

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. The legislature finds that tents, illegal
2 structures, and other objects that obstruct public sidewalks are
3 increasingly being anchored or attached to adjacent property,
4 such as fences belonging to private owners. These unauthorized
5 objects can also include political campaign signs that flourish
6 during the period leading up to an election.

7 The legislature further finds that existing law does not
8 appear to empower law enforcement officers to summarily detach
9 these objects from the private property. Complaints about
10 objects attached to fences or other structures are likely to be
11 treated as civil complaints that property owners must initiate
12 through the courts.

13 The purpose of this Act is to prohibit the attachment of
14 objects to fences and other structures without permission, and
15 facilitate the removal of objects attached in this manner, by
16 establishing the criminal offense of unauthorized attachment of
17 an object to a fence, gate, wall, or other structure.



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§708- Unauthorized attachment of an object to a fence,
5 gate, wall, or other structure; penalty. (1) A person commits
6 the offense of unauthorized attachment of an object to a fence,
7 gate, wall, or other structure if the person knowingly attaches
8 an object to a fence, gate, wall, or other structure or barrier
9 without permission from the owner.

10 (2) The owner, acting in good faith, may detach the object
11 without delay or notice; provided that the owner shall not be
12 subject to liability for detaching an object under this section,
13 except for any damages that may result from the owner's gross
14 negligence or wanton acts or omissions. At the request of the
15 owner, a law enforcement officer may detach the object without
16 delay or notice; provided that removal of the object may be
17 conducted at the law enforcement officer's discretion, pursuant
18 to state law or county ordinance that authorizes the removal.

19 (3) Unauthorized attachment of an object to a fence, gate,
20 wall, or other structure is a violation; provided that a second



1 or subsequent offense committed within one year of a prior
2 conviction for the same offense is a petty misdemeanor.

3 (4) For purposes of this section:

4 "Object" includes any communication that falls under the
5 definition of "advertisement" in section 11-302, such as a sign
6 advocating for or against a candidate for office.

7 "Owner" means:

8 (a) The owner of the fence, gate, wall, or other structure
9 or barrier; or

10 (b) The owner, agent, tenant, lessor, or sublessor of the
11 real property on which the fence, gate, wall, or other
12 structure or barrier is situated, or their respective
13 assigns or successors in interest."

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

17 SECTION 4. New statutory material is underscored.

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

19

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S.B. NO. 2633

Report Title:

Penal Code; Offenses Against Property; Unauthorized Attachment of Object

Description:

Establishes the offense of unauthorized attachment of an object to a fence, gate, wall, or other structure, which is committed when a person knowingly attaches an object to a fence, gate, wall, or other structure or barrier without the owner's permission.

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