



We write to you today, to ask for your reconsideration on your sponsorship of HB25 in this 2019 legislative session.

Measure Title:		RELATING TO PUBLIC SAFETY.
Report Title:		Firearms; Hotel Rooms
Description:		Prohibits any person, including a hotel guest, from storing, keeping, carrying, or possessing any firearm or ammunition in any hotel room assigned to a guest with certain exceptions.

We, Hawaii Firearms Coalition, understand that many bills, good and bad, may be brought to you for your attention and sponsorship which you may feel the need to act on, on behalf of your constituents. However, in your action of sponsoring HB25, you may have acted erroneously. We want to inform you that this bill is not only poor in scope but is vastly unconstitutional.

Within regard to the constitutionality of implementing a ban, the subject of whether a firearm may be kept in a temporary dwelling has been addressed previously in the 9th circuit court of appeals, in the case *MORRIS v. U.S. ARMY CORPS OF ENGINEERS*. This case looked at a ban on the possession of firearms by campers staying in tents on Army Corp of Engineers property. In this case, the court found that as *Heller* finds the right to bear arms is protected within the home, a tent is as much like a home and that it is equally protected.

"No court has identified those core rights comprehensively. But one core right was described by the Supreme Court: The right of a law-abiding individual to possess a handgun in his home for self-defense. *District of Columbia v. Heller*, 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008). In addressing the need for self-defense in the home, the Supreme Court held that the home is "where the need for defense of self, family, and property is most acute." *Id.* at 628.

The same analysis applies to a tent. While often temporary, a tent is more importantly a place — just like a home — where a person withdraws from public view, and seeks privacy and security for himself and perhaps also for his family and/or his property. Indeed, a typical home at the time the Second Amendment was passed was cramped and drafty with a dirt floor — more akin to a large tent than a modern home. Americans in 1791 — the year the Second Amendment was ratified — were probably more apt to see a tent as a home than we are today. *Heller*, 554 U.S. at 605 (holding that "public understanding" at time of ratification [**7] is "critical tool of constitutional interpretation"). Moreover, under Fourth Amendment analysis, "tents are protected . . . like a more permanent structure," and are deemed to be "more like a house than a car." *U.S. v. Gooch*, 6 F.3d 673 (9th Cir. 1993). The privacy concerns of the Fourth Amendment carry over well into the Second Amendment's security concerns “

Therefore, since a tent is equally protected as a home, as stated above. We feel a hotel room would be equally protected and any such infringement on that right by a government entity would also be unconstitutional.

Another case we would like to bring to your attention, with regards to HB25, is: *Stoner v. California*; heard in the Supreme Court of the United States. This case stated police obtained consent from a hotel clerk to search a guest's room and used the search as grounds to make an arrest. Here, the court found "that (the) defendant had a reasonable expectation of privacy in his hotel room and that the hotel clerk did not have authority to give permission to the officers to search defendant's room."

The court found that the hotel room is equally protected by the guests' 4th Amendment Rights as any other dwelling that they occupy. As such, the police could not conduct a search based on the hotel worker's consent. When a room is rented it becomes the persons domicile or place of sojourn.

Both these cases show that constitutionally protected rights apply equally to hotel rooms and other temporary dwellings as they would within the home. We respectfully ask that you reconsider your sponsorship of HB25 and openly withdraw your support from this bill. We also ask that you move to withdraw this bill from this legislative session.

Hotels are already able to prohibit the possession of firearms on their property through hotel policy as such no law is required. The law would only serve to effect law abiding citizens and would have implications on visitors to the state as well as residents. Hawaii offers different hunting environments and animals across the island chain and many residents and tourists travel with firearms to hunt. Many people travel to Lanai, for example, to hunt Axis deer, with Lanai having the largest free ranging population of axis deer in the world. With this law being in effect, this hunting could not continue and would negatively affect the environment and financial wellbeing on the island as well as the state in general.

The public in general have no business or interest in knowing what someone else does or has within the confines of a hotel room. A hotel room is a private place and is no more open to public observance and/or inspection than a person's home. This law would serve no public safety benefit as a person with ill intent would simply ignore the law and unless the firearm is left in plain sight a hotel would have no ability to search for a firearm in a guests room.

Passing a law that forbids a firearm from a location that is a clearly protected private space would result in legal action against the state and individuals responsible for the law. This is something that the Hawaii firearms coalition would actively support and participate in and with the case law already clearly established would result in a hefty financial cost.

We thank you for taking the time to read the provided information and hope that it has enlightened you to the situation at hand. We, again, respectfully request that you retract your sponsorship of this bill, and request that you make efforts to end its consideration in this legislative session.

If you have any questions regarding the included information and/or firearms information in general, you are more than welcome to contact us via the information below. We look forward to hearing your response to our request.

Kind Regards,
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