

ORDINANCE NO. \_\_\_\_\_

BILL NO. 39 (2022)

A BILL FOR AN ORDINANCE ESTABLISHING A  
NEW CHAPTER 5.30, MAUI COUNTY CODE, RELATING TO  
ELECTRIC GUN DEALER LICENSING

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this Ordinance is to provide for the sale and transfer of electric guns and cartridges in the County, as required and in conformity with chapter 134, Hawaii Revised Statutes.

SECTION 2. Title 5, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

**“Chapter 5.30**

**ELECTRIC GUN DEALER LICENSING**

**Sections:**

<b>5.30.010</b>	<b>Definitions.</b>
<b>5.30.020</b>	<b>Application for license.</b>
<b>5.30.030</b>	<b>License issuance and renewal.</b>
<b>5.30.040</b>	<b>Department duties.</b>
<b>5.30.050</b>	<b>Legal duties of licensee.</b>
<b>5.30.060</b>	<b>Records retention.</b>
<b>5.30.070</b>	<b>Audit.</b>
<b>5.30.080</b>	<b>Penalties.</b>
<b>5.30.090</b>	<b>Exceptions.</b>

**5.30.010 Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Cartridge” means any device or object that is designed to be used with an electric gun to project a missile. “Cartridge” includes but is not limited to a Taser cartridge.

“Chief” means the chief of the department of police.

"Department" means the department of finance.

"Director" means the director of finance.

"Electric gun" means any portable device that is designed to discharge electric energy, charge, voltage, or current into the body through direct contact or utilizing a projectile. "Electric gun" includes but is not limited to devices commonly referred to as stun guns and Tasers. "Electric gun" does not include any automatic defibrillator used in emergency medical situations.

"Licensee" means a person licensed to sell or distribute electric guns in accordance with this chapter.

"Person" means an individual, firm, corporation, partnership, association, or any form of business or legal entity.

"Transfer" means the granting of possession or ownership to another, and includes the granting of temporary possession to another.

**5.30.020 Application for license.** Any person desiring to sell, offer for sale, distribute, or otherwise transfer electric guns or cartridges to a person in the County, either at wholesale or retail, must annually file an application for a license to do so with the director. The annual fee for the issuance of such license is \$50 and must be payable to the director. The application shall be in writing, properly verified under oath, and filed with the director.

A. If the applicant is an individual, the application and supporting documentation must establish 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 email address of the individual.
3. The name and location of the principal place of business of the applicant and, if applicable, each additional designated place of business from which the applicant desires to sell electric guns.
4. The applicant's Hawaii tax identification number.
5. A certification that the applicant has had no convictions for any felony offense or a misdemeanor offense involving the use of electric guns or firearms.
6. Within the last three years, the applicant has completed an electric gun safety or training course approved by the chief.
7. The name, address, and telephone number of the owner, and if applicable, the property manager, of the locations identified by the applicant as locations from which the applicant desires to sell electric guns or cartridges, and if such location is leased, the name, address, and telephone number of the lessor and lessee of the premises.

B. If the applicant is not an individual, the application and supporting documentation must establish the following:

1. The name of the applying entity and any other name under which the applying entity does business, if applicable.

2. The street address, telephone number, fax number, and email address of the applying entity.

3. The legal name, date of birth, and the last four digits of the social security number of each of the principals or members and authorized agents of the applying entity.

4. The street address, telephone number, fax number, and electronic mail address of each of the principals or members of the applying entity.

5. 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 electric guns or cartridges.

6. The name and address of the owner, and if applicable the property manager, of the locations identified by the applying entity as locations from which the applying entity desires to sell electric guns or cartridges, and if such location is leased, the name, address and telephone number of the lessor and lessee of the premises.

7. That the applying entity is registered to do business in the State of Hawaii.

8. That the applying entity is composed of principals or members, and authorized agents, who have had no convictions for any felony offense.

9. The applying entity's Hawaii tax identification number.

10. The applying entity's federal employer identification number.

11. That at least one principal or member of the applying entity has completed an electric gun safety or training course approved by the chief.

12. The length of time the applicant has been in business.

C. The applicant must certify that the applicant will comply at all times with all provisions of law relative to the acquisition, possession, storage, and sale of electric guns, and must also certify that it is responsible for compliance by its employees of all provisions of law relative to the acquisition, possession, and sale of electric guns.

D. The department must 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 department must also provide certified copies of the license to the licensee.

E. A license issued hereunder expires on June 30 following the date of issuance of the license unless sooner terminated. Application for renewal of license must be filed on or before June 1 of each year.

**5.30.030 License issuance and renewal.** A license or a renewal of a license issued under this chapter must be denied or revoked for any of the following reasons:

A. The applicant's license under this chapter, or any other license for the sale, manufacture, use, or possession of electric guns has been revoked for cause.

B. The applicant or licensee makes any false, misleading, or fraudulent statement or misrepresents any fact in the license application or renewal, or uses any scheme or subterfuge for the purpose of evading any provision of this chapter or chapter 134, Hawai'i Revised Statutes.

C. The applicant or licensee at the time of application or renewal of any license issued pursuant to this chapter would not be eligible for such license upon a first application.

**5.30.040 Department duties.** A. The department must forward any application for a license under this chapter to the chief.

