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Testimony in Support

SB3309

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES OR THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, OR DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Judiciary

Friday, February 18, 2022, 9:30 a.m.
Via Videoconference

Chair Karl Rhoads and Members of the Committee:

Good morning Chair Rhoads and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau and the Revisor of Statutes. Thank you for providing the opportunity to submit testimony in support of Senate Bill No. 3309, Relating to Statutory Revision. Bills such as Senate Bill No. 3309 have come to be known as the "statutory revision bill" and are prepared and submitted by the Legislative Reference Bureau pursuant to our statute revision functions, set forth in chapter 23G of the Hawaii Revised Statutes.

All amendments are intended to be technical in nature to correct errors, omissions, or obsolete law. They either contain no substantive change to the law, or if they do have substantive effect, they are intended to correct the types of errors noted in the memorandum attached to this testimony. Please note that the memorandum explains the rationale for each amendment proposed by this bill. Also, please note that the bill was reviewed prior to introduction by the Department of the Attorney General, and we have revised the bill to address any concerns raised.

The Bureau would be pleased to assist the Committee in preparing the committee report and making any changes to the revision bill that the Committee deems appropriate. Should the Committee have any follow-up questions, please contact John Morsey, Assistant Director for Revision of Statutes, by phone at (808) 587-0670 or by e-mail at j.morsey@capitol.hawaii.gov.

Attachment

**MEMORANDUM CONCERNING PROPOSED
STATUTORY REVISIONS FOR THE 2022 REGULAR LEGISLATIVE SESSION
TO BE CONTAINED IN A BILL ENTITLED
"A BILL FOR AN ACT RELATING TO STATUTORY REVISION:
AMENDING OR REPEALING VARIOUS PROVISIONS OF
THE HAWAII REVISED STATUTES OR THE SESSION LAWS OF HAWAII
FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES,
CLARIFYING LANGUAGE, OR DELETING OBSOLETE OR
UNNECESSARY PROVISIONS"**

**Prepared by the Legislative Reference Bureau
Pursuant to Section 23G-20, Hawaii Revised Statutes**

COMMENT

Section 15-13.5(1), HRS, refers to "section 15-9(a)(1)". However, section 36 of Act 213, Session Laws of Hawaii 2021, amended section 15-9, HRS, by, among other things, deleting the subsection designations in that section. Accordingly, section 15-13.5(1), HRS, should be amended by changing "15-9(a)(1)" to "15-9".

SECTION 1. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

"§15-13.5 Eligibility of voter after absentee ballot cast. The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote after casting the ballot. For the purposes of this section, "cast" means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section [~~15-9(a)(1);~~] 15-9;
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section 15-9; or
- (3) Completed voting in person at an absentee polling place."

COMMENT

Section 23-78(c)(8), HRS, refers to "Section 237-24.7(10)--Amounts received from high technology research and development grants" pursuant to section 206M-15, HRS, which is entitled "Technology research and development loans and grants". However, all references in section 206M-15, HRS, to "high technology" were replaced with "technology" pursuant to section 5 of Act 69, Session Laws of Hawaii 2017. Accordingly, section 23-78(c)(8), HRS, should be

amended by changing "high technology research and development grants" to "technology research and development grants".

SECTION 2. Section 23-78, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- "(c) This section shall apply to the following:
- (1) Section 237-24.7(1)--Amounts received by hotel operators and hotel suboperators for employee wages and fringe benefits;
 - (2) Section 237-24.7(2)--Amounts received by a county transportation system operator under a contract with the county;
 - (3) Section 237-24.7(4)--Amounts received by orchard property operators for employee wages and fringe benefits;
 - (4) Section 237-24.7(6)--Amounts received from insurers for damage or loss of inventory of businesses located in a natural disaster area;
 - (5) Section 237-24.7(7)--Amounts received by community organizations, school booster clubs, and nonprofit organizations for precinct and other election-related activities;
 - (6) Section 237-24.7(8)--Interest received by persons domiciled outside the State from trust companies acting as payment agents or trustees on behalf of issuers or payees of interest-bearing instruments or obligations;
 - (7) Section 237-24.7(9)--Amounts received by management companies from related entities engaged in interstate or foreign common carrier telecommunications services for employee wages and fringe benefits; and
 - (8) Section 237-24.7(10)--Amounts received from [~~high~~] technology research and development grants."

