

**CHAPTER 852**  
**OBSTRUCTION OF INGRESS OR EGRESS**

Section

852-1 Refusal to provide ingress or egress

852-2 Penalty

" **§852-1 Refusal to provide ingress or egress.** (a) Whenever ingress to or egress from any public or private place is obstructed by any person or persons in such manner as not to leave a free passageway for persons and vehicles lawfully seeking to enter or leave such place, any law enforcement officer shall direct such person or persons to move so as to provide and maintain a free and unobstructed passageway for persons and vehicles lawfully going into or out of such place. It shall be unlawful for any person to refuse or wilfully fail to move as directed by such officer.

(b) As used in this section, "law enforcement officer" means any public servant, whether employed by the State or county, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether the duty extends to all offenses or is limited to a specific class of offenses. [L Sp 1949, c 9, §1; RL 1955, §297-1; HRS §754-1; ren L 1972, c 9, pt of §1; am L 2002, c 144, §1]

#### **Case Notes**

As enforcement of this section by the State focused on the location of the picketers and not on the picketing conduct itself, section not preempted by the National Labor Relations Act. 89 H. 27 (App.), 968 P.2d 194 (1998).

As section does not prohibit picketing or the communication of messages altogether, is specifically aimed at conduct causing an obstruction of ingress to or egress from public or private places, and individuals may continue to exercise rights guaranteed by the First Amendment and article I, §4 of the Hawaii constitution as long as they do not do so in a manner prohibited by this section, section not unconstitutional. 89 H. 27 (App.), 968 P.2d 194 (1998).

Section not unconstitutionally vague as: (1) a person of ordinary intelligence would have a reasonable opportunity to know that it is unlawful to refuse or wilfully fail to move as directed by an officer; (2) person may then choose between the lawful and unlawful conduct; and (3) section provides sufficiently explicit standards for those who apply it. 89 H. 27 (App.), 968 P.2d 194 (1998).

Defendant did not have a constitutional right to a jury trial for a violation of this section, refusal to provide ingress or egress while walking a labor picket line, where the maximum punishment was thirty days in jail or a \$200 fine, or both, and violation was thus a petty misdemeanor under §701-107(4). 110 H. 139 (App.), 129 P.3d 1167 (2006).

" **§852-2 Penalty.** Any person who refuses or wilfully fails to move as directed by such officer shall be fined not more than \$200 or imprisoned not more than six months, or both. [L Sp 1949, c 9, §2; RL 1955, §297-2; HRS §754-2; ren L 1972, c 9, pt of §1]

#### **Cross References**

Classification of offense and authorized punishment, see §§701-107, 706-640, 706-663.