

GOV. MSG. NO. 1106

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 14, 2021

The Honorable Ronald D. Kouchi,
President of the Senate
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on April 14, 2021, the following bill was signed into law:

HB172 HD1

RELATING TO OFFENSES AGAINST PROPERTY
RIGHTS
ACT 006 (21)

Sincerely,

David Y. Ige
Governor, State of Hawai'i

Approved by the Governor
on APR 14 2021

ORIGINAL

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ACT 006
H.B. NO. 172
H.D. 1

A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PROPERTY RIGHTS.

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

1 SECTION 1. The legislature finds that the Hawaii Revised
2 Statutes contains numerous provisions aimed at addressing the
3 high number of vehicle thefts that occur on the island of Oahu.
4 Frequently, a stolen vehicle is recovered during the commission
5 of a crime or after it has been used to commit other crimes. In
6 many vehicle theft cases, the vehicle is recovered while being
7 operated or occupied by individuals who were not authorized to
8 operate or occupy the vehicle. However, law enforcement
9 officers may be unable to connect the actual theft of the
10 vehicle with a specific individual.

11 Current statutory provisions have been rendered ineffective
12 by state court rulings that require the State to prove that a
13 defendant operating or occupying a stolen vehicle knew that the
14 vehicle was stolen. In the great majority of cases, this
15 requires a confession from the defendant, which may be difficult
16 to obtain because defendants have the right to remain silent.



1 Thus, law enforcement is often hindered in meeting the burden of
2 proof needed to prosecute these cases.

3 Accordingly, the purpose of this Act is to establish the
4 offense of unauthorized control of propelled vehicle in the
5 second degree, which applies if a person recklessly or
6 negligently exerts unauthorized control over another's propelled
7 vehicle by operating the propelled vehicle without the owner's
8 consent or by changing the identity of the propelled vehicle
9 without the owner's consent.

10 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
11 amended by adding a new section to part IV be appropriately
12 designated and to read as follows:

13 "§708- Unauthorized control of a propelled vehicle in
14 the second degree. (1) A person commits the offense of
15 unauthorized control of a propelled vehicle in the second degree
16 if the person recklessly or negligently exerts unauthorized
17 control over another's propelled vehicle by operating the
18 propelled vehicle without the owner's consent or by changing the
19 identity of the propelled vehicle without the owner's consent.

20 (2) It is an affirmative defense to a prosecution under
21 this section that the defendant:



- 1 (a) Received authorization to use the propelled vehicle
2 from an agent of the owner where the agent had actual
3 or apparent authority to authorize use; or
4 (b) Is a lien holder or legal owner of the propelled
5 vehicle, or an authorized agent of the lien holder or
6 legal owner, engaged in the lawful repossession of the
7 propelled vehicle.
- 8 (3) For the purposes of this section:
9 "Owner" means the registered owner of the propelled vehicle
10 or the unrecorded owner of the propelled vehicle pending
11 transfer of ownership; provided that if there is no registered
12 owner of the propelled vehicle or unrecorded owner of the
13 propelled vehicle pending transfer of ownership, "owner" means
14 the legal owner.
- 15 "Propelled vehicle" shall have the same meaning as in
16 section 708-836.
- 17 (4) Unauthorized control of a propelled vehicle in the
18 second degree is a misdemeanor."

19 SECTION 3. Section 708-836, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "\$708-836 Unauthorized control of a propelled vehicle[-]
2 in the first degree. (1) A person commits the offense of
3 unauthorized control of a propelled vehicle in the first
4 degree if the person intentionally or knowingly exerts
5 unauthorized control over another's propelled vehicle by
6 operating the propelled vehicle without the owner's consent or
7 by changing the identity of the propelled vehicle without the
8 owner's consent.

9 ~~[(2) "Propelled vehicle" means an automobile, airplane,~~
10 ~~motoreycle, motorboat, or other motor-propelled vehicle.~~

11 ~~+(3)]~~ (2) It is an affirmative defense to a prosecution
12 under this section that the defendant:

13 (a) Received authorization to use the propelled vehicle
14 from an agent of the owner where the agent had actual
15 or apparent authority to authorize ~~[such]~~ use; or

16 (b) Is a lien holder or legal owner of the propelled
17 vehicle, or an authorized agent of the lien holder or
18 legal owner, engaged in the lawful repossession of the
19 propelled vehicle.

20 ~~[(4)]~~ (3) For the purposes of this section~~[-, "owner"]~~:



1 "Owner" means the registered owner of the propelled vehicle
2 or the unrecorded owner of the propelled vehicle pending
3 transfer of ownership; provided that if there is no registered
4 owner of the propelled vehicle or unrecorded owner of the
5 propelled vehicle pending transfer of ownership, "owner" means
6 the legal owner.

7 "Propelled vehicle" means an automobile, airplane,
8 motorcycle, motorboat, or other motor-propelled vehicle.

9 [~~4~~] (4) Unauthorized control of a propelled vehicle in
10 the first degree is a class C felony."

11 SECTION 4. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

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

APPROVED this 14 day of APR, 2021



GOVERNOR OF THE STATE OF HAWAII



HB No. 172, HD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: March 9, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives

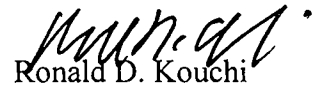


Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: MAR 29 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Ronald D. Kouchi
President of the Senate



Carol T. Taniguchi
Clerk of the Senate