COMMENT

Section 107-27(c), HRS, was established by Act 84, Session Laws of Hawaii 2018. However, the Hawaii Supreme Court in *League of Women Voters of Honolulu v. State of Hawaii*, SCAP-19-0000372 (November 4, 2021), held that the process for adopting Act 84 violated article III, section 15 of the Hawaii State Constitution because the bill enacting Act 84 did not receive three readings in each chamber of the Legislature following the insertion of a non-germane amendment to the bill. Because Act 84 was declared unconstitutional, section 107-27(c), HRS, should be deleted.

SECTION 3. Section 107-27, Hawaii Revised Statutes, is amended to read as follows:

"§107-27 Design of state buildings. (a) No later than one year after the adoption of codes or standards pursuant to section 107-24(c), the design of all state building construction shall be in compliance with the Hawaii state building codes, except state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the Hawaii state building codes;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building codes or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55.

~~[(c) The State shall consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.]"~~

COMMENT

Section 22 of Act 1, Special Session Laws of Hawaii 2021, repealed section 201B-12(b), HRS, which contained all the provisions in section 201B-12, HRS, that provided the Hawaii Tourism Authority with an exemption from the Hawaii Public Procurement Code. However, Act 1 did not make conforming amendments to the title of section 201B-12, HRS, which is "Exemption of authority from taxation and Hawaii public procurement code". Accordingly, the title of section 201B-12, HRS, should be amended by deleting the reference to the "Hawaii public procurement code".

SECTION 4. Section 201B-12, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§201B-12 Exemption of authority from taxation [~~and Hawaii public procurement code~~]."

COMMENT

Section 206M-24(e), HRS, refers to the "American Society for Testing and Materials". However, it appears that this entity is now known as "ASTM International". Accordingly, section 206M-24(e), HRS, should be amended by changing "American Society for Testing and Materials" to "ASTM International".

SECTION 5. Section 206M-24, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For the purposes of this section:

"Grant" means financial assistance provided to Hawaii small business innovation research, small business technology transfer, and other agency and private sector awardees and applicants under the terms and conditions provided in this chapter.

"Hawaii small business innovation research", "small business technology transfer", and "sustainable aviation fuel program" means the programs administered by the development corporation to encourage participation by enterprises in federal research and development programs.

"Other agency" means an entity that receives an award or contract granted by the United States Departments of Agriculture, Transportation, Energy, Defense, or Commerce, or other federal agencies for activities consistent with those defined in this section.

"Small business" shall have the same meaning as in section 201M-1.

"Sustainable aviation fuel" means [~~American Society for Testing and Materials~~] ASTM International D7566-compliant renewable aviation turbine fuel derived from biofuels, as defined in section 269-91, and with a greenhouse gas lifecycle carbon intensity lower than the baseline for jet fuel defined by the International Civil Aviation Organization."

COMMENT

The definition of "moped" in section 249-1, HRS, refers to the "Society of Automotive Engineers". However, it appears that this entity is now known as "SAE International". Accordingly, the definition of "moped" in section 249-1, HRS, should be amended by changing "Society of Automotive Engineers" to "SAE International". Further, paragraph designations should be added to the definition for clarity and consistency with the customary drafting convention. An additional technical nonsubstantive amendment is made for the purpose of clarity.

