

JAN 25 2006

S.B. NO. 2492

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# A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PROPERTY RIGHTS.

**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 60 percent of the economic loss was suffered  
13 by Maui farmers and ranchers (57.5%), followed by Oahu (28.1%),  
14 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,  
18 machetes, and large pruning shears that provide a means of



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

9       During the survey period there were 169 incidents when  
10 agricultural machinery and equipment were damaged to the extent  
11 that they were rendered inoperable or vehicles were used for  
12 "joy rides" in the fields causing damage to planted crops as  
13 well as the soil and the vehicle.

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

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

20       1. By adding a new definition to be appropriately  
21 inserted 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, without the other's consent, in an amount  
 5        exceeding \$1,500.

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

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

10        **"§708-821 Criminal property damage in the second degree.**

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

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

16        (b) The person intentionally or knowingly damages the  
 17 property of another, without the other's consent, in  
 18 an amount exceeding \$1,500[-]; or

19        (c) The person intentionally or knowingly damages the  
 20        agricultural equipment, supplies, or products or  
 21        aquacultural equipment, supplies, or products of

1           another, without the other's consent, in an amount  
2           exceeding \$500.

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

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

7           "**§708-822 Criminal property damage in the third degree.**

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

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

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

16          (c) The person intentionally damages the agricultural  
17 equipment, supplies, or products or aquacultural  
18 equipment, supplies, or products of another, without  
19 the other's consent.

20          (2) Criminal property damage in the third degree is a  
21 misdemeanor."



1 SECTION 6. Section 708-831, HRS, is amended by amending  
2 subsection (1) to read as follows:

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

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

6 (b) Of property or services the value of which exceeds  
7 \$300;

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

13 "Private Property"; or

14 (d) Of agricultural equipment, supplies, or products, or  
15 part thereof, the value of which exceeds \$100 but does  
16 not exceed \$20,000, or of agricultural products that  
17 exceed twenty-five pounds, from premises that are  
18 fenced, enclosed, or secured in a manner designed to  
19 exclude intruders or there is prominently displayed on  
20 the premises a sign or signs sufficient to give notice  
21 and reading as follows: "Private Property." The sign  
22 or signs, containing letters not less than two inches



1 in height, shall be placed along the boundary line of  
 2 the land in a manner and in such position as to be  
 3 clearly noticeable from outside the boundary line.  
 4 Possession of agricultural products without ownership  
 5 and movement certificates, when a certificate is  
 6 required pursuant to chapter 145, is prima facie  
 7 evidence that the products are or have been stolen."

8 SECTION 7. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun, before its effective date.

11 SECTION 8. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval.

14 INTRODUCED BY: Clayton Hill  
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**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.

