

SB1071

**Makes it clear that the
police may grant
applications to acquire
firearms to lawful
permanent resident
aliens.**



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 1071, RELATING TO THE ACQUISITION OF FIREARMS BY LAWFUL PERMANENT RESIDENT ALIENS.

BEFORE THE:

SENATE COMMITTEES ON TOURISM AND INTERNATIONAL AFFAIRS AND ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Thursday, February 19, 2015 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chairs Kahele and Espero and Members of the Committees:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to make it clear that the police may grant applications to acquire firearms to lawful permanent resident aliens.

On September 17, 2014, United States District Judge, Michael Seabright, granted plaintiff's motion for summary judgment and for permanent injunctive relief in the case of Steve Fotoudis v. City and County of Honolulu, Louis Kealoha, Chief of the Honolulu Police Dep't in his official capacity; David Louie, Attorney General of Hawaii, in his official capacity, in Civ. No. 14-00333 JMS-RLP. Fotoudis was a lawful permanent resident alien who had moved to Hawaii from Australia. He attempted to apply for a permit to acquire a firearm, but the Honolulu Police Department did not allow him to do so because he was not a citizen of the United States, and section 134-2(d), Hawaii Revised Statutes (HRS), provides that, with limited exceptions inapplicable to Fotoudis, police chiefs may only issue permits to acquire firearms to citizens of the United States. In evaluating Fotoudis' action brought under 42 U.S.C. § 1983, the court found the following:

This classification violates the equal protection clause of the U.S. Constitution. HRS §134-2(d) is thus unconstitutional as-applied to Fotoudis (and other lawful permanent resident aliens), and Defendants are therefore permanently enjoined from denying Fotoudis the opportunity (1) to apply for a permit to acquire firearms, and (2) to obtain such permit, if he otherwise meets the qualifications of state law, as specifically set forth in the Conclusion of this Order.

The court also found the following:

Similarly, interpreting §134-2(d) to deny Fotoudis the opportunity to apply for (and to obtain, if otherwise qualified) a permit to acquire firearms, solely because he is not a U.S. citizen, also violates the Second Amendment. Lawful permanent residents such as Fotoudis "are firmly on the path to full citizenship," and "are entitled to a wide array of constitutional rights."

Upon making those findings, the court ordered the following:

Defendants and/or their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this injunction, are enjoined from precluding lawful permanent resident aliens residing in the State of Hawaii from applying for a permit to acquire firearms as set forth in HRS §134-2(d). Defendants must also . . . insofar as Fotoudis is determined to be fit and qualified to acquire firearms, to thereafter issue in the normal course to Fotoudis the permit contemplated by HRS §134-2, vesting Fotoudis with the same rights and privileges to acquire firearms as those of United States citizens who obtain permit(s) pursuant to §134-2.

This bill seeks to amend section 134-2, HRS, to address the constitutional concerns raised by the court in the Fotoudis case.

The Department respectfully requests the passage of this bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE **GK-DNK**

February 19, 2015

The Honorable Gilbert Kahele, Chair
and Members
Committee on Tourism and International Affairs
The Honorable Will Espero, Chair
and Members
Committee on Public Safety, Intergovernmental
and Military Affairs
and Members
State Senate
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Kahele and Espero and Members:


SUBJECT: Senate Bill No. 1071, Relating to the Acquisition of Firearms by Lawful Permanent Resident Aliens

I am Gerald Kaneshiro, Captain of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports Senate Bill No. 1071, Relating to the Acquisition of Firearms by Lawful Permanent Resident Aliens. This bill proposes that the police department grant a permit to acquire to individuals who are lawful permanent resident alien or nonresident aliens. The individual must provide to the police department proof of alien status upon applying for a permit to acquire firearms.

Thank you for the opportunity to testify.

Sincerely,


Gerald K. Kaneshiro, Captain
Records and Identification Division

APPROVED:


Louis M. Kealoha
Chief of Police

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SB1071

Submitted on: 2/18/2015

Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|----------------------------|---------------------------|---------------------------|
| Daniel Reid | National Rifle Association | Support | No |

Comments:

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Hawaii Rifle Association

State Affiliate of the National Rifle Association
Founded in 1857

February 18, 2015

Testimony IN SUPPORT on
SB1071
Before TSI/PSM, Rm. 229, 2/19/2015 1:15 PM

Hon. Chairs, Co-Chairs, Members,

HRA suggests an amendment to the bill language for HRS 134-2(d) changing "may..." to "shall..." for applicants meeting the requirements of 134-2.

