
A BILL FOR AN ACT

RELATING TO THEFT.

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

1 PART I

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

16 The legislature further finds that including any instance
17 in which an offender takes the property of another that is



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

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

18 Accordingly, the purpose of this part is to amend the
19 offense of theft in the second degree to include theft of
20 property commonly used to store items of personal or monetary
21 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



1 especially to work. As a result, bicycle theft can deprive a
2 person of their property interest and their ability to earn
3 income. For this very reason theft of a vehicle, regardless of
4 value is an expressly defined offense.

5 Currently, there is no expressly defined offense for theft
6 of a bicycle. Theft of a bicycle valued at \$750 or more is a
7 class C felony under the offense of theft in the second degree
8 in section 708-831, Hawaii Revised Statutes. However, many
9 bicycles are sold below the \$750 threshold, which contributes to
10 both their popularity as a means of reducing the cost of living,
11 and as a target for theft since there exists little penalty.
12 Therefore, in order to deter theft of all bicycles, and in
13 consideration of the important role of bicycles in many working
14 families' lives, the legislature believes that theft of a
15 bicycle of any value should be expressly defined in the penal
16 code similarly to theft of a motor vehicle.

17 The purpose of this part is to establish the offense of
18 theft of a bicycle.

19 SECTION 4. Chapter 708, Hawaii Revised Statutes, is
20 amended by adding a new section to part IV to be appropriately
21 designated and to read as follows:



1 "§708- Theft of a bicycle. (1) A person commits the
2 offense of theft of a bicycle if the person commits theft of a
3 bicycle by any means under section 708-830.

4 (2) Any property owner shall hold an illegally parked
5 bicycle found on the owner's property for seven days; provided
6 that after seven days the bicycle shall be considered the
7 property of the property owner.

8 (3) For the purposes of this section:

9 "Bicycle" means:

10 (a) A vehicle propelled solely by human power upon
11 which any person may ride, having two tandem
12 wheels, and including any vehicle generally
13 recognized as a bicycle though equipped with two
14 front or two rear wheels except a toy bicycle; or

15 (b) A low-speed electric bicycle, as defined under
16 title 15 United States Code section 2085.

17 "Toy bicycle" means every device propelled solely by human
18 power upon which any person may ride, having two tandem wheels,
19 including any device generally recognized as a bicycle though
20 equipped with two front or two rear wheels, which has a seat
21 height of not more than twenty-five inches from the ground when



1 the seat is adjusted to its highest position; or a scooter or
2 similar device regardless of seat height.

3 (4) A person who commits the offense of theft of a bicycle
4 shall:

5 (A) For the first offense, be guilty of a misdemeanor; and

6 (B) For the second and each subsequent offense, be guilty
7 of a class C felony."

8 PART III

9 SECTION 5. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Theft in the Second Degree; Bicycle; Misdemeanor; Felony

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. Requires property owners to hold illegally parked bicycles found on their property for seven days. Provides that for the first offense of theft of a bicycle, a person shall be guilty of a misdemeanor, and, for the second and each subsequent offense, shall be guilty of a class C felony. Takes effect on 7/1/2050.
(HD1)

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