SECTION 6. Section 249-1, Hawaii Revised Statutes, is amended by amending the definition of "moped" to read as follows:

"Moped" means a device upon which a person may ride that has [~~two~~]:

(1) Two or three wheels in contact with the ground[~~ra~~];

- (2) A motor having a maximum power output capability measured at the motor output shaft, in accordance with [~~the Society of Automotive Engineers~~] SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and [a]
- (3) A direct or automatic power drive system[~~, which~~] that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

"Moped" does not include an electric foot scooter."

COMMENT

The definition of "moped" in section 286-2, HRS, refers to the "Society of Automotive Engineers". However, it appears that this entity is now known as "SAE International". Accordingly, the definition of "moped" in section 286-2, HRS, should be amended by changing "Society of Automotive Engineers" to "SAE International". Further, paragraph designations should be added to the definition for clarity and consistency with the customary drafting convention. An additional technical nonsubstantive amendment is made for the purpose of clarity.

SECTION 7. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of "moped" to read as follows:

"Moped" means a device upon which a person may ride that has [~~two~~]:

- (1) Two or three wheels in contact with the ground[~~, a~~];
- (2) A motor having a maximum power output capability measured at the motor output shaft, in accordance with [~~the Society of Automotive Engineers~~] SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and [a]
- (3) A direct or automatic power drive system[~~, which~~] that requires no clutch or gear shift operation by the

moped driver after the drive system is engaged with the power unit.

"Moped" does not include an electric foot scooter."

COMMENT

The definition of "moped" in section 291C-1, HRS, refers to the "Society of Automotive Engineers". However, it appears that this entity is now known as "SAE International". Accordingly, the definition of "moped" in section 291C-1, HRS, should be amended by changing "Society of Automotive Engineers" to "SAE International". Further, paragraph designations should be added to the definition for clarity and consistency with the customary drafting convention. Additional technical nonsubstantive amendments are made for the purpose of clarity.

SECTION 8. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of "moped" to read as follows:

"Moped" means a device upon which a person may ride that has ~~[two]~~:

- (1) ~~Two~~ or three wheels in contact with the ground~~[, a]~~;
- (2) ~~A~~ motor having a maximum power output capability measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and ~~[a]~~
- (3) ~~A~~ direct or automatic power drive system~~[, which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

"Moped" does not include an electric foot scooter."

COMMENT

Section 291C-202(a), HRS, refers to the "Society of Automotive Engineers". However, it appears that this entity is now known as "SAE International". Accordingly, section 291C-202(a), HRS, should be amended by changing "Society of Automotive Engineers" to "SAE International". Additional technical nonsubstantive amendments are made for the purpose of clarity.

SECTION 9. Section 291C-202, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every moped offered for sale for use upon, sold for use upon, or used upon the roadways and highways shall be equipped with:

- (1) A motor having a maximum power output capability, measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and ~~[which]~~ that will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; provided that those mopeds, including those modified pursuant to section 291C-206, registered prior to April 23, 1998, shall continue to be subject to the prior thirty-five miles per hour maximum speed limitation; and
- (2) A direct or automatic power drive system ~~[which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit."

COMMENT

The reference in section 291J-4(e), HRS, to the "address on record as the vehicle licensing division" should be changed to "address on record at the vehicle licensing division" to correct what appears to be an inadvertent clerical error and for consistency with the same reference made in the similar provisions of sections 291C-165(b) and (c) and 291J-6(a), HRS.

SECTION 10. Section 291J-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) During the first thirty days of operation of an individual photo red light imaging detector system at a particular traffic signal, a warning shall be issued for any violation of section 291C-32(c) and mailed to the registered owner of the motor vehicle at the address on record ~~[as]~~ at the vehicle licensing division in lieu of a summons or citation pursuant to section 291J-6."

