

**ACT 156**

H.B. NO. 2772

A Bill for an Act Relating to Criminal Property Damage to Agricultural and Aquacultural Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Results from a 2005 statewide survey of farmers and ranchers conducted by the Hawaii department of agriculture, the U.S. Department of Agriculture, and the Hawaii Farm Bureau Federation provide a detailed accounting of the economic impact of agricultural theft and vandalism on the agriculture industry. Losses attributed to an estimated one thousand one hundred fifty-three acts of vandalism amounted to \$2.02 million, with an average loss of \$1,751 per incident. Ranchers were particularly affected, suffering \$4,902 in loss or injury to livestock per incident while crop farmers lost \$3,901 per incident. Farmers and ranchers that suffered vandalism to their machinery and equipment lost \$2,751 per incident. Almost sixty per cent of the economic loss was suffered by Maui farmers and ranchers (57.5 per cent), followed by Oahu (28.1 per cent), Hawaii (9.6 per cent), and Kauai (4.9 per cent).

Total theft of farm commodities, materials, equipment, and other property was found to be \$1.95 million. Agricultural theft is often committed using tools such as chain saws, axes, machetes, and large pruning shears that provide a means of quickly “harvesting” agricultural products and leaving the scene as fast as possible. This method frequently results in the death of the tree, bush, or other plant. The thief has effectively deprived the farmer of not only the produce on the plant at the time of the theft, but also subsequent produce for that season and succeeding years over the expected life of the plant. The farmer has also been robbed of the investment made to get the plant to the point of production.

During the survey period, there were one hundred sixty-nine incidents where agricultural machinery and equipment were damaged to the extent that they were rendered inoperable or where vehicles were used for “joy rides” in the fields, causing damage to planted crops as well as the soil and the vehicle.

The purpose of this Act is to strengthen the laws of the State to recognize the actual loss of agricultural and aquacultural property suffered by farmers and ranchers from such criminal actions and to impose appropriate penalties.

SECTION 2. Section 708-800, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Aquacultural equipment, supplies, or products” means any equipment, supplies, products, or commodities used, raised, grown, or maintained for the production of fish, shellfish, mollusk, crustacean, algae, or other aquatic plant or animal by an aquaculture enterprise or research agency while owned by the enterprise or agency.”

2. By deleting the definition of “aquaculture product”.

~~[““Aquaculture product” means any fish, shellfish, mollusk, crustacean, algae, or other aquatic plant or animal raised, grown, or maintained by an aquaculture enterprise or research agency while owned by the enterprise or agency.”]~~

SECTION 3. Section 708-820, Hawaii Revised Statutes, is amended to read as follows:

**“§708-820 Criminal property damage in the first degree.**

(1) A person commits the offense of criminal property damage in the first degree if:

- (a) The person intentionally or knowingly damages property and thereby recklessly places another person in danger of death or bodily injury; [øf]
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$20,000[-];  
or
- (c) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$1,500. In calculating the value of damage, the value of future crops that were damaged is included.

(2) Criminal property damage in the first degree is a class B felony.”

SECTION 4. Section 708-821, Hawaii Revised Statutes, is amended to read as follows:

**“§708-821 Criminal property damage in the second degree.**

(1) A person commits the offense of criminal property damage in the second degree if:

- (a) The person intentionally or knowingly damages the property of another, without the other’s consent, by the use of widely dangerous means; [øf]
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$1,500[-]; or
- (c) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$500. In calculating the value of damage, the value of future crops that were damaged is included.

(2) Criminal property damage in the second degree is a class C felony.”

SECTION 5. Section 708-822, Hawaii Revised Statutes, is amended to read as follows:

**“§708-822 Criminal property damage in the third degree.**

(1) A person commits the offense of criminal property damage in the third degree if:

- (a) The person recklessly damages the property of another, without the other’s consent, by the use of widely dangerous means; [or]
  - (b) The person intentionally damages the property of another, without the other’s consent, in an amount exceeding \$500[-]; or
  - (c) The person intentionally damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$100. In calculating the value of damage, the value of future crops that were damaged is included.
- (2) Criminal property damage in the third degree is a misdemeanor.”

SECTION 6. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the second degree if the person commits theft:

- (a) Of property from the person of another;
- (b) Of property or services the value of which exceeds \$300;
- (c) Of an [~~aquaculture~~] aquacultural product or part thereof from premises that is fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”; or
- (d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property.” The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen.”

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2006.

(Approved May 31, 2006.)