



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-THIRD LEGISLATURE, 2006

ON THE FOLLOWING MEASURE:

S.B. NO. 2263, RELATING TO CHAPTER 134.

BEFORE THE:

SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

DATE: Thursday, February 9, 2006 **TIME:** 2:45 PM

LOCATION: Conference Room 225

Deliver to: Committee Clerk Room 215, 35 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lawrence A. Goya, Senior Deputy Attorney General

Chair Ige and Committee Members:

The Department of the Attorney General is strongly in support of this measure.

The purpose of this bill is to amend certain sections of Hawaii's current laws on firearms, so that they comply with federal firearm laws. The amendments that are contained in this bill are in the nature of housekeeping matters, and consist of the following changes: (1) add entries on the application to acquire a firearm to include country of citizenship, and alien or admission number of the applicant; (2) updating the language in section 134-2(e), Hawaii Revises Statutes, to recognize that the federal agency that licenses firearm dealers, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is now part of the Department of Justice; (3) adding the requirement that all county firearm registration sections must do an inquiry on the federal National Instant Criminal Background Check System (NICS), which is a national database maintained by the Federal Bureau of Investigation that contains information on individuals who are prohibited from possessing firearms, before a permit to acquire a firearm, or a license to carry a firearm is approved or denied, and a further requirement that the Immigration and Customs Enforcement (ICE) database be

checked where an alien may be involved; and (4) clarifying that persons who are prohibited by federal law from possessing firearms or ammunition are also prohibited from possessing firearms or ammunition under state law.

We also respectfully request that section 3 of the bill be amended by moving the original text of the bill that added the requirement of doing checks of applicants using the National Instant Criminal Background Check System further down in the text of the bill, so that it is clear that the requirement to do an inquiry on the National Instant Criminal Background Check System applies to all the various licenses issued by the county police chiefs. Further, the requirement of doing a check of the Immigration and Customs Enforcement database where the applicant for a license to carry a firearm where the applicant is not a citizen of the United States, is also added to the original text of the bill. As so amended, the proposed amendments to section 134-9(a) would read as follows:

"(a) In an exceptional case, when an applicant shows reason to fear injury to the applicant's person or property, the chief of police of the appropriate county may grant a license to an applicant who is a citizen of the United States of an age of twenty-one years or more or to a duly accredited official representative of a foreign nation of the age of twenty-one years or more to carry a pistol or revolver and ammunition therefore concealed on the person within the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective chiefs of police may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty-one years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry a pistol or revolver and ammunition therefore unconcealed on the person within the county where the license is granted. The chief of police of the appropriate county, or the chief's designated representative, must perform an inquiry on an

applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases, where the applicant is not a citizen of the United States, before any determination to grant a license is made. Unless renewed, the license shall expire one year from the date of issue."

This bill is supported by all of the police chiefs and will have no detrimental impact on their departments as they are already conducting NICS checks, and ICE database checks, when applicable. The addition of two fields of information for the country of citizenship and alien or admission number on firearm applications will also have minimal impact, as a project to produce a uniform firearm application that can be used by all counties is now in progress.

The importance of this bill is that ATF has concurrent jurisdiction with our county firearm registration sections to issue firearm permits and licenses. If Hawaii does not conform to federal law, it runs the risk of ATF decertifying the county firearm registration sections from issuing firearm permits. The immediate impact of such a decertification would be to eliminate the fourteen-day waiting period that state law now requires before any person is allowed to legally possess a firearm. The fourteen-day waiting period was enacted to give county police departments a minimum of fourteen days to complete background checks into applicants before issuing permits to acquire. If Hawaii were to revert to federal firearms law, the waiting period would virtually disappear, as the aim of federal firearms law is to approve or deny a firearm application as quickly as possible; the goal being to approve or deny within twenty-four hours. Thus, it can be seen that public safety is best served by preserving our existing firearm laws.

We respectfully request passage of this measure.