection  
4        (d);

5        (2) A nonrefundable license fee not to exceed \$100, if the  
6        applicant has not previously been issued a license, or  
7        a nonrefundable license fee not to exceed \$50 for  
8        renewal of a license. Costs for processing the set of  
9        fingerprints as required in paragraph (3) shall be  
10       borne by the applicant. If any individual described  
11       in section 134-11(a)(1) or (4) wishes to receive a  
12       concealed weapon or firearm license, the person is  
13       exempt from the background investigation and all  
14       background investigation fees, but shall pay the  
15       current license fees regularly required to be paid by  
16       nonexempt applicants; provided further that the person  
17       is exempt from the required fees and background  
18       investigation for a period of one year subsequent to  
19       the date of retirement of the person;

20       (3) A full set of fingerprints of the applicant  
21       administered by a law enforcement agency;



- 1        (4) A photocopy of a certificate or an affidavit or  
2        document as described in subsection (b) (7); and
- 3        (5) A full frontal view color photograph of the applicant  
4        taken within the preceding thirty days, in which the  
5        head, including hair, measures seven-eighths of an  
6        inch wide and one and one-eighth inches high.
- 7        (f) (1) The appropriate chief of police, upon receipt of  
8        the items listed in subsection (e), shall forward  
9        within three working days the full set of fingerprints  
10       of the applicant to the attorney general and the  
11       Federal Bureau of Investigation for state and federal  
12       processing; provided the federal service is available.  
13       The cost of processing the fingerprints shall be  
14       payable to the State;
- 15       (2) The county police department shall provide  
16       fingerprinting service, if requested by the applicant,  
17       and may charge a fee not to exceed \$5 for this  
18       service;
- 19       (3) The appropriate county chief of police, within forty-  
20       five days after the date of receipt of the items  
21       listed in subsection (e), shall:
- 22       (A) Issue the license;



1           (B) Deny the application based solely on the ground  
2           that the applicant fails to qualify under  
3           subsection (b) or (c). Upon a denial of the  
4           application, the chief of police shall notify the  
5           applicant in writing, stating the ground for  
6           denial and informing the applicant of any right  
7           to a hearing pursuant to subsection (k); or

8           (C) Suspend the time limitation prescribed by this  
9           paragraph if the chief of police receives  
10           criminal history information with no final  
11           disposition on a crime that may disqualify the  
12           applicant until receipt of the final disposition  
13           or proof of restoration of civil and firearm  
14           rights;

15           (4) If a legible set of fingerprints, as determined by the  
16           attorney general or the Federal Bureau of  
17           Investigation, cannot be obtained after two attempts,  
18           the attorney general shall determine eligibility based  
19           upon name checks conducted by the criminal justice  
20           data center; and

21           (5) If the appropriate county chief of police fails to  
22           issue or deny the license within forty-five days after





1           the date of receipt of the items listed in subsection  
2           (e) or within such further time as may be necessary  
3           under paragraph (3)(C), the application shall be  
4           deemed denied and the applicant shall have the right  
5           to a hearing as provided in subsection (k).

6           (g) The attorney general shall maintain an automated  
7           listing of license holders and pertinent information, which  
8           shall be available on the internet, upon request, at all times  
9           to all law enforcement agencies through the criminal justice  
10           data center.

11           (h) Within thirty days after the changing of a permanent  
12           address, or within thirty days after having a license lost or  
13           destroyed, the licensee shall notify the appropriate chief of  
14           police of the change or loss. Failure to notify the appropriate  
15           chief of police pursuant to this subsection shall constitute a  
16           noncriminal violation with a penalty of a \$25 fine.

17           (i) If a concealed firearm license is lost or destroyed,  
18           the license shall be automatically invalid, and the person to  
19           whom the license was issued, upon payment of \$15 to the  
20           appropriate chief of police, may obtain a duplicate, or  
21           substitute thereof, upon furnishing a notarized statement to the  
22           chief of police that the license has been lost or destroyed.



1        (j) A license issued under this section shall be suspended  
2 or revoked by the chief of police, pursuant to subsection (k),  
3 if the licensee is found to be or subsequently becomes  
4 ineligible under the criteria set forth in subsection (b) or  
5 (c).

6        (k) Any person denied a license, or who has a license  
7 suspended or revoked under this section shall have the right to  
8 a hearing on the denial, suspension, or revocation, subject to  
9 the requirements for contested cases and judicial review under  
10 chapter 91.

11        (l) Not less than ninety days prior to the expiration date  
12 of the license, the appropriate county chief of police shall  
13 mail to each licensee a written notice of the expiration and a  
14 renewal form prescribed by the attorney general, which shall be  
15 uniform through the State. The licensee must renew the license,  
16 on or before the expiration date, by filing with the appropriate  
17 county chief of police the renewal form containing: a notarized  
18 affidavit stating that the licensee remains qualified pursuant  
19 to the criteria specified in subsections (b) and (c); a color  
20 photograph as specified in paragraph (e) (5); and the required  
21 renewal fee. The license shall be renewed upon receipt of the  
22 completed renewal form, color photograph, appropriate payment of



1 fees, and, if applicable, a completed fingerprint card.  
2 Additionally, a licensee who fails to file a renewal application  
3 on or before its expiration date shall renew the license by  
4 paying a late fee of \$15. No license shall be renewed six  
5 months or more after its expiration date, and the license shall  
6 be deemed to be permanently expired. A person whose license has  
7 permanently expired may reapply for licensure; however, an  
8 application for licensure and fees pursuant to subsection (e)  
9 shall be submitted, and a background investigation shall be  
10 conducted pursuant to this section. Persons who knowingly file  
11 false information pursuant to this subsection shall be subject  
12 to criminal prosecution under section 134-17(a).

13 (m) No license issued pursuant to this section shall  
14 authorize any person to carry a concealed firearm into any:

- 15 (1) Place of nuisance pursuant to section 712-1270;  
16 (2) Police station;  
17 (3) Detention facility, prison, or jail;  
18 (4) Courthouse, except where permitted by subsection (5)  
19 of this section;  
20 (5) Courtroom, except that nothing in this section shall  
21 preclude a judge from carrying a concealed weapon or



- 1           determining who may carry a concealed weapon in the  
2           courtroom;
- 3           (6) Polling place;
- 4           (7) Meeting of the governing body of a county or any  
5           political subdivision, the board of education, or any  
6           neighborhood board;
- 7           (8) Meeting of the legislature or a committee thereof;
- 8           (9) School administration building;
- 9           (10) Elementary or secondary school facility;
- 10          (11) Designated federal security screening area within the  
11          passenger terminal and sterile area of any airport;  
12          and
- 13          (12) Locked psychiatric units.
- 14          Any person who intentionally or knowingly violates any  
15 provision of this subsection shall be guilty of a class C  
16 felony.
- 17          (n) All funds received by a county police department  
18 pursuant to this section shall be deposited into the general  
19 fund of the respective county and shall be budgeted to the  
20 police department.



1        (o) The attorney general shall maintain statistical  
2 information on the number of licenses issued, revoked,  
3 suspended, and denied."

4        SECTION 2. Section 134-2, Hawaii Revised Statutes, is  
5 amended by amending subsection (e) to read as follows:

6        "(e) The permit application form shall be signed by the  
7 applicant and by the issuing authority. One copy of the permit  
8 shall be retained by the issuing authority as a permanent  
9 official record. Except for sales to dealers licensed under  
10 section 134-31, or dealers licensed by the United States  
11 Department of the Justice, or law enforcement officers, or where  
12 a license is granted under sections 134-9 and 134- , or where  
13 any firearm is registered pursuant to section 134-3(a), no  
14 permit shall be issued to an applicant earlier than fourteen  
15 calendar days after the date of the application; provided that a  
16 permit shall be issued or the application denied before the  
17 twentieth day from the date of application. Permits issued to  
18 acquire any pistol or revolver shall be void unless used within  
19 ten days after the date of issue. Permits to acquire a pistol  
20 or revolver shall require a separate application and permit for  
21 each transaction. Permits issued to acquire any rifle or  
22 shotgun shall entitle the permittee to make subsequent purchases



1 of rifles or shotguns for a period of one year from the date of  
2 issue without a separate application and permit for each  
3 acquisition, subject to the disqualifications under section 134-  
4 7 and subject to revocation under section 134-13; provided that  
5 if a permittee is arrested for committing a felony or any crime  
6 of violence or for the illegal sale of any drug, the permit  
7 shall be impounded and shall be surrendered to the issuing  
8 authority. The issuing authority shall perform an inquiry on an  
9 applicant who is a citizen of the United States by using the  
10 National Instant Criminal Background Check System before any  
11 determination to issue a permit or to deny an application is  
12 made. If the applicant is not a citizen of the United States  
13 and may be eligible to acquire a firearm under this chapter, the  
14 issuing authority shall perform an inquiry on the applicant, by  
15 using the National Instant Criminal Background Check System, to  
16 include a check of the Immigration and Customs Enforcement  
17 databases, where the applicant is not a citizen of the United  
18 States, before any determination to issue a permit or to deny an  
19 application is made."

