



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

ON THE FOLLOWING MEASURE:
S.B. NO. 2955, RELATING TO FIREARMS.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, March 1, 2016 **TIME:** 9:00 a.m.
LOCATION: State Capitol, Room 016
TESTIFIER(S): Douglas S. Chin, Attorney General, or
Karen A. Droscoski, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

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

The purposes of this bill are to allow permanent resident aliens to receive a permit to acquire a firearm; requires the issuing authority for firearms permits to perform an inquiry on an applicant using the Criminal Justice Information System (CJIS), National Law Enforcement Telecommunications System (NLETS), National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS); adds permanent resident aliens to required background checks; and clarifies requirements for permanent resident aliens to obtain a firearms permit.

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

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CARY OKIMOTO
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OUR REFERENCE **RR-DNK**

March 1, 2016

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

Dear Chair Keith-Agaran and Members:

Subject: Senate Bill No. 2955, Relating to Firearms

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

The HPD supports Senate Bill No. 2955, 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 through 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.

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Committee on Judiciary and Labor
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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 reads as follows:

§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.

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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 Senate Bill No. 2955.

Thank you for the opportunity to testify.

Sincerely,


Richard C. Robinson, Major
Records and Identification Division

APPROVED:


for Louis M. Kealoha
Chief of Police

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 4:41 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB2955 on Mar 1, 2016 09:00AM

SB2955

Submitted on: 2/29/2016

Testimony for JDL on Mar 1, 2016 09:00AM in Conference Room 016

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.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 5:37 PM
To: JDLTestimony
Cc:
Subject: *Submitted testimony for SB2955 on Mar 1, 2016 09:00AM*

SB2955

Submitted on: 2/29/2016

Testimony for JDL on Mar 1, 2016 09:00AM in Conference Room 016

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

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: DeMONT Conner
Sent: Tuesday, March 01, 2016 6:49 AM
To: JDLTestimony
Subject: SB2955 (Firearms; Background Checks; Permit; Permanent Resident Alien)

We FULLY SUPPORT this common sense bill. Accountability & safety is what this bill offers.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 6:35 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB2955 on Mar 1, 2016 09:00AM

SB2955

Submitted on: 2/29/2016

Testimony for JDL on Mar 1, 2016 09:00AM in Conference Room 016

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

Comments: I SUPPORT this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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