



Institute for Rational and Evidence-based Legislation

P. O. Box 41

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Chair, Vice Chair, and Members of the Judiciary Committee,

Please permanently defer and defeat HB888.

It's hard to know where to start in detailing the problems with this extremely poorly-written proposed law, as virtually every sentence is fraught with obscure and/or ambiguous language, so let's start at the beginning.

The crime delineated by this bill would criminalize a person who “recklessly possess[es] a loaded firearm while the person is intoxicated”. The bill nowhere makes any further mention of what actions may or may not constitute “reckless”. How can a law be enforced, in other than an arbitrary and capricious manner, if the very proposed illegal act is not defined, at all, in any way? Absurd.

Second, there is no definition of what constitutes “intoxicated” except for “a person is intoxicated if the person is under **a disturbance** of mental or physical capacities resulting from the introduction of substances into the person's body”. How is that “disturbance” measured? By whom? According to what objective standard, measure, test, examination, or evaluation? Is “disturbed” merely a subjective evaluation by any citizen who reports such behavior, or any law enforcement officer, or who, how and in exactly what way?

Thirdly, there seems to even be confusion of what constitutes “possession”. HB888 asserts that “a person is in possession of a loaded firearm when the person has direct physical control over a loaded firearm **or has both the power and the intention to exercise control over a loaded firearm**”. What does that even mean, in the real world, where someone is going to be imprisoned and fined for having such “power and intention”? How are you going to send someone to prison for having an intention? One caveat for “possession” is “[p]ossession may be shared”. What does that mean? Two or more people holding the firearm simultaneously? A co-registered firearm? There is no clue in the HB88 as to what that term (or the others listed above) actually mean.

The three critical concepts of this proposed law, recklessness, intoxication and possession, are not defined in the bill, yet it would put people in prison for demonstrating these undefined intentions and actions. Perhaps the author(s) of this bill suggest that these concepts are like pornography in that you can't define it, but you'll know it when you see recklessness, intoxication and possession? I'd suggest that like pornography, different people will have different interpretations of recklessness, intoxication and possession, and that people ought not be prosecuted and imprisoned based upon such subjective personal interpretations.

This bill is vague and ambiguous at best, literally meaningless at worst. Please don't allow such atrocities of the English language, and/or transparent attempts to further persecute law-abiding firearms owners, to become law in the state of Hawaii.

Thank you,

George Pace

HB 888

Aloha,

HB 888 has good intentions but can lead to misuse that is not intended. What constitutes intoxicated? Are the DUI guidelines going to be used or would it be left to the discretion of the police? What is defined by possession? If some one is drinking and there firearm safe is in the same room does that violate this proposal?

Responsible people will act responsibly. No law can force someone to act properly.

Kevin J. Cole, Col USAF Ret.

Mililani

**Brendon Heal
Voter
Ewa Beach, HI**

While it should be a consideration that using a firearm in commission of a crime while under the influence of an intoxicating substance should be dealt with in a more severe manner, it should not be a crime to possess or control while merely drinking or celebrating in a responsible manner.

Legislation such as this sets a dangerous precedent as it threatens to criminalize the mere presence of a firearm during a family gathering when a drink may be served. The responsible consumption of drink and the mere presence of a firearm should not be construed as a crime. Would this legislation make a criminal if one needed to use a firearm for self protection during such an event? Will the legislation be twisted into something that would make it a crime to use of firearm in self defense at such an event? Please consider this.

It should NOT be a crime to merely possess a firearm while partaking in responsible drink.

Thank you for considering my testimony.

Brendon K Heal

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Stankos	Individual	Oppose	No

Comments: This bill is too vague and makes the normal legal firearm owner a criminal if they have a firearm in their home.

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Markson	Individual	Oppose	No

Comments: I oppose this bill because it is overly broad and can be applied in ways not intended. There are no blood alcohol levels specified and "proximity" could mean anything.

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

Comments: The bill defines intoxication loosely, not as with drunk driving. The bill includes the language "proximity" and "intent to possess." Perhaps "brandish" would be better than "possess."