20 SECTION 3. Section 134-11, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "~~§~~134-11 Exemptions. (a) Sections 134-7 [~~to 134-9~~] and  
2 134-21 to [134-27] 134-\_\_, except section 134-7(f), shall not  
3 apply:

4           (1) To state and county law enforcement officers; provided  
5 that such persons are not convicted of an offense  
6 involving abuse of a family or household member under  
7 section 709-906;

8           (2) To members of the armed forces of the State and of the  
9 United States and mail carriers while in the  
10 performance of their respective duties if those duties  
11 require them to be armed;

12           (3) To regularly enrolled members of any organization duly  
13 authorized to purchase or receive the weapons from the  
14 United States or from the State; provided the members  
15 are either at, or going to or from, their places of  
16 assembly or target practice;

17           (4) To persons employed by the State, or subdivisions  
18 thereof, or the United States while in the performance  
19 of their respective duties or while going to and from  
20 their respective places of duty if those duties  
21 require them to be armed;



1           (5) To aliens employed by the State, or subdivisions  
2                   thereof, or the United States while in the performance  
3                   of their respective duties or while going to and from  
4                   their respective places of duty if those duties  
5                   require them to be armed; and

6           (6) To police officers on official assignment in Hawaii  
7                   from any state which by compact permits police  
8                   officers from Hawaii while on official assignment in  
9                   that state to carry firearms without registration.  
10           The governor of the State or the governor's duly  
11           authorized representative may enter into compacts with  
12           other states to carry out this paragraph.

13           (b) Sections 134-2 and 134-3 shall not apply to such  
14           firearms or ammunition that are a part of the official equipment  
15           of any federal agency.

16           (c) Sections 134-8, [~~134-9,~~] and 134-21 to [~~134-27~~] 134-  
17           , shall not apply to the possession, transportation, or use,  
18           with blank cartridges, of any firearm or explosive solely as  
19           props for motion picture film or television program production  
20           when authorized by the chief of police of the appropriate county  
21           pursuant to section 134-2.5 and not in violation of federal  
22           law."





1 SECTION 4. Section 134-23, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in section 134-5 and 134-\_\_, all  
4 firearms shall be confined to the possessor's place of business,  
5 residence, or sojourn; provided that it shall be lawful to carry  
6 unloaded firearms in an enclosed container from the place of  
7 purchase to the purchaser's place of business, residence, or  
8 sojourn, or between these places upon change of place of  
9 business, residence, or sojourn, or between these places and the  
10 following:

- 11 (1) A place of repair;
- 12 (2) A target range;
- 13 (3) A licensed dealer's place of business;
- 14 (4) An organized, scheduled firearms show or exhibit;
- 15 (5) A place of formal hunter or firearm use training or  
16 instruction; or
- 17 (6) A police station.

18 "Enclosed container" means a rigidly constructed  
19 receptacle, or a commercially manufactured gun case, or the  
20 equivalent thereof that completely encloses the firearm."

21 SECTION 5. Section 134-24, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) Except as provided in section 134-5 and 134-\_\_\_, all  
2 firearms shall be confined to the possessor's place of business,  
3 residence, or sojourn; provided that it shall be lawful to carry  
4 unloaded firearms in an enclosed container from the place of  
5 purchase to the purchaser's place of business, residence, or  
6 sojourn, or between these places upon change of place of  
7 business, residence, or sojourn, or between these places and the  
8 following:

- 9           (1) A place of repair;
- 10          (2) A target range;
- 11          (3) A licensed dealer's place of business;
- 12          (4) An organized, scheduled firearms show or exhibit;
- 13          (5) A place of formal hunter or firearm use training or  
14 instruction; or
- 15          (6) A police station.

16           "Enclosed container" means a rigidly constructed  
17 receptacle, or a commercially manufactured gun case, or the  
18 equivalent thereof that completely encloses the firearm."

19           SECTION 6. Section 134-25, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21           "(a) Except as provided in section 134-5 and [~~134-9~~] 134-  
22 , all firearms shall be confined to the possessor's place of



1 business, residence, or sojourn; provided that it shall be  
2 lawful to carry unloaded firearms in an enclosed container from  
3 the place of purchase to the purchaser's place of business,  
4 residence, or sojourn, or between these places upon change of  
5 place of business, residence, or sojourn, or between these  
6 places and the following:

- 7 (1) A place of repair;
- 8 (2) A target range;
- 9 (3) A licensed dealer's place of business;
- 10 (4) An organized, scheduled firearms show or exhibit;
- 11 (5) A place of formal hunter or firearm use training or  
12 instruction; or
- 13 (6) A police station.

14 "Enclosed container" means a rigidly constructed  
15 receptacle, or a commercially manufactured gun case, or the  
16 equivalent thereof that completely encloses the firearm."

17 SECTION 7. Section 134-26, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) It shall be unlawful for any person on any public  
20 highway to carry on the person, or to have in the person's  
21 possession, or to carry in a vehicle any firearm loaded with  
22 ammunition; provided that this section shall not apply to any



1 person who has in the person's possession or carries a pistol or  
2 revolver in accordance with a license issued as provided in  
3 section [~~134-9.~~] 134- ."