SB1071 allows police to issue permits to acquire firearms to legal permanent resident aliens. Judge J. Michael Seabright of the US District Court for Hawaii in *Fotoudis vs Kealoha et al*, Sept. 2014, has found them protected under the 2nd and 14th Amendments and has ordered that the counties accept their applications for permits pursuant to HRS 134-2(d), apply the same scrutiny as for citizens, and issue permits if qualified.

HPD is already issuing permits to them. The bill is part of the Governor's package.

Australian Steve Fotoudis and many others like him are permanent residents of Hawaii, possess a "green card," and desire to become naturalized US Citizens. They have passed stringent background checks to enter the U.S. and under this bill will be subject to the same HRS 134 background check requirements for permits as citizens.

Thank you for the opportunity to testify on behalf of HRA.

Dr. Maxwell Cooper
HRA Legislative Liaison
808 225-6944

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Cc: thebowen@hawaiiantel.net
Subject: Submitted testimony for SB1071 on Feb 19, 2015 13:15PM
Date: Sunday, February 15, 2015 8:00:23 PM

SB1071

Submitted on: 2/15/2015

Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

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

Comments: I support this measure, it helps to clarify existing law -- legal permanent resident aliens have already passed stringent background checks and have been carefully screened by the government in order to be able to remain here. There are safeguards in place to prevent the wrong people from legally acquiring guns. The more law-abiding folks who are legally armed the safer I will feel.

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SB1071

Submitted on: 2/16/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Brenda R. Duarte | Individual | Support | No |

Comments: ustralian Steve Fotoudis and many others like him are permanent residents of Hawaii, possess a "green card," and desire to become naturalized US Citizens. They have passed stringent background checks to enter the U.S. and are subject to the same HRS 134 requirements for permits as Citizens.

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SB1071

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Brian Isaacson | Individual | Support | No |

Comments: This bill cleans up the language allowing legal resident aliens to exercise their constitutional rights and offers another indicator that we value their decision to become part of our community as active, responsible citizens.

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SB1071

Submitted on: 2/17/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| canon mcgarry | Individual | Support | No |

Comments: I support this bill. We are a nation of immigrants, my dad is a legal immigrant, so I can understand this situation well. If a person or family comes to this country, wanting to be a part of it, gains a green card and on path to citizenship AND qualifies for a firearm as much as a citizen, they shouldn't be denied that just because they were born in _____.

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SB1071

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|---------------------|---------------------|---------------------------|---------------------------|
| daniel oshima | Individual | Support | No |

Comments:

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SB1071

Submitted on: 2/16/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| David Norris | Individual | Support | No |

Comments: I support this measure. I have lived in Hawaii my whole life and am a green card holder. I have been around firearms my whole life and have safety certifications and have purchased firearms in multiple states only to be rejected by the local police depts from registering them.

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SB1071

Submitted on: 2/15/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Eric Kaneshiro | Individual | Support | No |

Comments:

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Date: Friday, February 13, 2015 5:44:00 PM

SB1071

Submitted on: 2/13/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Erik Vuong | Individual | Oppose | No |

Comments:

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SB1071

Submitted on: 2/15/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Glennon T. Gingo | Individual | Comments Only | No |

Comments: To: Honorable Governor David Ege, Senator Gilbert Kahele and Senator Will Espero. My name is Glennon Gingo, a long time resident of Houaloea on the Island of Hawaii. I have been instructing individuals for many years in the safe use of firearms. I do not see any reason to withhold a Resident Alien from obtaining the same firearm permit(s) as the ones available to residents of Hawaii and U.S. citizens as long as all the same requirements for legal ownership have been met. Resident Aliens appreciate and enjoy many things that the people of our State and Country enjoy. The lawful acquisition and legal use of a firearm should be one of those enjoyments. Thank you for your consideration. Mahalo Nui Loa. Glennon T. Gingo

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SB1071

Submitted on: 2/17/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Gordon Kitsuwa | Individual | Support | No |

Comments:

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Date: Friday, February 13, 2015 6:15:06 PM

SB1071

Submitted on: 2/13/2015

Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Harvey Gerwig | Individual | Support | No |

