



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2213, RELATING TO MAIL THEFT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, February 24, 2022 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Lauren M. Nakamura, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) supports this bill, which seeks to address rising incidents of reported mail and package theft by establishing the criminal offense of mail theft. The Department offers the following comments.

The proposed criminal offense in section 2 (page 2, lines 4 through 14) is an offense against property rights. To maintain consistency with the rest of the Hawaii Penal Code, the new section should be added to chapter 708, Hawaii Revised Statutes (HRS), rather than being added to chapter 780, HRS. Also, the penalty provided in section 3 (page 2, lines 15 through 16) should be included in the new section of the HRS that is set forth in section 2.

The definition of the word "mail," (page 2, lines 5 through 10) raises three concerns:

(1) The term "article" (page 2, line 5) may be vague. The addition of the term "envelope," and elimination of the term "article," which is not defined elsewhere in chapter 708, HRS, would sufficiently address the issues sought by this bill while simultaneously avoiding vagueness or overbreadth, as well as inconsistent application by the courts.

(2) The phrase "not yet received by the addressee" (page 2, line 8) is likely to be considered ambiguous because the offense criminalizes the taking of mail from another's mailbox or premises. It would also create ambiguity in a scenario where mail

is taken from one's doorstep when the addressee is home, which is what this bill seeks to address. The Department recommends deleting the phrase.

(3) Replacing the term "appropriates" (page 2, line 12) with the phrase "obtains or exerts unauthorized control over" would maintain consistency with the wording and definitions of similar theft statutes.

Accordingly, the Department recommends that the changes suggested below be made in sections 2 and 3 of the bill, at page 2, lines 1-16, for consistency with the rest of chapter 708, HRS, and for clarity (shown in Ramseyer format compared to the bill, except for the original underscoring) as follows:

SECTION 2. Section ~~780~~ 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

~~[[§780—]]~~ §708- **Mail Theft.** (1) For the purpose of this section:

"Mail" means an envelope, a package, a bag, or a box, ~~or other sealed article~~ that:

- (a) ~~[is]~~ is delivered by a common carrier or delivery service ~~[and not yet received by the]~~ to an addressee; or
- (b) ~~[has]~~ Has been left to be collected for delivery by a common carrier or delivery service.

(2) A person commits ~~[a]~~ the offense of mail theft if the person intentionally ~~[appropriates]~~ obtains or exerts unauthorized control over mail from another person's mailbox or premises without the effective consent of the addressee and with the intent to deprive that addressee of the mail.

(3) Violation of this section shall be a class C felony.

~~SECTION 3. Violation of this section shall be a class C felony.~~

Thank you for the opportunity to testify.

HB-2213

Submitted on: 2/23/2022 1:38:18 AM

Testimony for JHA on 2/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nancy & Zeb Jones	Individual	Support	No

Comments:

Aloha Chair Nakshima, Vice Chair Matayoshi, and Honorable Committee on Judiciary & Hawaiian Affairs Members:

We submit this testimony in SUPPORT of HB2213 relative to making mail theft a criminal offense. We fully support amending Section 780 of the Hawai`i Revised Statutes to include specific definitions and language as to what constitutes “mail theft” and making this offense a Class C felony. Given the rise of home delivery services over the past 2 to 3 years – particularly during the COVID pandemic – far too many consumers have lost packages to mail thieves who have, until now, remained unpunished. This pattern of thievery cannot continue unchecked and these “porch pirates” must be forced to face consequences of some form. This bill, once passed, and implemented can provide victims of these property crimes with at least a modicum of justice and perhaps restitution as well.

For all of the above reasons, we urge your honorable committee to please pass HB2213 out of your committee. Mahalo again for this opportunity to present this testimony supporting HB2213.

Warm aloha,

Nancy & Zeb Jones

Hydroponics Alternatives LLC

HB-2213

Submitted on: 2/23/2022 3:02:55 PM

Testimony for JHA on 2/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
rebecca goodnight	Individual	Support	No

Comments:

As a resident of Nuuanu, I support HB2213. Mail fraud should be dealt with very seriously, as the consequences can be devastating.