



Written by [Joe Wolverton, II, J.D.](#) on May 25, 2016

Hawaii Set to Be First State to Add Gun Owners' Personal Data to Federal Registry

Gun owners in Hawaii may soon find their names uploaded to a federal registry of firearms owners maintained by the Federal Bureau of Investigation (FBI).

In a story reported by the Associated Press (AP), anyone in Hawaii owning a weapon could soon have their names and other personal data sent to the federal government for inclusion in a list known as the "Rap Back," as part of a bill filed in the state senate.



The Rap Back is a list of persons for whom the FBI keeps track of any criminal activity nationwide.

The bill, SB 2954, was passed in April by the state house of representatives and later that same month, the bill was passed unanimously (with one senator excused) by the state senate.

Section 2 of the text of the bill passed by state lawmakers mandates that "every person registering a firearm under this subsection shall be fingerprinted and photographed by the police department of the county of registration."

The registration must include the following information about the firearm: "name of the manufacturer and importer; model; type of action; caliber or gauge; serial number; and source from which receipt was obtained, including the name and address of the prior registrant."

Further, the names and addresses of all gun owners in the state must be uploaded to the FBI's Criminal Justice Information System.

This database typically includes people in positions of trust who have their criminal activity (if any) monitored in order to keep the people over whom they have authority safe from potential harm.

It goes without saying that many in Hawaii feel this proposal is forcing them to say "aloha" to their right to keep and bear arms as protected by the Second Amendment to the Constitution. "I don't like the idea of us being entered into a database. It basically tells us that they know where the guns are, [and] they can go grab them," [Jerry Ilo](#), a firearm and hunting instructor for the state, told the AP. "We get the feeling that Big Brother is watching us."

Just as predictably, those opposed to the protection of the right of civilians to own firearms are excited for the prospect of a database storing the names and other private data of gun owners. A spokesman for the Law Center to Prevent Gun Violence is quoted in the AP article as describing the plan as "groundbreaking."

State Senator Will Espero is the sponsor of the bill and believes, per the AP, that should it pass, Hawaii would become "a model for other states."

At least one legal expert sees a significant constitutional problem with Espero's proposal. "You're curtailing that right by requiring that a name be entered into a database without doing anything



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wrong,” said [Kenneth Lawson](#), a member of the faculty at the University of Hawaii’s William S. Richardson School of Law, as quoted by the AP.

For its part, the National Rifle Association (NRA) opposes the bill. Amy Hunter, a spokesman for the pro-gun group, described the legislation as “extremely dangerous,” warning that it would “be treating firearms as suspect and subject to constant monitoring.”

Hunter’s not wrong. There is precedent for the effect such a measure would have on the exercise of the right to keep and bear arms: New York.

New York’s SAFE Act of 2013 created a database similar to the one being proposed in Hawaii, and it led to confiscation of weapons and ammunition. Kit Daniels reports on the example of the SAFE Act and its impact on the right to own a gun:

After N.Y. passed the SAFE Act in 2013, the NYPD sent out notices to registered gun owners demanding they give up their guns.

The notice ordered gun owners, who possessed firearms now prohibited under SAFE Act, the “options” to either surrender their firearms to the police, remove them from the city limits or otherwise render them inoperable.

Rendering rights inoperable, sadly, seems to be the goal of many state and federal lawmakers who would see the Second Amendment legislated out of existence.

Moreover, constitutionalists recognize this end-run around the Bill of Rights and point to several key concerns with the plan to keep a list of gun owners living in Hawaii.

First, there is no authority given in the constitution of the State of Hawaii to the state legislature to either create or participate in any such system.

In fact, Article I, Section 17 of the state’s Bill of Rights declares that “the right of the people to keep and bear arms shall not be infringed.”

There is no legal wiggle room in such a simple statement. “Shall not” means shall not; it doesn’t mean “shall not” unless we decide to.

Also, the right to keep and bear arms, as protected by the federal and state constitutions, was not intended to safeguard the right to hunt, as claimed by the would-be confiscators. The reason for inclusion of the Second Amendment in the Bill of Rights was to thwart future attempts by an out-of-control, all-powerful central authority to disarm the people as a step toward tyranny.

Take, for example, the following statements by our forefathers regarding the purpose of the passage of this amendment. In commenting on the Constitution in 1833, Joseph Story wrote:

The right of the citizens to keep and bear arms has justly been considered, as *the palladium of the liberties of a republic*; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, *enable the people to resist and triumph over them*. [Emphasis added.]

In his own commentary on the works of the influential jurist Blackstone, Founding-era legal scholar St. George Tucker wrote:

This may be considered as the true palladium of liberty.... The right of self defence is the first law of nature: in most governments it has been the study of rulers to confine this right within the



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narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

Writing in *The Federalist*, Alexander Hamilton explained:

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state.

Finally, Article XIII of the Pennsylvania Constitution of 1776 demonstrates what was in the mind of the Founding Generation with regard to why protecting the right to be armed was so important to them. That provisions mandates that “the people have a right to bear arms for the defence [sic] of themselves and the state.”

Against an attack from whom would theses armed citizens be defending the state? From those who would kill their fellowman? From those who would burgle homes and businesses? From bears?

No, from the government itself.

As of today, the Hawaii bill to put the names and personal information of gun owners on a federal registry is being reviewed by the state attorney general’s office (and other state agencies) before it is sent to the governor for his signature or veto.



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