

ACT 108

H.B. NO. 1991

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. The legislature finds that the theft of personal items may significantly impact a person financially as well as in other ways, such as the loss of work data or school notes on a laptop or the loss of memories on a cellular phone. Bicycle thefts further impact the State's sustainability goals of reducing carbon emissions and utilizing low carbon transportation as residents are inhibited in investing in and using bicycles for transportation. Reducing resale opportunities for these items is one way to decrease the motivation to steal them.

The legislature further finds that while bicycles are required to be registered with the county and the failure to do so subjects the owner to fines, these requirements have been insufficient to stop the theft and subsequent resale of bicycles. The legislature believes that the creation of a publicly available database of stolen bicycle serial and emblem numbers would help deter the theft of bicycles and the resale of stolen bicycles.

The legislature notes that stolen items are occasionally resold through pawnshops, businesses that purchase secondhand items, and online sales platforms. Businesses with a physical presence and monetary transactions in the State must be licensed to operate and are required to submit records of transaction to county police departments. However, records of these transactions are currently being submitted in hard copy. This manual inputting of data by the county police departments creates an unnecessary lag and is an impediment to quickly comparing and identifying potentially stolen items against itemized lists from recent burglaries and thefts.

The legislature also finds that allowing pawnbrokers and secondhand dealers to submit electronic records will enable county police departments to process these records in a more efficient manner and decrease the time frame for record retention. Authorizing electronic submittal for records of transaction would also allow articles to be properly categorized, listed, itemized, and accounted in real time. An electronic submission system that contains detailed descriptions or pictures of all markings, inscriptions, serial numbers of bicycles, and serial numbers of electronics would allow detectives to quickly identify stolen items and could be shared to other law enforcement agencies in the State.

The purpose of this Act is to:

- (1) Prohibit, in counties with a population of five hundred thousand or more, the sale of a bicycle that is reported as stolen and listed on a publicly available online stolen bicycle database;
- (2) Require the police department or other designated agency in counties with a population of five hundred thousand or more to establish the publicly available online stolen bicycle database; and
- (3) Update the recordkeeping and retention requirements for businesses that buy previously owned articles.

SECTION 2. Chapter 293, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§293- