

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO THEFT.

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

1           SECTION 1. Section 708-830, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§708-830 Theft.** A person commits theft if the person  
4 does any of the following:

5           (1) Obtains or exerts unauthorized control over property.

6           A person obtains or exerts unauthorized control over  
7 the property of another with intent to deprive the  
8 other of the property.

9           (2) Property obtained or control exerted through  
10 deception. A person obtains, or exerts control over,  
11 the property of another by deception with intent to  
12 deprive the other of the property.

13           (3) Appropriation of property. A person obtains, or  
14 exerts control over, the property of another that the  
15 person knows to have been lost or mislaid or to have  
16 been delivered under a mistake as to the nature or  
17 amount of the property, the identity of the recipient,



1 or other facts, and, with the intent to deprive the  
2 owner of the property, the person fails to take  
3 reasonable measures to discover and notify the owner.

4 (4) Obtaining services by deception. A person  
5 intentionally obtains services, known by the person to  
6 be available only for compensation, by deception,  
7 false token, or other means to avoid payment for the  
8 services. When compensation for services is  
9 ordinarily paid immediately upon the rendering of  
10 them, absconding without payment or offer to pay is  
11 prima facie evidence that the services were obtained  
12 by deception.

13 (5) Diversion of services. Having control over the  
14 disposition of services of another to which a person  
15 is not entitled, the person intentionally diverts  
16 those services to the person's own benefit or to the  
17 benefit of a person not entitled thereto.

18 (6) Failure to make required disposition of funds.

19 (a) A person intentionally obtains property from  
20 anyone upon an agreement, or subject to a known  
21 legal obligation, to make specified payment or



1 other disposition, whether from the property or  
2 its proceeds or from the person's own property  
3 reserved in equivalent amount, and deals with the  
4 property as the person's own and fails to make  
5 the required payment or disposition. It does not  
6 matter that it is impossible to identify  
7 particular property as belonging to the victim at  
8 the time of the defendant's failure to make the  
9 required payment or disposition. A person's  
10 status as an officer or employee of the  
11 government or a financial institution is prima  
12 facie evidence that the person knows the person's  
13 legal obligations with respect to making payments  
14 and other dispositions. If the officer or  
15 employee fails to pay or account upon lawful  
16 demand, or if an audit reveals a falsification of  
17 accounts, it shall be prima facie evidence that  
18 the officer or employee has intentionally dealt  
19 with the property as the officer's or employee's  
20 own.



## S.B. NO. 2445

1 (b) A person obtains personal services from an  
2 employee upon agreement or subject to a known  
3 legal obligation to make a payment or other  
4 disposition of funds to a third person on account  
5 of the employment, and the person intentionally  
6 fails to make the payment or disposition at the  
7 proper time.

8 (7) Receiving stolen property. A person intentionally  
9 receives, retains, or disposes of the property of  
10 another, knowing that it has been stolen, with intent  
11 to deprive the owner of the property. It is prima  
12 facie evidence that a person knows the property to  
13 have been stolen if [~~being~~]:

14 (a) Being a dealer in property of the sort received,  
15 the person acquires the property for a  
16 consideration that the person knows is far below  
17 its reasonable value; or

18 (b) The person possesses property which has been  
19 recently stolen, with no satisfactory  
20 explanation.

21 (8) Shoplifting.



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1 (a) A person conceals or takes possession of the  
2 goods or merchandise of any store or retail  
3 establishment, with intent to defraud.

4 (b) A person alters the price tag or other price  
5 marking on goods or merchandise of any store or  
6 retail establishment, with intent to defraud.

7 (c) A person transfers the goods or merchandise of  
8 any store or retail establishment from one  
9 container to another, with intent to defraud.

10 The unaltered price or name tag or other marking on  
11 goods or merchandise, duly identified photographs or  
12 photocopies thereof, or printed register receipts  
13 shall be prima facie evidence of value and ownership  
14 of such goods or merchandise. Photographs of the  
15 goods or merchandise involved, duly identified in  
16 writing by the arresting police officer as accurately  
17 representing such goods or merchandise, shall be  
18 deemed competent evidence of the goods or merchandise  
19 involved and shall be admissible in any proceedings,  
20 hearings, and trials for shoplifting to the same  
21 extent as the goods or merchandise themselves."



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1 SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 2445

**Report Title:**

Penal Code; Theft; Possessing Recently Stolen Property

**Description:**

Establishes that possession of recently stolen property, with no satisfactory explanation, is prima facie evidence of knowledge that the property has been stolen.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