4 SECTION 8. Section 134-27, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Except as provided in sections 134-5 and [~~134-9~~] 134-  
7 , all ammunition shall be confined to the possessor's place of  
8 business, residence, or sojourn; provided that it shall be  
9 lawful to carry ammunition in an enclosed container from the  
10 place of purchase to the purchaser's place of business,  
11 residence, or sojourn, or between these places upon change of  
12 place of business, residence, or sojourn, or between these  
13 places and the following:

- 14 (1) A place of repair;
- 15 (2) A target range;
- 16 (3) A licensed dealer's place of business;
- 17 (4) An organized, scheduled firearms show or exhibit;
- 18 (5) A place of formal hunter or firearm use training or  
19 instruction; or
- 20 (6) A police station.



1 "Enclosed container" means a rigidly constructed  
2 receptacle, or a commercially manufactured gun case, or the  
3 equivalent thereof that completely encloses the ammunition.

4 SECTION 9. Section 134-9, Hawaii Revised Statutes, is  
5 repealed.

6 ~~["§134-9 Licenses to carry. (a) In an exceptional case,~~  
7 ~~when an applicant shows reason to fear injury to the applicant's~~  
8 ~~person or property, the chief of police of the appropriate~~  
9 ~~county may grant a license to an applicant who is a citizen of~~  
10 ~~the United States of the age of twenty one years or more or to a~~  
11 ~~duly accredited official representative of a foreign nation of~~  
12 ~~the age of twenty one years or more to carry a pistol or~~  
13 ~~revolver and ammunition therefor concealed on the person within~~  
14 ~~the county where the license is granted. Where the urgency or~~  
15 ~~the need has been sufficiently indicated, the respective chief~~  
16 ~~of police may grant to an applicant of good moral character who~~  
17 ~~is a citizen of the United States of the age of twenty one years~~  
18 ~~or more, is engaged in the protection of life and property, and~~  
19 ~~is not prohibited under section 134-7 from the ownership or~~  
20 ~~possession of a firearm, a license to carry a pistol or revolver~~  
21 ~~and ammunition therefor unconcealed on the person within the~~  
22 ~~county where the license is granted. The chief of police of the~~



1 ~~appropriate county, or the chief's designated representative,~~  
2 ~~shall perform an inquiry on an applicant by using the National~~  
3 ~~Instant Criminal Background Check System, to include a check of~~  
4 ~~the Immigration and Customs Enforcement databases, where the~~  
5 ~~applicant is not a citizen of the United States, before any~~  
6 ~~determination to grant a license is made. Unless renewed, the~~  
7 ~~license shall expire one year from the date of issue.~~

8 ~~(b) The chief of police of each county shall adopt~~  
9 ~~procedures to require that any person granted a license to carry~~  
10 ~~a concealed weapon on the person shall:~~

11 ~~(1) Be qualified to use the firearm in a safe manner;~~

12 ~~(2) Appear to be a suitable person to be so licensed;~~

13 ~~(3) Not be prohibited under section 134-7 from the~~

14 ~~ownership or possession of a firearm, and~~

15 ~~(4) Not have been adjudged insane or not appear to be~~

16 ~~mentally deranged.~~

17 ~~(c) No person shall carry concealed or unconcealed on the~~

18 ~~person a pistol or revolver without being licensed to do so~~

19 ~~under this section or in compliance with sections 134-5(c) or~~

20 ~~134-25.~~



1       ~~(d) A fee of \$10 shall be charged for each license and~~  
2 ~~shall be deposited in the treasury of the county in which the~~  
3 ~~license is granted."]~~

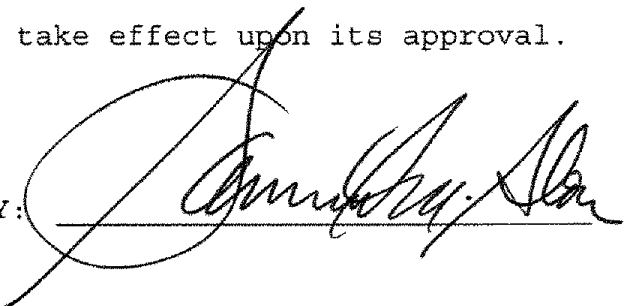
4  
5       SECTION 10. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

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

10       SECTION 12. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act, which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16       SECTION 13. This Act shall take effect upon its approval.

17  
18  
INTRODUCED BY:



**Report Title:**

Firearms; Concealed carry license.

**Description:**

Authorizes chiefs of police to issue licenses to carry a concealed firearm. Details processes for license applications, renewals, and record keeping. Strictly prohibits carrying concealed firearms under certain circumstances. Repeals HRS section 134-9.