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

Comments: I am opposed to SB888. I agree with the intent, but not the way the bill is currently worded. Some of the problems are: §134-(C)- the definition of intoxicated is poorly worded and subjective. Perhaps some wording similar to, or reference to another legal definition of "intoxicated" - like from an existing DWI or DUI definition? §134-(b)"..a person is in possession of a loaded firearm when the person has direct physical control over a loaded firearm or has both the power and the intention to exercise control over a loaded firearm...". The legal definition of "direct physical control" and "exercise control" are vague. Even with "...provided that §134-(b)(1) and (2), it is still poorly defined. How does one determine "intention"? Throughout the entire bill, I am not comfortable with the loose working definition of "possess" or "possession". Maybe using another word like "brandish" instead of "possess" throughout the bill would be more appropriate. Thanks William Smith

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

Comments:

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

Comments: Recklessly brandishing a firearm, presumably, isn't legal. Intoxication, however, is legal, and so is possession of a firearm. Don't conflate those actions with crime. The language "recklessly possess" is unnecessarily vague, and the specification of "while intoxicated" is unnecessary. This would seem to suggest that recklessly brandishing a firearm while sober is acceptable. Additionally, how do you determine "the power and intention to exercise control over" a firearm?

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Shimabukuro	Individual	Oppose	No

Comments: I oppose passage of HB888

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

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Julie Folk	Individual	Oppose	No

Comments: The bill defines intoxication loosely, not as with drunk driving. The bill includes the language "proximity" and "intent to possess." Perhaps "brandish" would be better than "possess." If you are celebrating at home or away from home with a designated driver, and you know the combination to your gun safe, are you in possession?

Submitted By	Organization	Testifier Position	Present at Hearing
Kenny Wustig	Individual	Oppose	No

Comments: More infringement will lead to more violence and more victims of violent crimes. Even if not intoxicated while possessing a firearm for defense.

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

Comments:

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

Comments: I strongly oppose HB888. This bill is similar to making it a crime to be in possession of car keys while drinking responsibly or celebrating. HB 888 would criminalize even when no crime has been committed. Possession or control of a firearm while drinking or celebrating responsibly is not a crime. Please kill HB888. Thank you.

Submitted By	Organization	Testifier Position	Present at Hearing
James Revells	Individual	Oppose	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Dan Goo	Individual	Oppose	No

Comments: I am opposed to this bill.

Submitted By	Organization	Testifier Position	Present at Hearing
daniel oshima	Individual	Comments Only	No

Comments: wording in HB888 should be 'brandish' instead of 'possess'

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

Comments: As currently written, this bill is too vague. Intoxication needs a definition that can be enforced. The point is to keep incapacitated people from using firearms in an irresponsible manner. We don't need a law that gets people into trouble while appreciating a nice looking firearm after having consumed a beer. Good law is precise, to the point, and enforceable without room for interpretation. We don't need a measure that gets passed only to have years of court cases necessary to define what it should have defined in the first place. Use of alcohol in moderation doesn't automatically make someone dangerous around firearms and the law should not be written to assume that it does

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon Kitsuya	Individual	Oppose	No

Comments: Recently an Australian tourist had some drinks, then was beaten and robbed. That received worldwide attention because he is a world-class golfer who played in the Sony Open. This case and others show the world that beating up tourists is accepted and normal in Hawaii. We should penalize the troublemakers, not their victims

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Ako DVM	Individual	Oppose	No

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan Stickel	Individual	Oppose	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Shaheen Mulkern	Individual	Oppose	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Mulkern	Individual	Oppose	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Janelle Dryden	Individual	Oppose	No

Comments: I STRONGLY OPPOSE HB888. Unlike drunk driving, this bill defines intoxication loosely, including the terms "proximity" and "intent to possess", which is unclear and vague. Janelle Dryden STRONGLY OPPOSES HB888.

Submitted By	Organization	Testifier Position	Present at Hearing
Marvin Dryden	Individual	Oppose	No

Comments: I STRONGLY OPPOSE HB888. This bill's wording is too loose, unlike drunk driving. This bill includes the language "proximity" and "intent to possess". Are you in possession if you are celebrating at home or away from home with a designated driver, and you know the combination to your gun safe? Marvin Dryden STRONGLY OPPOSES HB888.

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Smith	Individual	Oppose	No

Comments: This bill defines intoxication loosely, not as with drunk driving. It includes the language "proximity" and "intent to possess." Perhaps "brandish" would be better than "possess." What if you are celebrating at home or away from home with a designated driver, and you know the combination to your gun safe, are you in possession? This bill is very poorly written and too vague.

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

Comments: This is a flawed bill which won't make anyone any safer, other laws already exist that provide the same protection. Passage of this bill will only cause more confusion and lawyers making more money. Please vote no on this bill.

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	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments: