WHEREAS, the Second Amendment of the United States Constitution reads: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."; and

WHEREAS, this language has created considerable debate regarding the constitutional provision's intended scope; and

WHEREAS, some people believe that this constitutional provision creates an individual constitutional right for citizens of the United States; and

WHEREAS, under this "individual right theory", the United States Constitution restricts legislative bodies from prohibiting firearm possession, or at the very least, the Second Amendment renders prohibitory and restrictive regulation presumptively unconstitutional; and

WHEREAS, however, other people contend that the prefatory language of "a well regulated militia" indicates that the framers of the United States Constitution intended only to restrict the United States Congress from legislating away a state's right to self-defense; and

WHEREAS, under this "collective rights theory", the Second Amendment asserts that United States citizens do not have an individual right to possess guns and that local, state, and federal legislative bodies possess the authority to regulate firearms without implicating a constitutional right; and

WHEREAS, these two interpretations of the Second Amendment have been considered and adopted by the United States Supreme Court; and
WHEREAS, in 1939, the United States Supreme Court adopted a 
collective rights approach under United States v. Miller, 307 
U.S. 174 (1939) by determining that the United States Congress 
could regulate a sawed-off shotgun that had moved in interstate 
commerce under the National Firearms Act of 1934; and

WHEREAS, the court in United States v. Miller determined 
the evidence did not suggest that the shotgun had a reasonable 
relationship to the preservation or efficiency of a well 
regulated militia; and

WHEREAS, the court further held that the framers of the 
United States Constitution included the Second Amendment to 
ensure the effectiveness of the military; and

WHEREAS, the precedent established under United States v. 
Miller stood for nearly seventy years until the United States 
Supreme Court revisited the issue in 2008 under District of 
Columbia v. Heller, 554 U.S. 570 (2008); and

WHEREAS, the plaintiff in District of Columbia v. Heller 
challenged the constitutionality of the Washington D.C. handgun 
bann, which is a statute that stood for thirty-two years; and

WHEREAS, the court in District of Columbia v. Heller held 
that the Second Amendment established an individual right for 
United States citizens to possess firearms and struck down the 
Washington D.C. handgun ban as a violation of that right; and

WHEREAS, the majority in Heller carved out Miller as an 
exception to the general rule that United States citizens may 
possess firearms by claiming that law abiding citizens cannot 
use sawed-off shotguns for any law abiding purpose; and

WHEREAS, thus, the United States Supreme Court has 
revitalized the discussion of whether the Second Amendment is a 
collective or individual constitutional right; and

WHEREAS, in light of the numerous tragic mass shootings at 
schools, work places, and public events, this body believes that 
it is necessary to repeal or amend the Second Amendment of the 
United States Constitution; now, therefore,
1

2 BE IT RESOLVED by the House of Representatives of the
3 Twenty-ninth Legislature of the State of Hawaii, Regular Session
4 of 2018, that the United States Congress is urged to propose and
5 pass a proposed amendment to the United States Constitution
6 pursuant to article V of the United States Constitution to
7 clarify the constitutional right to bear arms; and
8
9 BE IT FURTHER RESOLVED that the United States Congress is
10 requested to consider and discuss whether the Second Amendment
11 of the United States Constitution should be repealed or amended
12 to clarify that the right to bear arms is a collective, rather
13 than individual, constitutional right; and
14
15 BE IT FURTHER RESOLVED that certified copies of this
16 Resolution be transmitted to the President Pro Tempore of the
17 United States Senate, Speaker of the United States House of
18 Representatives, Members of the Hawaii's congressional
19 delegation, and the Governor.
20
21
22

OFFERED BY:  

MAR 09 2018