

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

LATE

ON THE FOLLOWING MEASURE:
H.B. NO. 2631, RELATING TO FIREARMS.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, March 1, 2016 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Karen A. Droscoski, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) sees no legal or constitutional issues with this bill.

The purposes of the bill are to permit lawful permanent residents to apply for a permit to acquire a firearm, to clarify the background check process for firearm permit applicants, and to authorize county police departments to enroll firearm permit applicants into a criminal record monitoring service.

The United States District Court, District of Hawaii, has determined permanent resident aliens are entitled to Second Amendment protections and this bill attempts to effectuate those judicial determinations. There are no other legal or constitutional issues with the bill.

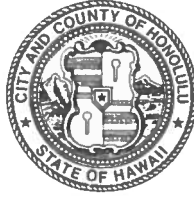
Thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

LATE

KIRK CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

March 1, 2016

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: House Bill No. 2631, Relating to Firearms

I am Richard C. Robinson, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2631, Relating to Firearms, and would like to propose some amendments to the bill.

This bill addresses two major issues. In the case of Steven Fotoudis vs. City and County of Honolulu, United States District Judge Michael Seabrite ruled that Hawaii Revised Statutes (HRS) 134-2(d) was unconstitutional because it prevented Fotoudis the opportunity to apply for a permit to acquire a firearm because he was a permanent resident alien and not a U.S. citizen. There has been no appeal to this ruling. The changes to subsection (d) and (e) address that issue.

The second issue is that currently, a thorough background check is conducted on all applicants to acquire a firearm. However, once the initial background check has been completed, there are no further checks conducted on the firearm owner after the permit has been issued. As a result, the county police departments have no way to know if a current Hawaii firearm owner has been convicted of crime in another state that would prohibit him or her from owning a firearm.

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
March 1, 2016
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The proposed changes would allow county police departments to enroll new firearm applicants into the Rap back program administered by the Federal Bureau of Investigation. The Rap back program will provide a mechanism to alert the county police departments when the owner of a firearm is arrested for a criminal offense anywhere in the country. This notification will allow the county police department to evaluate if the firearm owner may continue to legally possess and own firearms.

To ensure consistency between different sections of the HRS, we propose that a new subsection be added to Section 846-2.7 so that it now reads:

§846-2.7 Criminal history record checks. (a) The agencies and other entities named in subsections (b) and (c) may conduct state and national criminal history record checks on the personnel identified in subsections (b) and (c) and participate in the rap back program, for the purpose of determining suitability or fitness for a permit, license, employment, or volunteer service; provided that the Hawaii criminal justice data center may charge a reasonable fee for the criminal history record checks performed. The agencies and other entities named in subsections (b) and (c) shall notify applicants, employees, and volunteers subject to a criminal history record check pursuant to this section that their fingerprints shall be retained by the Hawaii Criminal Justice Data Center and the Federal Bureau of Investigation for all purposes and uses authorized for fingerprint submissions. Notification shall also be given to the applicants, employees, and volunteers subject to the rap back program. The criminal history record check shall include the submission of fingerprints to:

(43) The county police departments for the purpose of conducting background checks on applicants for permits to acquire firearms pursuant to HRS 134-2 and HRS 134-3.

Additionally we suggest the following amendments be made:

Page 1, line 3: The word "system" be changed to program. This is the correct terminology.

Page 2, line 11 to
Page 3, line 10: All of the strikeout material be left in. This language allows visitors from outside Hawaii and the United States to come to Hawaii to hunt and/or compete in firearms competitions.

The Honorable Karl Rhoads, Chair
and Members
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Page 5, line 13: Add in "after the effective date of this bill" after the word permit. This change would allow existing firearm owners who are registering a new firearm to be entered into the Rap back program not just first-time gun registrants.

This change will in essence provide an ongoing background check on firearm owners to determine their eligibility to own and possess a firearm.

The HPD urges you to support House Bill No. 2631.

Thank you for the opportunity to testify.

Sincerely,

for [Signature]
Richard C. Robinson, Major
Records and Identification Division

APPROVED:

[Signature]

Louis M. Kealoha
Chief of Police

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 4:41 PM
To: JUDtestimony
Cc: dreid@nrahq.org
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/29/2016
Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Reid	NRA	Oppose	No

Comments: While NRA supports codifying the right of permanent resident aliens to purchase firearms we have concerns with utilization of the federal rapback system. Use of this system would expand upon the existing registration requirements to implement a federal biometric registry of Hawaii gun owners. Positive hits in this system have not necessarily been adjudicated and could cause issues with the an individual's ability to exercise their constitutional rights.

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Cc: breaking-the-silence@hotmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/26/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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To: JUDtestimony
Cc: jonagustine_lim@yahoo.com
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jonagustine Lim	Individual	Support	No

Comments: Legal residents have the same rights.

