

STAND. COM. REP. NO.

382

Honolulu, Hawaii

FEB 18 2021

RE: S.B. No. 397
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 397 entitled:

"A BILL FOR AN ACT RELATING TO PROPERTY CRIMES,"

begs leave to report as follows:

The purpose and intent of this measure is to broaden the state of mind element for certain offenses under chapter 486M, Hawaii Revised Statutes, relating to the responsibilities of pawnbrokers and secondhand dealers.

Your Committee received testimony in support of this measure from the Honolulu Police Department and Maui Police Department. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, Hawaii Pawnbrokers Association, Hawaii Gold & Silver Company, Kamaaina Loan, and West Maui Gold and Loan.

Your Committee finds that police departments have been unable to successfully conduct enforcement of secondhand dealers purchasing stolen goods due to the high burden of proving the "knowingly" state of mind element required under existing law. Unscrupulous buyers are unwitting surrogates to conduct illegal transactions and avoid prosecution by claiming ignorance, and therefore there is no incentive to do their due diligence to scrutinize the items being offered for sale. The high frequency of burglaries and vehicle break-ins in the State are fueled in



part by the ease in which stolen items are trafficked. Without this measure, it will continue to be a challenge to prosecute crimes in this area.

Your Committee notes the concerns raised in testimony that this measure may put secondhand dealers in a precarious position that could substantially impact their risk of being prosecuted for criminal acts when they did not have knowledge that property was stolen, and may make it even more challenging for law abiding citizens to quickly sell items to make ends meet in times of financial crisis. Your Committee finds these issues and concerns merit further consideration and requests that your Committee on Judiciary further examines those issues and concerns raised by the testifiers on this measure.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (2) Inserting a three-year sunset date; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 397, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 397, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