Comments: I am STRONGLY IN FAVOR of this bill.HPD is already implementing firearms registration for PERMANENT RESIDENT ALIENS in accordance with the decision handed down by the Ninth Circuit Court of Appeals several months ago. Please move this measure along so we will be consistent with the Constitution of the United State. Thank you, Harvey Gerwig, President Hawaii Rifle Association NRA Certified Firearms Instructor

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SB1071

Submitted on: 2/16/2015

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| James Revells | Individual | Support | No |

Comments: I support this measure

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Subject: Submitted testimony for SB1071 on Feb 19, 2015 13:15PM
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SB1071

Submitted on: 2/16/2015

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|---------------------|---------------------|---------------------------|---------------------------|
| Jason Schick | Individual | Support | No |

Comments: Please consider this measure, legal citizens should all have the same rights as natural citizens. Providing they have not broken any laws that would prohibit them from owning a firearm.

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SB1071

Submitted on: 2/16/2015

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

Comments: Thank you for supporting SB1071.

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SB1071

Submitted on: 2/16/2015

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

Comments: I support SB1071 relating to the acquisition of firearms by lawful permanent resident aliens. HPD should be allowed to issue permits to acquire firearms to lawful resident aliens.* If said aliens were granted legal permanent residence, presumably they're worthwhile human beings just like the non-alien lawful residents. These aliens should therefore be allowed to defend themselves just like us non-alien lawful residents, at least as long as they're in Hawaii, USA. If the aliens should choose to visit or return to some other country, they will of course be subject to the laws there, and may or may not be deprived of some of their God-given rights which our founding fathers so wisely enshrined in our constitution. *Terrestrial

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SB1071

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| Lyle Hlromoto | Individual | Support | No |

Comments:

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SB1071

Submitted on: 2/18/2015

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|---------------------|---------------------|---------------------------|---------------------------|
| Marvin Dryden | Individual | Support | No |

Comments: Marvin Dryden SUPPORTS SB1071.

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SB1071

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|---------------------|---------------------|---------------------------|---------------------------|
| Michael Savard | Individual | Support | No |

Comments: Please pass this bill

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SB1071

Submitted on: 2/17/2015

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|---------------------|---------------------|---------------------------|---------------------------|
| Mike Among | Individual | Oppose | No |

Comments: We as legal citizens have hard enough time to acquire fire arms, where from another State or in the 50th. This bill is throwing in too much rubbish like so called legal alien... NO..why should they have the same as US Citizens. let them become citizens then go for license, I do not agree with the add on, pertaining to aliens.

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SB1071

Submitted on: 2/16/2015

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| Richard Frey | Individual | Support | No |

Comments:

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Date: Wednesday, February 18, 2015 12:39:14 AM

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Submitted on: 2/18/2015

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|---------------------|---------------------|---------------------------|---------------------------|
| Robert Grover | Individual | Support | No |

Comments: Australian Steve Fotoudis and many others like him are permanent residents of Hawaii, possess a "green card," and desire to become naturalized US Citizens. They have passed stringent background checks to enter the U.S. and are subject to the same HRS 134 requirements for permits as Citizens.

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| Ronald G Livingston | Individual | Support | No |

Comments:

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Russell Takata | Individual | Support | No |

Comments:

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Date: Monday, February 16, 2015 8:46:33 AM

SB1071

Submitted on: 2/16/2015

Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ryan Kohatsu | Individual | Support | No |

Comments:

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SB1071

Submitted on: 2/15/2015

Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

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

Comments: Please support this commonsense measure. Thank you for the opportunity to submit testimony.

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Cc: susan.mulkern@gmail.com
Subject: *Submitted testimony for SB1071 on Feb 19, 2015 13:15PM*
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SB1071

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Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

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| Susan Shaheen Mulkern | Individual | Support | No |

Comments:

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SB1071

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| Tom Galli | Individual | Support | No |

Comments:

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SB1071

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Testimony for TSI/PSM on Feb 19, 2015 13:15PM in Conference Room 229

| Submitted By | Organization | Testifier Position | Present at Hearing |
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| Tony Sylvester | Individual | Support | No |

Comments:

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Date: Friday, February 13, 2015 9:04:20 PM

SB1071

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|---------------------|---------------------|---------------------------|---------------------------|
| William R Smith | Individual | Support | No |

Comments: Please note I support this bill.

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