

HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

No. 24-100

RESOLUTION

TO AUTHORIZE THE DEPARTMENT OF THE CORPORATION COUNSEL TO INITIATE LEGAL ACTION AGAINST A FIREARM INDUSTRY MEMBER AND TO RETAIN ATTORNEYS AS SPECIAL DEPUTIES CORPORATION COUNSEL.

WHEREAS, in 2023, the Hawai'i State Legislature passed House Bill 426 – signed into law as Act 28 and codified at Hawai'i Revised Statutes ("HRS") § 134-101 *et seq.* – entitled "Firearm Industry Responsibility," which creates state-level standards of conduct for firearm industry members; and

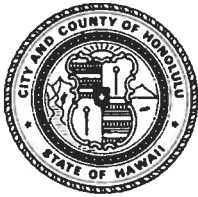
WHEREAS, Act 28 creates a new cause of action against firearm manufacturers and dealers for "abnormally dangerous" weapons, and requires a certain standard of care from all "firearm industry member[s]"; and

WHEREAS, pursuant to HRS §§ 134-101 and 134-102, "firearm industry member[s]" includes any person or entity involved in the manufacture, distribution, marketing, or sale of firearm-related products; and

WHEREAS, pursuant to HRS § 134-102(b), a firearm industry member must:

- (1) Establish, implement, and enforce reasonable controls;
- (2) Take reasonable precautions to ensure that the firearm industry member does not sell, distribute, or provide to a downstream distributor a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in the State; and
- (3) Not engage in any conduct related to the sale or marketing of firearm-related products that is in violation of this chapter; and

WHEREAS, pursuant to HRS §§ 134-101, "reasonable controls" includes "reasonable procedures, acts, or practices that are designed, implemented, and enforced to . . . [e]nsure that the firearm industry member complies with all provisions of federal or state law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product;" and



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WHEREAS, HRS § 134-103(c) provides that “the attorney general or any county attorney or public prosecutor may bring a civil action in a court of competent jurisdiction in the name of the people of the State to enforce this part and remedy harm caused by a violation of this part,” and

WHEREAS, handguns manufactured by Glock, Inc. / Glock Ges.m.b.H (“Glock”) are designed and manufactured in a way that allows the user to attach a device known as a “Glock switch” or “auto-sear” to the handgun, thereby converting a semi-automatic firearm into a fully automatic machinegun; and

WHEREAS, Glock switches are illegal under federal law, see 18 U.S.C. § 922(o) (“it shall be unlawful for any person to transfer or possess a machinegun”); 26 U.S.C. § 5845(b) (defining machinegun as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include . . . any part . . . or combination of parts designed and intended, for use in converting a weapon into a machine gun. . .”); and

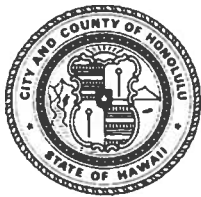
WHEREAS, in the last three years, there have been at least six federal prosecutions in Hawai‘i involving Glock switches, five of which were within the City and County of Honolulu (“City”); and

WHEREAS, a Glock handgun with an attached Glock switch is “abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in the State”; and

WHEREAS, Glock has failed to establish, implement, or enforce reasonable controls to address the proliferation of Glock switches and converted Glock handguns; and

WHEREAS, the Council believes legal action is warranted to protect the public from these abnormally dangerous weapons and from an unreasonable risk of harm to public health and safety; and

WHEREAS, the Council believes legal action is warranted to hold Glock accountable for its failure to establish, implement, or enforce reasonable controls and for its other knowing violations of state law; and



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WHEREAS, pursuant to Section 2-3.2(b) of the Revised Ordinances of Honolulu (2021), as amended, the Corporation Counsel requests the consent and approval of the Council to initiate a legal action against Glock, Inc. and Glock Ges.m.b.H, on behalf of the people of Hawai'i, to prevent further violations of the law and to recover damages, attorneys' fees and costs, and other appropriate relief ("Legal Action") to protect the public against abnormally dangerous weapons and unreasonable risks of harm to public health and safety in the State; and

WHEREAS, the parties to be named as defendants are Glock, Inc. and Glock Ges.m.b.H, along with any subsidiary, parent, or otherwise related corporations deemed necessary to the Legal Action for the courts to provide complete relief;

WHEREAS, the Legal Action will involve complex issues of law that will require specialized knowledge and expertise in complex litigation, particularly firearms-related litigation; and

WHEREAS, pursuant to Section 5-204 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2023) ("RCH"), the Corporation Counsel has determined that because the Legal Action will involve specialized knowledge and expertise, it is necessary to retain attorneys with such knowledge and expertise to effectively advocate and litigate the position of the City; and

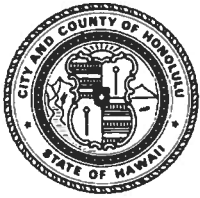
WHEREAS, the Giffords Law Center to Prevent Gun Violence ("Giffords") and Dentons ("Law Firms") possess the requisite specialized knowledge and expertise; and

WHEREAS, it is in the City's best interest to retain the Law Firms as special deputies corporation counsel to represent the City in the Legal Action; and

WHEREAS, the Department of the Corporation Counsel seeks to retain the services of the Law Firms to represent the City in the Legal Action as special deputies corporation counsel; and

WHEREAS, Section 5-204.1, RCH, provides that special deputies may be appointed by the Corporation Counsel with the approval of the City Council; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that:



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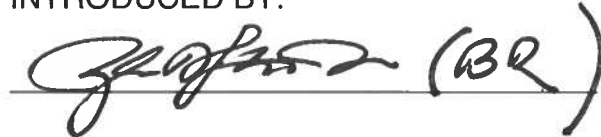
1. The Council consents, and Corporation Counsel is hereby authorized, to initiate legal action against Glock, Inc. and Glock Ges.m.b.H for injunctive relief, damages, attorneys' fees and costs, and other relief, to address the existing and ongoing harm caused to the public; and

2. Pursuant to RCH Sections 5-203 and 5-204, the City Council authorizes the retention of the Giffords Law Center to Prevent Gun Violence and Dentons as Special Deputies Corporation Counsel to represent the City and County of Honolulu in the Legal Action; and

3. The Special Deputies Corporation Counsel shall be responsible for the retention of consultants and expert witnesses; and

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor, Managing Director, the Department of the Corporation Counsel, the Giffords Law Center to Prevent Gun Violence, 268 Bush Street #555, San Francisco, CA 94104 and Dentons, 1001 Bishop St. #1800, Honolulu, HI 96813.

INTRODUCED BY:

 (BR)

DATE OF INTRODUCTION:

APR 11 2024

Honolulu, Hawai'i

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 24-100

Introduced: 04/11/24 By: TYLER DOS SANTOS-TAM - BY REQUEST Committee: EXECUTIVE MATTERS AND LEGAL AFFAIRS (EMLA)

Title: TO AUTHORIZE THE DEPARTMENT OF THE CORPORATION COUNSEL TO INITIATE LEGAL ACTION AGAINST A FIREARM INDUSTRY MEMBER AND TO RETAIN ATTORNEYS AS SPECIAL DEPUTIES CORPORATION COUNSEL.

Voting Legend: * = Aye w/Reservations

04/02/24	EMLA	Reported out for adoption.
		CR-104
		5 AYES: CORDERO, DOS SANTOS-TAM, SAY, WATERS, WEYER
		3 NOES: OKIMOTO, TULBA, TUPOLA
		1 ABSENT: KIA'ĀINA

04/11/24	INTRO	Introduced.
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04/17/24	CCL	Committee report and Resolution were adopted.
		6 AYES: CORDERO, DOS SANTOS-TAM, KIA'ĀINA, SAY, WATERS, WEYER
		2 NOES: OKIMOTO, TULBA
		1 ABSENT: TUPOLA

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



GLEN I. TAKAHASHI, CITY CLERK



TOMMY WATERS, CHAIR AND PRESIDING OFFICER