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HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
steven a kumasaka	Individual	Oppose	No

Comments:

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Cc: kjcole52@yahoo.com
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin J. Cole	Individual	Support	No

Comments: Aloha, I support HB2631. Hawaii should make is simpler for Resident Aliens to obtain firearms permits. Kevin J. Cole, Col USAF Ret. Mililani

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Cc: surfgeorge@yahoo.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
George Pace	Individual	Oppose	No

Comments:

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To: JUDtestimony
Cc: koryohly@outlook.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kory Ohly	Individual	Support	No

Comments:

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To: JUDtestimony
Cc: ncote@hawaii.rr.com
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/28/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Normand A Cote	Individual	Support	No

Comments: Dear JUD Committee, I support the issuing of permits to permanent resident aliens. Respectfully, Normand A Cote Law Abiding Citizen

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To: JUDtestimony
Cc: racerja@me.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/28/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
jason shin	Individual	Oppose	No

Comments:

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To: JUDtestimony
Cc: robert@okudametal.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/28/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Okuda	Individual	Support	No

Comments:

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Cc: laughlin@hawaii.rr.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laughlin Tanaka	Individual	Support	No

Comments:

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To: JUDtestimony
Cc: onederful100@aol.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gavin Lohmeier	Individual	Oppose	No

Comments:

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To: JUDtestimony
Cc: tom1.galli@gmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Galli	Individual	Support	No

Comments:

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Sent: Saturday, February 27, 2016 5:07 PM
To: JUDtestimony
Cc: boobobear26@gmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Debbie Okamura	Individual	Support	No

Comments:

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To: JUDtestimony
Cc: auscadog@gmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Vernon Okamura	Individual	Support	No

Comments:

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To: JUDtestimony
Cc: sthazam@yahoo.com
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen T Hazam	Individual	Support	No

Comments: Please support HB2631 which would allow gun permits for permanent resident aliens, such as my spouse.

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 27, 2016 2:35 PM
To: JUDtestimony
Cc: thebowen@hawaiiantel.net
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bowen Dickinson	Individual	Support	No

Comments: I support this bill. This bill simply sets in statute a prior court order confirming that permanent resident aliens have the same rights as citizens. HPD is already issuing the permits. Both bills contain a significant error and need amending. Existing statute allowing special short term permits for visiting aliens for hunting or target shooting is mistakenly repealed (lined through) and should be preserved.

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To: JUDtestimony
Cc: davebrilliant@gmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Brilliant	Individual	Support	No

Comments:

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Cc: ptong8@sbcglobal.net
Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Tong	Individual	Support	No

Comments: I Support this measure

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Cc: bizkellam@gmail.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Kellam	Individual	Support	No

Comments:

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Cc: Dnrhand@aol.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Soon	Individual	Support	No

Comments:

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Cc: jyamashiro@yahoo.com
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HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
joshua	Individual	Oppose	No

Comments:

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HB2631

Submitted on: 2/27/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Brilliant	Individual	Support	No

Comments:

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Cc: heaviescc@gmail.com
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HB2631

Submitted on: 2/26/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brendon Heal	Individual	Oppose	No

Comments: The law already requires that a convicted felon surrender all firearms or have them confiscated. Police departments have access to such knowledge and should be using such public databases to do their background checks and process. Thus, keeping weapons out of the hands of criminals. Databasing private firearms owners, who have no criminal record, nor conviction of felonious activities, should not be treated as a criminal. Logging and data basing, of law abiding citizens, on the grounds of 'being a gun owner' is a huge infringement of said law abiding citizen's privacy, is VERY unconstitutional. Please focus laws on catching, prosecuting, and punishing CRIMINALS, not the law abiding gun owners. I STRONGLY OPPOSE THIS LEGISLATION. Thank You

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HB2631

Submitted on: 2/26/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Jay	Individual	Oppose	No

Comments:

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HB2631

Submitted on: 2/26/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Walter Kanemori	Individual	Oppose	No

Comments:

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Submitted on: 2/26/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Walter Kanemori	Individual	Oppose	No

Comments:

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Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM

HB2631

Submitted on: 2/26/2016

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Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Oppose	No

Comments: Background checks should certainly be done to determine if an individual is not disqualified to own a firearm. However, given that this is providing a social benefit, the applicant should not pay for additional data searches, but such searches should be paid out of general funds. To do otherwise would be to place an obstacle in the way of the exercise of a Constitutionally enumerated right, and could be argued to have a chilling effect for those who wish to exercise that right.

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Cc: refrey2001@yahoo.com
Subject: *Submitted testimony for HB2631 on Mar 1, 2016 14:00PM*

HB2631

Submitted on: 2/26/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Frey	Individual	Oppose	No

Comments:

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Subject: Submitted testimony for HB2631 on Mar 1, 2016 14:00PM



HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William R Smith	Individual	Support	No

Comments: I support this bill. Aloha

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HB2631

Submitted on: 2/29/2016

Testimony for JUD on Mar 1, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
john w farrar	Individual	Support	No

Comments:

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