

STAND. COM. REP. NO.

705

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 1414

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1414 entitled:

"A BILL FOR AN ACT RELATING TO METAL,"

begs leave to report as follows:

The purpose of this bill is to deter scrap metal theft by making permanent the law that established a misdemeanor offense for thefts of metal beer kegs and imposed various additional documentation requirements for scrap dealer purchases of beer kegs, otherwise known as Act 53, Session Laws of Hawaii 2008.

Anheuser Busch Companies testified in support of this bill. The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company submitted comments on this measure.

Your Committee has amended this bill by inserting language that makes permanent the:

- (1) Definition of copper in section 445-231, Hawaii Revised Statutes (HRS); and
- (2) Requirements for the purchase or sale of scrap metal that is defined as copper.

HB1414 HD1 HSCR JUD HMS 2009-2505



Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1414, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1414, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


JOSEPH M. KARAMATSU, Chair



Record of Votes of the Committee on Judiciary

Bill/Resolution No.: <i>HB 1414</i>	Committee Referral: <i>CPC, JUD</i>	Date: <i>2/24/09</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KARAMATSU, Jon Riki (C)	✓			
2. ITO, Ken (VC)	✓			
3. BELATTI, Della Au	✓			
4. CABANILLA, Rida	✓			
5. CARROLL, Mele				✓
6. HERKES, Robert N.	✓			
7. LUKE, Sylvia	✓			
8. McKELVEY, Angus L.K.				✓
9. MIZUNO, John M.	✓			
10. MORITA, Hermina M.				✓
11. OSHIRO, Blake K.	✓			
12. SOUKI, Joseph M.	✓			
13. TSUJI, Clift	✓			
14. WAKAI, Glenn				✓
15. MARUMOTO, Barbara C.	✓			
16. THIELEN, Cynthia				✓
TOTAL (16)	11			5
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: <i>[Signature]</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

A BILL FOR AN ACT

RELATING TO METAL.

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

1 SECTION 1. Act 197, Session Laws of Hawaii 2007, as
2 amended by section 20 of Act 16, Session Laws of Hawaii 2008, is
3 amended by amending section 7 to read as follows:

4 "SECTION 7. This Act shall take effect on July 1, 2007[
5 ~~and shall be repealed on July 1, 2009; provided that sections~~
6 ~~445-231, 445-233 and 445-235, Hawaii Revised Statutes, shall be~~
7 ~~reenacted in the form in which they read on the day before the~~
8 ~~effective date of this Act]."~~

9 SECTION 2. Act 53, Session Laws of Hawaii 2008, is amended
10 by amending section 6 to read as follows:

11 "SECTION 6. This Act shall take effect on July 1, 2008[
12 ~~and shall be repealed on July 1, 2009; provided that sections~~
13 ~~445-231 and 445-233, Hawaii Revised Statutes, shall be reenacted~~
14 ~~in the form in which those sections read on the day before the~~
15 ~~effective date of Act 197, Session Laws of Hawaii 2007]."~~

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on June 30, 2009.



Report Title:

Metal; Beer Kegs; Copper; Scrap Dealer; Theft

Description:

Repeals the July 1, 2009 "sunset" date in Act 53, SLH 2008, that established the misdemeanor offense of theft of beer keg and imposed recordkeeping requirements on scrap metal dealers that purchase beer kegs. Removes sunset clause in Act 197, Session Laws of Hawaii 2007, which contains a repeal date of July 1, 2009. Effective June 30, 2009. (HB1414 HD1)





TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:

H.B. NO. 1414, H.D. 1, RELATING TO METAL.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, March 18, 2009 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 229

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of the Attorney General strongly supports section 1 of this bill, and takes no position as to section 2.

Section 1 of this bill removes the sunset provision of Act 197, Session Laws of Hawaii 2007, and continues the requirements for the purchase of copper by scrap dealers, along with the other provisions of Act 197, intended to address the problem of copper thefts, including the theft of copper offense.

Section 2 of this bill removes the sunset provision of Act 53, Session Laws of Hawaii 2008, which established the misdemeanor offense of theft of beer keg and imposed recordkeeping requirements on scrap metal dealers that purchase beer kegs.