B. The director may promulgate administrative rules necessary to implement this chapter.

C. The chief may promulgate rules and regulations necessary to implement this chapter relating to the electric gun safety or training course required of applicants.

**5.30.050 Legal duties of licensee.** All licenses issued pursuant to this chapter are subject to the following conditions:

A. Each licensee must obtain and keep current at all times throughout the duration of the license period a commercial general liability policy with the following minimum limits and coverages placed with an insurance carrier authorized to do business in the State of Hawai'i with a minimum AM Best rating of A-VII.

1. The commercial general liability policy must be written on an occurrence form, and defense costs must be outside the limits of liability and must not erode or dilute the required limits of liability provided by the policy, and must provide the following coverages:

a. Bodily injury and property damage on a combined single limit.

b. Independent contractors.

- c. Blanket contractual liability.
- d. Personal injury.
- e. Employees named as additional insureds.
- f. Severability of interest.

2. The commercial general liability policy must have the following limits of liability:

a. A primary commercial general liability policy with \$2,000,000 per occurrence and \$3,000,000 annual aggregate, which insurance must include a duty to defend the County if the County is sued as a result of the licensee's business's operations.

b. An umbrella policy written on a "following form" basis with \$2,000,000 per occurrence and \$3,000,000 annual aggregate.

3. The licensee's policies must be endorsed to respond on a primary basis, and any policies procured by the County must be noncontributory and in excess of the licensee's insurance policies.

4. The County and its officers and employees must be named as an additional insured under the licensee with a duty to defend the County from any claims arising from the license to sell and the use of electric guns or cartridges.

5. The license effective date may be nonconcurrent with the licensee's insurance policy's effective date. If the required insurance coverage expires during the license term, then the licensee must immediately deliver a renewed certificate of insurance evidencing the required coverage and limits are still in full force and effect. Any insurance coverage procured by the licensee that is not renewed or allowed to lapse will be deemed a material breach of the terms of the license. The licensee must immediately provide written notice to the County if any of the required policies are canceled, nonrenewed, or terminated. The licensee must furnish the County with a certificate of insurance and the required endorsements verifying such insurance coverage upon the issuance of the license. The licensee is prohibited from conducting any sales or distribution of electric guns or cartridges during any period in which the required insurance is not in effect. Failure to comply with this subsection will be grounds for the suspension or revocation of the license for a single offense.

B. Each licensee must not permit any employee to handle, sell or possess an electric gun unless the employee:

- 1. Is 21 years of age or older.
- 2. Has never been convicted of a felony.

3. Has never been convicted of a misdemeanor involving an electric gun, or any other violation of law concerning the manufacture, use, possession or sale of electric guns or firearms.

C. The licensee must initiate a state and FBI fingerprint-based record search of every employee who will handle, sell, or possess electric guns to verify the employee's background. If a licensee acquires any subsequent or independent knowledge that an employee who handles, sells, or possesses stun guns or Tasers does not meet the qualifications of subsection (B), the licensee must take immediate steps to ensure that such employee does not have access to the electric guns.

D. A licensee or employee must not:

1. Display an electric gun in any window.
2. Sell or otherwise transfer an electric gun unless the purchaser is qualified to obtain and possess an electric gun under state law.

E. Licensees must comply with all county, state, and federal laws and licensing requirements related to electric gun sales and possession. Failure to comply shall be a material breach of the license and may result in immediate suspension or revocation of the license.

**5.30.060 Records retention.** A. In addition to any other applicable county, state, and federal law requiring records and record retention, the licensee must maintain a copy of the fingerprints of every employee who handles, sells, or possesses the electric guns for a period of not less than five years after the employee is no longer an employee.

B. Unless otherwise preempted by state or federal law, all records required to be held by state or federal law must at all times during the licensee's business hours be open for inspection by the director or the director's designee.

**5.30.070 Audit.** Every licensee must conduct, on an annual basis, a physical inventory audit, which must include, at a minimum, a listing of each electric gun and electric gun cartridges:

- A. Acquired or held by the licensee during the twelve-month period.
- B. Sold or otherwise transferred during the twelve-month period.
- C. Stolen or lost during the twelve-month period.

**5.30.080 Penalties.** A. In addition to any penalties provided under State law, any person who violates any provision of this chapter, or any rule or regulation promulgated thereunder shall

be guilty of a misdemeanor, and upon conviction shall be fined a minimum of \$1,000 for each offense and may be imprisoned for up to one year, or both. Each day that such violation exists constitutes a separate and distinct offense.

B. Every act or omission constituting a violation of this chapter by any officer, director, manager, employee, or agent of the licensee must be deemed to be the act or omission of such licensee and such licensee is liable for all penalties and sanctions provided by this chapter in the same manner as if such act or omission had been done or committed by the licensee personally.

**5.30.090 Exceptions.** The licensing requirement of this chapter does not apply to the sale of electric guns and cartridges by the electric gun manufacturers distributing directly to law enforcement agencies, or the army or air national guard or to the extent that it conflicts with state or federal law.”

SECTION 3. This Ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND  
LEGALITY:

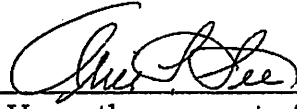


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KEOLA R. WHITTAKER  
Deputy Corporation Counsel  
County of Maui

2021-1833  
2022-01-19 DRAFT Ord Est Ch 5.30.docx

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", is written above a horizontal line.

Upon the request of the Mayor.