

JAN 19 2022

A BILL FOR AN ACT

RELATING TO UNAUTHORIZED CONTROL OF A PROPELLED VEHICLE.

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

1 SECTION 1. Section 708-836, Hawaii Revised Statutes, is
2 amended to read as follows:

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

11 (2) It is an affirmative defense to a prosecution under
12 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 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



1 legal owner, engaged in the lawful repossession of the
2 propelled vehicle[-]; or

3 (c) Purchased the vehicle in good faith, and believed
4 themselves to be the actual owner of the vehicle.

5 (3) For the purposes of this section:

6 "Owner" means the registered owner of the propelled vehicle
7 or the unrecorded owner of the propelled vehicle pending
8 transfer of ownership; provided that if there is no registered
9 owner of the propelled vehicle or unrecorded owner of the
10 propelled vehicle pending transfer of ownership, "owner" means
11 the legal owner.

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

14 (4) Unauthorized control of a propelled vehicle in the
15 first degree is a class C felony."

16 SECTION 2. Section 708-836.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~f~~]**§708-836.1**[~~f~~] **Unauthorized control of a propelled**
19 **vehicle in the second degree.** (1) A person commits the offense
20 of unauthorized control of a propelled vehicle in the second
21 degree if the person recklessly or negligently exerts



1 unauthorized control over another's propelled vehicle by
2 operating the propelled vehicle without the owner's consent or
3 by changing the identity of the propelled vehicle without the
4 owner's consent.

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

7 (a) Received authorization to use the propelled vehicle
8 from an agent of the owner where the agent had actual
9 or apparent authority to authorize use; ~~[or]~~

10 (b) Is a lien holder or legal owner of the propelled
11 vehicle, or an authorized agent of the lien holder or
12 legal owner, engaged in the lawful repossession of the
13 propelled vehicle~~[-]~~; or

14 (c) Purchased the vehicle in good faith, and believed
15 themselves to be the actual owner of the vehicle.

16 (3) For the purposes of this section:

17 "Owner" means the registered owner of the propelled vehicle
18 or the unrecorded owner of the propelled vehicle pending
19 transfer of ownership; provided that if there is no registered
20 owner of the propelled vehicle or unrecorded owner of the



propelled vehicle pending transfer of ownership, "owner" means the legal owner.

"Propelled vehicle" shall have the same meaning as in section 708-836.

(4) Unauthorized control of a propelled vehicle in the second degree is a misdemeanor."

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

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

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

INTRODUCED BY:


By Request



S.B. NO. 2095

Report Title:

Honolulu Prosecuting Attorney's Office Package; Unauthorized Control of a Propelled Vehicle; Criminal Procedure

Description:

Creates an affirmative defense for anyone charged with unauthorized control of a propelled vehicle, where the defendant purchased the vehicle in good faith and believed themselves to be the actual owner of the vehicle.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