Copper thefts have had a great impact on the residents of Hawaii. Copper thieves have dismantled street lights, caused power outages, and caused the closure of parks and other facilities. One attempted theft resulted in the death of an individual. Section 1 of this bill is critical to efforts being made to address the problem of copper theft.

Act 197 took a two-pronged approach to the problem by:

- (1) establishing theft of copper as a felony offense; and
- (2) imposing additional requirements on scrap dealers and those who sell copper to scrap dealers to deter the sale of stolen copper. A two-year sunset date, of July 1, 2009, was placed on the Act 197

amendments to allow for an assessment of the Act's effectiveness. During the short period of time that the amendments have been in place, they have had a positive impact and have greatly facilitated the investigation and prosecution of copper theft offenses. Maintaining the provisions of Act 197 will help authorities address the problem of copper theft and the numerous and costly problems that such thefts cause to our communities and the public.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

PETER B. CARLISLE
PROSECUTING ATTORNEY

Douglas S. Chin
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE ROSLYN BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai`i

March 18, 2009

RE: H.B. 1414, H.D. 1; RELATING TO METAL.

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, the Department of the Prosecuting Attorney submits the following testimony in support of Section 1 of House Bill 1414, H.D. 1.

The purpose of Section 1 of this bill is to remove the July 1, 2009 sunset from Act 197 of 2007 and make the provisions of Act 197 of 2007 and its subsequent amendments permanent.

In 2007, the legislature passed Act 197 which created a class C offense for the theft of a pound or more of copper. In addition, Act 197 also established: 1) requirements for documenting the purchase of copper by scrap dealers; and 2) enhanced penalties for violations of the licensing and documentation requirements for scrap dealers. This law has proven extremely effective in aiding law enforcement in investigating and prosecuting copper theft cases.

Most recently, members of a major copper theft ring were indicted for copper theft. The ring is alleged to have stolen 72,000 pounds of copper wiring from the H-1 and H-2 freeways; the thefts caused millions of dollars in damages and posed safety concerns for motorists as parts of the freeways were left in the dark for months. We've also used the copper theft law in other instances including a case in which copper wiring was stolen several times from West Loch Golf Course by the same defendant.

We believe that in the short period of time this law has been in effect, that it has been tremendously useful in combating and deterring copper theft. For this reason, we respectfully request your favorable consideration of this bill and thank you for this opportunity to testify.

Testimony before the Senate Committee on Commerce and Consumer Protection

**By Jim Beavers
Manager, Safety, Security and Facilities
Hawaiian Electric Company, Inc.**

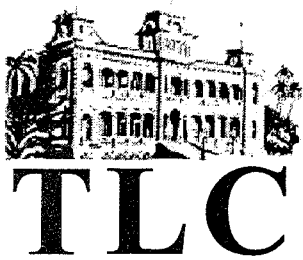
**March 18, 2009
8:30 a.m.
House Bill 1414, HD 1
Relating to Metal**

Chair Baker, Vice Chair Ige, and Members of the Committee:

My name is Jim Beavers and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We strongly **support** HB 1414, HD 1 that removes the sunset clause in Act 197 on those provisions enacted to deter the sale of stolen copper. Since the passage of these provisions, which made the theft of copper a new criminal offense and which placed stringent requirements on scrap dealers and sellers of copper, Hawaiian Electric Company has seen a reduction in the amount of copper theft incidents. The result has been reduced inconvenience to our customers and a reduction of the risk of injury and/or death to those that attempt to steal copper from our facilities since they are energized at very high voltages. We have experienced incidents in the past where thieves have been seriously injured while attempting to steal copper from our facilities.

For all the reasons stated above, we strongly support this bill.



THE LEGISLATIVE CENTER

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March 18, 2009

Testimony To: Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, Legislative Liaison
Anheuser Busch Companies

Subject: H.B. 1414, HD 1 – RELATING TO METAL

Chair Baker and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we support this bill.

This bill merely renews the law as it is today which is scheduled to expire. The expiration date was originally keyed around the sunset clause in Act 197-07 however, because a separate section was created for the law, the sunset clause is not really needed.

Based on the above, we support this bill and hope that you can keep the crime of stealing a beer keg on the books.

Thank you.