COMMENT

Section 13 of Act 217, Session Laws of Hawaii 2021, amended section 302A-1151.1, HRS, by substituting the term "school facilities authority" wherever the terms "department", "board", or "board of education" appeared. However, as amended by section 13 of Act 217, the second sentence of section 302A-1151.1(a), HRS, now contains a redundancy that reads: "The school facilities authority, in consultation with the school facilities authority and any other appropriate agency, shall serve as the facilitator of the pilot program". Accordingly, section 302A-1151.1(a), HRS, should be amended to delete the redundant reference to the "school facilities authority".

Further, section 302A-1151.1(d), HRS, as amended by section 13 of Act 217, refers to the ability of the school facilities authority to work with and receive assistance from "any other school facilities authority or agency". However, it appears that this reference should revert back to its original phrasing of "any other department or agency" because the substitution of the term "school facilities authority" for "department" pursuant to section 13 of Act 217 seemingly was intended to apply only to references to the Department of Education. Accordingly, section 302A-1151.1(d), HRS, should be amended by changing "other school facilities authority" to "other department".

SECTION 11. Section 302A-1151.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) There shall be established within the school facilities authority a pilot program for the lease of public school land, including facilities. The school facilities authority, in consultation with [~~the school facilities authority~~ and] any other appropriate agency, shall serve as the facilitator of the pilot program."

2. By amending subsection (d) to read:

"(d) Nothing in this section shall preclude the school facilities authority from working with and receiving assistance from any other [~~school facilities authority~~] department or agency in carrying out the purposes of this section."

COMMENT

The definitions of "severe forms of trafficking in persons" and "sex trafficking" in section 350-1, HRS, refer to section "7102(9)" and "7102(10)" of title 22 of the United States Code, respectively. However, those definitions have been renumbered to "7102(11)" and "7102(12)", respectively. Accordingly, section 350-1, HRS, should be amended by changing "7102(9)" and "7102(10)" to "7102" to address the current numbering and any future renumbering of those definitions in section 7102 of title 22 of the United States Code.

SECTION 12. Section 350-1, Hawaii Revised Statutes, is amended by amending the definitions of "severe forms of trafficking in persons" and "sex trafficking" to read as follows:

"Severe forms of trafficking in persons" has the same meaning as provided in title 22 United States Code Annotated section [~~7102(9).~~] 7102.

"Sex trafficking" has the same meaning as provided in title 22 United States Code Annotated section [~~7102(10).~~] 7102."

COMMENT

Section 445-111, HRS, sets forth definitions as numbered paragraphs. Further, section 445-111(3) and (4) appear to set forth definitions for the acts of "displaying an outdoor advertising device" and "maintaining a billboard", respectively, but are not formatted as definitions. The numbered paragraph designations should be deleted and the definitions placed in alphabetical order, and section 445-111(3) and (4) should be reformatted to conform to the customary drafting convention. Additional technical nonsubstantive amendments are made for purposes of clarity, consistency, and style.

SECTION 13. Section 445-111, Hawaii Revised Statutes, is amended to read as follows:

"§445-111 Definitions. As used in this chapter:

- ~~[(1) "Outdoor advertising device" means any device which is:~~
- ~~(A) A writing, picture, painting, light, model, display, emblem, sign, or similar device situated outdoors, which is so designed that it draws the attention of persons in any public highway, park, or other public place to any property, services, entertainment, or amusement, bought, sold, rented, hired, offered, or otherwise traded in by any person, or to the place or person where or by whom such buying, selling, renting, hiring, offering, or other trading is carried on;~~
 - ~~(B) A sign, poster, notice, bill, or word or words in writing situated outdoors and so designed that it draws the attention of and is read by persons in any public highway, park, or other public place;~~
~~or~~
 - ~~(C) A sign, writing, symbol, or emblem made of lights, or a device or design made of lights so designed that its primary function is not giving light, which is situated outdoors and draws the~~

~~attention of persons in any public highway, park or other public place.~~

~~(2)] "Billboard" [is] means any board, fence, or similar structure, whether free-standing or supported by or placed against any wall or structure, [which] that is designed or used for the principal purpose of having outdoor advertising devices placed, posted, or fastened upon it.~~

~~[(3) Any person who, by oneself or through any agent or independent contractor, maintains] "Displaying an outdoor advertising device" includes any of the following:~~

- ~~(1) Maintaining or [displays] displaying any outdoor advertising device[, or any person who knowingly causes] by oneself or through any agent or independent contractor;~~
- ~~(2) Knowingly causing any outdoor advertising device advertising [the person's] one's own products, merchandise, or services to be displayed by oneself or any agent or independent contractor; [or any person who, being] or~~
- ~~(3) In the case of any person in possession of any land, building, or part of a building, [permits] permitting any outdoor advertising device on the land, building, or part of a building[, shall be deemed to be displaying an outdoor advertising device].~~

~~[(4) Any person, who, by oneself or through any agent or independent contractor, erects or maintains] "Maintaining a billboard" includes any of the following:~~

- ~~(1) Erecting or maintaining a billboard, or [places] placing any outdoor advertising device upon a billboard, [or any person who knowingly causes any of the person's] by oneself or through any agent or independent contractor;~~
- ~~(2) Knowingly causing any of one's own products, merchandise, or services to be advertised upon a billboard by oneself or through any agent or independent contractor; or~~
- ~~(3) In the case of any person [who, being] in possession of any land, building, or part of a building, knowingly [permits] permitting a billboard to be erected or to remain on the land, building, or part of a building[, shall be deemed to be maintaining a billboard].~~

~~"Outdoor advertising device" means any device that is:~~

- ~~(1) A writing, picture, painting, light, model, display, emblem, sign, or similar device situated outdoors, that is designed in a manner that draws the attention of persons in any public highway, park, or other~~

- public place to any property, service, entertainment, or amusement bought, sold, rented, hired, offered, or otherwise traded in by any person, or to the place or person where or by whom the buying, selling, renting, hiring, offering, or other trading is carried on;
- (2) A sign, poster, notice, bill, or word or words in writing situated outdoors and designed in a manner that draws the attention of and is read by persons in any public highway, park, or other public place; or
- (3) A sign, writing, symbol, or emblem made of lights, or a device or design made of lights, designed so that its primary function is not giving light, and that is situated outdoors and draws the attention of persons in any public highway, park, or other public place."

COMMENT

Section 486-7(d), HRS, refers to the "American Society for Testing and Materials" and the "Society of Automotive Engineers". However, it appears that these entities are now known as "ASTM International" and "SAE International", respectively. Accordingly, section 486-7(d), HRS, should be amended by changing "American Society for Testing and Materials" to "ASTM International" and "Society of Automotive Engineers" to "SAE International". An additional technical nonsubstantive amendment is made for purposes of clarity and consistency.

SECTION 14. Section 486-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The specifications, tolerances, and other technical requirements for measuring devices and the uniform laws and regulations as adopted by the National Conference on Weights and Measures, recommended and published by the National Institute of Standards and Technology and adopted^[7] or amended and adopted by the board pursuant to chapter 91, shall be the basis for measurement standards in the State. In addition, the board, pursuant to chapter 91, may adopt or amend and adopt any other measurement standard established by the National Institute of Standards and Technology, [~~the American Society for Testing and Materials,~~] ASTM International, the American National Standards Institute, the International Organization of Legal Metrology, the International Bureau of Weights and Measures, and [~~the Society of Automotive Engineers,~~] SAE International, among others."

COMMENT

Section 486-56, HRS, refers to the "American Society for Testing and Materials" and the "Society of Automotive Engineers". However, it appears that these entities are now known as "ASTM International" and "SAE International", respectively. Accordingly, section 486-56, HRS, should be amended by changing "American Society for Testing and Materials" to "ASTM International" and "Society of Automotive Engineers" to "SAE International".

