

PROPOSED

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 2772
H.D. 1
S.D. 2

A BILL FOR AN ACT

RELATING TO CRIMINAL PROPERTY DAMAGE TO AGRICULTURAL AND
AQUACULTURAL PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Results from a 2005 statewide survey of farmers
2 and ranchers conducted by the Hawaii department of agriculture,
3 the U.S. Department of Agriculture, and the Hawaii Farm Bureau
4 Federation provide a detailed accounting of the economic impact
5 of agricultural theft and vandalism on the agriculture industry.
6 Losses attributed to an estimated 1,153 acts of vandalism
7 amounted to \$2.02 million, with an average loss of \$1,751 per
8 incident. Ranchers were particularly affected, suffering \$4,902
9 in loss or injury to livestock per incident while crop farmers
10 lost \$3,901 per incident. Farmers and ranchers that suffered
11 vandalism to their machinery and equipment lost \$2,751 per
12 incident. Almost sixty percent of the economic loss was
13 suffered by Maui farmers and ranchers (57.5%), followed by Oahu
14 (28.1%), Hawaii (9.6%), and Kauai (4.9%).
15 Total theft of farm commodities, materials, equipment, and
16 other property was found to be \$1.95 million. Agriculture theft
17 is often committed using tools such as chain saws, axes,



1 machetes, and large pruning shears that provide a means of
 2 quickly "harvesting" agricultural products in order to leave the
 3 scene as fast as possible. This frequently results in the death
 4 of the tree, bush, or other plant. The thief has effectively
 5 deprived the farmer of not only the produce on the plant at the
 6 time of the theft, but also subsequent produce for that season
 7 and succeeding years over the expected life of the plant. The
 8 farmer also has been robbed of the investment made to get the
 9 plant to the point of production.

10 During the survey period there were one hundred sixty-nine
 11 incidents when agricultural machinery and equipment were damaged
 12 to the extent that they were rendered inoperable or vehicles
 13 were used for "joy rides" in the fields causing damage to
 14 planted crops as well as the soil and the vehicle.

15 The purpose of this Act is to strengthen the laws of the
 16 State to recognize the actual loss of agricultural and
 17 aquacultural property suffered by farmers and ranchers from such
 18 criminal actions and to impose appropriate penalties.

19 SECTION 2. Section 708-800, Hawaii Revised Statutes, is
 20 amended as follows:

21 1. By adding a new definition to be appropriately inserted
 22 and to read:

1 "Aquacultural equipment, supplies, or products" mean any
 2 equipment, supplies, products, or commodities used, raised,
 3 grown, or maintained for the production of fish, shellfish,
 4 mollusk, crustacean, algae, or other aquatic plant or animal by
 5 an aquaculture enterprise or research agency while owned by the
 6 enterprise or agency."

7 2. By deleting the definition of "aquaculture product":
 8 [~~"Aquaculture product" means any fish, shellfish, mollusk,~~
 9 ~~crustacean, algae, or other aquatic plant or animal raised,~~
 10 ~~grown, or maintained by an aquaculture enterprise or research~~
 11 ~~agency while owned by the enterprise or agency."]~~

12 SECTION 3. Section 708-820, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 **"§708-820 Criminal property damage in the first degree.**

15 (1) A person commits the offense of criminal property
 16 damage in the first degree if:

17 (a) The person intentionally or knowingly damages property
 18 and thereby recklessly places another person in danger
 19 of death or bodily injury; ~~[or]~~

20 (b) The person intentionally or knowingly damages the
 21 property of another, without the other's consent, in
 22 an amount exceeding \$20,000~~[-]~~; or

1 (c) The person intentionally or knowingly damages the
 2 agricultural equipment, supplies, or products or
 3 aquacultural equipment, supplies, or products of
 4 another, including trees, bushes, or any other plant
 5 and livestock of another, without the other's consent,
 6 in an amount exceeding \$1,500. In calculating the
 7 value of damage, the value of future crops that were
 8 damaged is included.

9 (2) Criminal property damage in the first degree is a
 10 class B felony."

11 SECTION 4. Section 708-821, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 **"§708-821 Criminal property damage in the second degree.**

14 (1) A person commits the offense of criminal property
 15 damage in the second degree if:

16 (a) The person intentionally or knowingly damages the
 17 property of another, without the other's consent, by
 18 the use of widely dangerous means; [~~or~~]

19 (b) The person intentionally or knowingly damages the
 20 property of another, without the other's consent, in
 21 an amount exceeding \$1,500[~~+~~]; or

1 (c) The person intentionally or knowingly damages the
 2 agricultural equipment, supplies, or products or
 3 aquacultural equipment, supplies, or products of
 4 another, including trees, bushes, or any other plant
 5 and livestock of another, without the other's consent,
 6 in an amount exceeding \$500. In calculating the value
 7 of damage, the value of future crops that were damaged
 8 is included.

9 (2) Criminal property damage in the second degree is a
 10 class C felony."

11 SECTION 5. Section 708-822, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 **"§708-822 Criminal property damage in the third degree.**

14 (1) A person commits the offense of criminal property
 15 damage in the third degree if:

16 (a) The person recklessly damages the property of another,
 17 without the other's consent, by the use of widely
 18 dangerous means; [~~or~~]

19 (b) The person intentionally damages the property of
 20 another, without the other's consent, in an amount
 21 exceeding \$500[~~or~~]; or



1 (c) The person intentionally damages the agricultural
 2 equipment, supplies, or products or aquacultural
 3 equipment, supplies, or products of another, including
 4 trees, bushes, or any other plant and livestock of
 5 another, without the other's consent.

6 (2) Criminal property damage in the third degree is a
 7 misdemeanor."

8 SECTION 6. Section 708-831, Hawaii Revised Statutes, is
 9 amended by amending subsection (1) to read as follows:

10 "(1) A person commits the offense of theft in the second
 11 degree if the person commits theft:

12 (a) Of property from the person of another;

13 (b) Of property or services the value of which exceeds
 14 \$300;

15 (c) Of an [~~aquaculture~~] aquacultural product or part
 16 thereof from premises that is fenced or enclosed in a
 17 manner designed to exclude intruders or there is
 18 prominently displayed on the premises a sign or signs
 19 sufficient to give notice and reading as follows:

20 "Private Property"; or

21 (d) Of agricultural equipment, supplies, or products, or
 22 part thereof, the value of which exceeds \$100 but does



1 not exceed \$20,000, or of agricultural products that
2 exceed twenty-five pounds, from premises that are
3 fenced, enclosed, or secured in a manner designed to
4 exclude intruders or there is prominently displayed on
5 the premises a sign or signs sufficient to give notice
6 and reading as follows: "Private Property." The sign
7 or signs, containing letters not less than two inches
8 in height, shall be placed along the boundary line of
9 the land in a manner and in such position as to be
10 clearly noticeable from outside the boundary line.
11 Possession of agricultural products without ownership
12 and movement certificates, when a certificate is
13 required pursuant to chapter 145, is prima facie
14 evidence that the products are or have been stolen."

15 SECTION 7. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 2006.



PROPOSED

Report Title:

Criminal Property Damage; Agricultural or Aquacultural Equipment, Supplies, or Products

Description:

Establishes intentionally and knowingly damaging the agricultural or aquacultural equipment, supplies, or products of another as the crime of criminal property damage. (SD2)

