



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

ON THE FOLLOWING MEASURE:

H.B. NO. 626, H.D.1, S.D.1, RELATING TO THE POSSESSION OF FIREARMS WHILE CONSUMING OR UNDER THE INFLUENCE OF AN INTOXICANT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, March 30, 2016

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): WRITTEN TESTIMON ONLY.

(For more information contact Lance Goto, Deputy Attorney General,
at (808) 586-1160).

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General (Department) continues to support the intent of this bill and provides the following comments and suggested amendments, to further the intent and provide clarity.

The purpose of this bill is to prohibit the physical possession of any firearm while consuming or under the influence of an intoxicant.

We recommend amending the measure to clarify “physical possession” to overcome potential constructive possession situations. Additionally, we recommend wording which excludes intoxication in the home, other temporary residences and places of sojourn. And lastly, defining “under the influence.” Specifically, we recommend the committee reword subsection (g) as follows:

(g) No person shall be in actual, physical possession of any firearm outside of the home, temporary residence, and places of sojourn, while consuming or under the influence of an intoxicant. A person shall be “under the influence” if the person is under the influence of alcohol or drugs in an amount sufficient to impair the person’s normal mental faculties or ability to care for the person and guard against casualty; the person has .08 or more grams of alcohol per two hundred ten liters of breath; or the person has .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood.

Thank you for the opportunity to comment.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

MARIE A. MCGAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE RR-DNK

March 30, 2016

The Honorable Gilbert Keith-Agaran, Chair
and Members
Committee on Judiciary and Labor
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: House Bill No. 626, H.D. 1, S.D. 1, Relating to the Possession of Firearms While Consuming or Under the Influence of an Intoxicant

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 strongly supports House Bill No. 626, H.D. 1, S.D. 1, Relating to the Possession of Firearms While Consuming or Under the Influence of an Intoxicant.

Forty-six other states have enacted laws prohibiting the possession of a firearm while consuming or being under the influence of an intoxicant. The HPD's policies specifically prohibit its personnel from handling their firearms while intoxicated. Our state should follow suit by supporting this bill to assist in preventing an avoidable tragedy in the future.

The HPD urges you to support House Bill No. 626, H.D. 1, S.D. 1, Relating to the Possession of Firearms While Consuming or Under the Influence of an Intoxicant.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard C. Robinson".

Richard C. Robinson, Major
Records and Identification Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoha".

Louis M. Kealoha
Chief of Police

Serving and Protecting With Aloha



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
(916) 446-2455 voice ▪ (703) 267-3976 fax
www.nraila.org

STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, HAWAII STATE LIAISON

March 29, 2016

The Honorable Gilbert Keith-Agaran
Chair, Senate Committee on Judiciary and Labor
Sent Via Email

Re: House Bill 626 – OPPOSE

Dear Mr. Chairman:

On behalf of the Hawaii members of the National Rifle Association, I oppose House Bill 626.

HB 626 is overly broad in the nature of the restriction applying to any consumption of alcohol. This bill does not focus on prescribed limits or impairment as is done in other areas of the law, such as driving. Without a more focused restriction, an individual who has had a few sips of wine or anything containing alcohol, such as certain cough suppressants, could be in violation of the law.

Thank you for your attention and I ask that you amend this bill to set prescribed limits for impairment or oppose this legislation.

Cordially,

Daniel S. Reid
State Liaison

HAWAII RIFLE ASSOCIATION

P.O. BOX 543 KAILUA, HAWAII 96734

Phone: (808) 306-7194

Established in 1857

March 28, 2016

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S. L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

Honorable Chair, Vice Chair and Committee Members:

The Hawaii Rifle Association is **STRONGLY OPPOSED** to **HB 626**, for the following reasons:

- * Prohibits possession of a firearm and CONSUMING alcohol, at any level, outside the home. This bill requires quantification like a drunk driving test.
- * While this bill only applies to police at this moment in time, it very well may include all those who qualify for a Concealed Carry Permit once the Ninth Circuit Court of Appeals renders its decision in favor of the plaintiff in the San Diego Peruta case and mandates that Hawaii issue those licenses to its qualified citizens.
- * The HRA does not promote drinking and handling of firearms, but this bill has no proper mechanism to measure intoxication or impairment and is thus flawed.

PLEASE KILL THIS BILL.

Submitted by,

Harvey F. Gerwig, President
Hawaii Rifle Association
Cell: (808) 306-7194
Email: (hghawaii@gmail.com)

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: Submitted testimony for HB626 on Mar 30, 2016 09:30AM
Date: Tuesday, March 29, 2016 9:57:52 AM

HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Ilo	Babooze Bowstrings	Oppose	No

Comments: Oppose! No quantification identified! Dont pass a bad law!

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments: This bill is fraught with problems. Consumption of alcohol in any quantity does not automatically mean that an individual is impaired. Without standards establishing impairment, police officers will find themselves in a tough spot as they try to determine whether or not an individual should be arrested. Where to draw the line? A sip, a teaspoon, a jigger? People's capacity for drink is notoriously variable and the real issue here is whether or not someone is sufficiently impaired to be a danger to themselves or others. And if zero tolerance for drinking and firearms possession is a good idea, then why not zero tolerance for alcohol with all of the other implements people use to harm and murder people, such as knives, axes, baseball bats, cars, fists, clubs, poisons, etc., etc. Draconian measures such as this are invitations to legal trouble and complications, which the State can ill afford to defend. Establish some standards, give the police definite guidelines that can be defended upon to indicate impairment and a present danger, and leave the folks who might have a drink around a gun but who pose no danger from being subjected to this bad law. Poorly written laws are expensive for governments to defend, and Hawaii can't afford more bad laws.

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carlo Barbasa	Individual	Oppose	No

Comments:

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments: Without an objective measure of actual intoxication (blood alcohol level, etc.) this bill as currently written criminalizes based upon witness testimony that a person "consumed any alcohol". Not only is that NOT a "reasonable standard", but it is a standard that will not be upheld legally when challenged and the state spends more of the people's taxpayer money to lose the first court case challenging this law. The law will then rightly be voided. Why not void it right now and save everyone time, money, and grief?

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Date: Monday, March 28, 2016 2:41:20 PM

HB625

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Bennett	Individual	Oppose	No

Comments: RE: Firearms bills--HB 625, 626, 2629, and 2632 As currently presented, all four of these bills should be stopped. HB 625 and 626 are simply WRONG to allow possibly minor infractions to eliminate a significant constitutional right. HB 2629 would allow infraction charges, rather than only convictions, to eliminate a significant constitutional right--and we should NOT be financially charged to exercise a constitutional right. HB 2632 would allow the loss of a constitutional right without due process, possibly for some basic medical issues. I have seen comments indicating this could allow the loss of a constitutional right simply on the opinion of a police officer--if this is true this should NEVER be acceptable. None of the above should be acceptable. Mahalo, Henry Bennett

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kerry Nagai	Individual	Oppose	Yes

Comments:

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Date: Tuesday, March 29, 2016 11:23:57 AM

HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Genovese	Individual	Oppose	No

Comments: Please stop with the anti gun bills we are not kids we don't need your help.

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Individual	Support	No

Comments: No one should be carrying any firearms when consuming alcohol If no driving while drinking, certainly no guns when drinking- Please support Mahalo, Mike Moran Kihei, Maui

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mr. Sosta	Individual	Oppose	No

Comments: HRS 134 is already comprehensive and restrictive enough for law abiding owners of firearms. It doesn't tell you where you can not have firearms it tells you where you can HRS 134 is a travesty to freedom, liberty and the right to keep and bear arms outside of your home in defense of yourself. I oppose this bill and all of ft legislation which infringes on the second amendment.

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Pablo Wegesend	Individual	Comments Only	No

Comments: I believe a person shouldn't be carrying a gun if they're under the influence of alcohol. But we need to be clear on what that means. HB 626 does not set a limit for the amount of alcohol an individual can legally consume while in possession of a firearm. Without this specification, any amount of alcohol consumption while in possession of a firearm could constitute a crime. Individuals who possess a firearm and have had a couple sips of wine or anything containing alcohol, like Nyquil, could be in violation of the law. Please add an alcohol limit like we do we driving under the influence!

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Yoneshige	Individual	Oppose	No

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Pearson	Individual	Oppose	No

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

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

Comments:

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Date: Tuesday, March 29, 2016 8:42:43 AM
Attachments: [HB 626.txt](#)

HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Daniel MD	Individual	Oppose	No

Comments:

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There is no alcohol level specified.

HB 626

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT KAY	Individual	Oppose	No

Comments: This seems ok on the surface but outside of hunting or shooting at a range it is already illegal to have a firearm in your possession outside of those venues. Alcohol is already strictly forbidden at the rifle range and any infraction would mean a hasty call to the police. There is also no quantification of impairment.

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
scott shimoda	Individual	Oppose	No

Comments:

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HB626

Submitted on: 3/29/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Mayo	Individual	Oppose	No

Comments: This is another very poorly worded Bill that needs to be reviewed before passing. The outline is far too vague and subjective. Please put off passing this bill until some thought can be put into its substance. Thank you.

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HB626

Submitted on: 3/28/2016

Testimony for JDL on Mar 30, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Yukutake	Individual	Oppose	No

Comments: I oppose this bill due to it's wide ranging effects. Someone that is intoxicated should not posses a firearm at that time. However you must put in blood alcohol level so that this law is used as intended. This law can make criminals out of good citizens. Someone that had one bear in the morning and goes to the shooting range a couple hours later may be guilty of this crime. Same goes for police officers and those with concealed carry permits who may drink a glass of wine with dinner and are not intoxicated.

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