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## A BILL FOR AN ACT

RELATING TO THEFT IN THE SECOND DEGREE.

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

1           SECTION 1. The legislature finds that the State's penal  
2 code does not adequately address situations in which an offender  
3 takes the property of another that is commonly used to store  
4 items of personal or monetary value, including purses, handbags,  
5 or wallets. The Hawaii supreme court decision in *State v.*  
6 *Cabrera*, 90 Hawaii 359, 978 P.2d 797 (1999), established that  
7 the prosecution must prove beyond a reasonable doubt that an  
8 accused offender intended to steal property or services valued  
9 in excess of \$750 to convict a defendant of theft in the second  
10 degree under section 708-831(1)(b), Hawaii Revised Statutes.  
11 Thus, an offender may be arrested for the offense of theft in  
12 the second degree when the value of property taken exceeds \$750,  
13 but due to the high standard of proof required, this offense is  
14 typically amended or dropped.

15           The legislature further finds that including any instance  
16 in which an offender takes the property of another that is  
17 commonly used to store items of personal or monetary value,



1 including purses, handbags, or wallets, as an offense of theft  
2 in the second degree may deter potential offenders from engaging  
3 in theft of these items. The legislature finds that specifying  
4 this particular offense as a felony may have a long-term  
5 deterrent effect and create a safer environment for the  
6 community.

7       Additionally, the legislature finds that purses, handbags,  
8 wallets, or similar items often contain personal information of  
9 not just the victim whose property was taken in a theft, but  
10 also the personal information of the victim's family, employer,  
11 friends, or acquaintances. These items can also contain  
12 sensitive medical information, credit cards, workplace  
13 information, personal photos, or other sensitive information.  
14 The victim's personal information stored in these items  
15 typically leads to further victimization, including fraud,  
16 identity theft, harassment, or stalking.

17       Accordingly, the purpose of this Act is to amend the  
18 offense of theft in the second degree to include theft of  
19 property commonly used to store items of personal or monetary  
20 value, including any purse, handbag, or wallet.



1 SECTION 2. Section 708-831, Hawaii Revised Statutes, is  
2 amended by amending 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[+] of:

5 (a) [~~Of property~~] Property from the person of another;

6 (b) [~~Of property~~] Property or services the value of which  
7 exceeds \$750;

8 (c) [~~Of an~~] An aquacultural product or part thereof from  
9 premises that are fenced or enclosed in a manner  
10 designed to exclude intruders or there is prominently  
11 displayed on the premises a sign or signs sufficient  
12 to give notice and reading as follows: "Private  
13 Property", "No Trespassing", or a substantially  
14 similar message;

15 (d) [~~Of agricultural~~] Agricultural equipment, supplies, or  
16 products, or part thereof, the value of which exceeds  
17 \$100 but does not exceed \$20,000, or of agricultural  
18 products that exceed twenty-five pounds, from premises  
19 that are fenced, enclosed, or secured in a manner  
20 designed to exclude intruders or where there is  
21 prominently displayed on the premises a sign or signs



1 sufficient to give notice and reading as follows:  
2 "Private Property", "No Trespassing", or a  
3 substantially similar message; or if at the point of  
4 entry of the premise, a crop is visible. The sign or  
5 signs, containing letters not less than two inches in  
6 height, shall be placed along the boundary line of the  
7 land in a manner and in such a position as to be  
8 clearly noticeable from outside the boundary line.  
9 Possession of agricultural products without ownership  
10 and movement certificates, when a certificate is  
11 required pursuant to chapter 145, is prima facie  
12 evidence that the products are or have been stolen;  
13 [~~or~~]  
14 (e) [~~Of agricultural~~] Agricultural commodities that are  
15 generally known to be marketed for commercial  
16 purposes. Possession of agricultural commodities  
17 without ownership and movement certificates, when a  
18 certificate is required pursuant to section 145-22, is  
19 prima facie evidence that the products are or have  
20 been stolen; provided that "agriculture commodities"  
21 has the same meaning as in section 145-21[~~-~~]; or



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1        (f) Property commonly used to store items of personal or  
2                    monetary value, including any purse, handbag, or  
3                    wallet."

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

7            SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9            SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



By Request

**JAN 15 2020**



# H.B. NO. 1738

**Report Title:**

Honolulu Police Department Package; Penal Code; Theft in the Second Degree

**Description:**

Amends the offense of theft in the second degree to include theft of property commonly used to store items of personal or monetary value, including any purse, handbag, or wallet.

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