SECTION 15. Section 486-56, Hawaii Revised Statutes, is amended to read as follows:

"§486-56 Adoption of standards and rules. The standards as published by [~~the American Society for Testing and Materials (ASTM)~~] ASTM International and [~~the Society of Automotive Engineers (SAE)~~] SAE International are adopted except as amended or modified by rule of the board pursuant to chapter 91. The board may also adopt rules on the advertising, labeling, standards for, handling, storing, dispensing, and selling of petroleum products. Notwithstanding the foregoing, rules adopted by the board referring to ASTM D4814, relating to standard specification for automotive spark-ignition engine fuel, shall be deemed to refer to version ASTM D4814-13b adopted in 2013, as modified by the National Institute of Standards and Technology Handbook 130, part IV, subpart G, section 2.1 adopted in 2013."

COMMENT

Section 3 of Act 6, Session Laws of Hawaii 2021, changed the name of the offense established under section 708-836, HRS, from "Unauthorized control of propelled vehicle" to "Unauthorized control of a propelled vehicle in the first degree" but did not make a conforming amendment to section 706-606.5(1)(t), HRS, which references the name of the offense. Accordingly, section 706-606.5(1)(t), HRS, should be amended by changing "Unauthorized control of propelled vehicle" to "Unauthorized control of a propelled vehicle in the first degree".

SECTION 16. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies:

- (a) Section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition;

- (b) Section 134-8 relating to ownership, etc., of certain prohibited weapons;
- (c) Section 134-17 only as it relates to providing false information or evidence to obtain a permit under section 134-9;
- (d) Section 188-23 relating to possession or use of explosives, electrofishing devices, and poisonous substances in state waters;
- (e) Section 386-98(d)(1) relating to fraud violations and penalties;
- (f) Section 431:2-403(b)(2) relating to insurance fraud;
- (g) Section 707-703 relating to negligent homicide in the second degree;
- (h) Section 707-711 relating to assault in the second degree;
- (i) Section 707-713 relating to reckless endangering in the first degree;
- (j) Section 707-716 relating to terroristic threatening in the first degree;
- (k) Section 707-721 relating to unlawful imprisonment in the first degree;
- (l) Section 707-732 relating to sexual assault in the third degree;
- (m) Section 707-752 relating to promoting child abuse in the third degree;
- (n) Section 707-757 relating to electronic enticement of a child in the second degree;
- (o) Section 707-766 relating to extortion in the second degree;
- (p) Section 708-811 relating to burglary in the second degree;
- (q) Section 708-821 relating to criminal property damage in the second degree;
- (r) Section 708-831 relating to theft in the second degree;
- (s) Section 708-835.5 relating to theft of livestock;
- (t) Section 708-836 relating to unauthorized control of a propelled vehicle[+] in the first degree;
- (u) Section 708-839.55 relating to unauthorized possession of confidential personal information;
- (v) Section 708-839.8 relating to identity theft in the third degree;
- (w) Section 708-852 relating to forgery in the second degree;
- (x) Section 708-854 relating to criminal possession of a forgery device;
- (y) Section 708-875 relating to trademark counterfeiting;

(z) Section 710-1071 relating to intimidating a witness;
(aa) Section 711-1103 relating to riot;
(bb) Section 712-1221 relating to promoting gambling in the first degree;
(cc) Section 712-1224 relating to possession of gambling records in the first degree;
(dd) Section 712-1247 relating to promoting a detrimental drug in the first degree; or
(ee) Section 846E-9 relating to failure to comply with covered offender registration requirements,
or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole as provided in subsection (2)."

COMMENT

Act 173, Session Laws of Hawaii 2021, amended section 302L-1.6(c), HRS, and provided that on June 30, 2025, Act 173 will be repealed. However, Act 173 did not specify how the text of section 302L-1.6(c), HRS, should read when Act 173 is repealed. Accordingly, section 3 of Act 173 should be amended to specify that when Act 173 is repealed on June 30, 2025, section 302L-1.6(c), HRS, shall be reenacted in the form in which it read on the day prior to the effective date of Act 173.

SECTION 17. Act 173, Session Laws of Hawaii 2021, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall take effect upon its approval [and shall be repealed]; provided that on June 30, 2025[-], this Act shall be repealed and section 302L-1.6(c), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act."

COMMENT

Section 8 of Act 1, Special Session Laws of Hawaii 2021, amended section 87A-42, HRS, by repealing subsection (d) and certain language in subsection (e) pertaining to the transient accommodations tax allocation to the counties. Section 8 of Act 1 further amended subsection (e) by excepting tax revenues

deposited into the mass transit special fund as a source from which the Director of Finance may deduct amounts necessary to meet the public employer's annual required contribution to a trust fund for other post-employment benefits. However, these amendments to section 87A-42, HRS, are essentially suspended while subsections (b) through (f) are temporarily repealed until June 30, 2023, pursuant to sections 3 and 9 of Act 229, Session Laws of Hawaii 2021. Specifically, Act 229 will reinstate subsections (b) through (f) by providing that on June 30, 2023, section 87A-42, HRS, will be reenacted in the form in which it read on June 30, 2021. Accordingly, to ensure that the amendments made to section 87A-42, HRS, by Act 1 are given effect upon the reenactment, section 25 of Act 1 should be amended to specify that the amendments made by Act 1 will take effect when section 87A-42, HRS, is reenacted on June 30, 2023.

Further, both Act 229, section 5, and Act 1, section 13, also amended section 237D-6.5(b), HRS. Specifically, Act 1 amended section 237D-6.5(b)(2) and (3), HRS, and repealed the entirety of subsection (b)(4). However, section 9 of Act 229 provides that on June 30, 2023, section 237D-6.5(b), HRS, will be reenacted in the form in which it read on June 30, 2021. Accordingly, to ensure that the amendments made to section 237D-6.5(b), HRS, by Act 1 remain in effect upon the reenactment, section 25 of Act 1 should be amended to specify that its amendments to section 237D-6.5(b), HRS, are exempt from the repeal and reenactment provision of Act 229.

SECTION 18. Act 1, Special Session Laws of Hawaii 2021, is amended by amending section 25 to read as follows:

"SECTION 25. This Act shall take effect on July 1, 2021; provided that ~~[parts]~~:

- (1) Parts VI and VII of this Act shall take effect on January 1, 2022[-];
- (2) The amendments made to section 87A-42, Hawaii Revised Statutes, in section 8 of this Act shall take effect upon the reenactment of that section on June 30, 2023, pursuant to section 9 of Act 229, Session Laws of Hawaii 2021; and
- (3) The amendments made to section 237D-6.5(b), Hawaii Revised Statutes, in section 13 of this Act shall not be repealed when that subsection is reenacted on June 30, 2023, pursuant to section 9 of Act 229, Session Laws of Hawaii 2021."

TAX FOUNDATION OF HAWAII

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SUBJECT: TRANSIENT ACCOMMODATIONS, Revisor's Bill

BILL NUMBER: HB 2049, SB 3309

INTRODUCED BY: HB by SAIKI; SB by KOUCHI

EXECUTIVE SUMMARY: Amends or repeals various provisions of the Hawaii Revised Statutes or the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, or deleting obsolete or unnecessary provisions.

SYNOPSIS: As it relates to the tax code, amends Act 1, Special Session Laws of Hawaii 2021, to resolve a technical issue.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This bill is submitted annually by the revisor of statutes for the purposes of correcting errors and references, clarifying language, or deleting obsolete or unnecessary provisions.

As it relates to the TAT, this bill resolves a technical issue by clarifying that Act 1, Special Session Laws of Hawaii 2021, is not interfered with by the expiration of a temporary amendment in Act 229, SLH 2021.

Digested: 2/6/2022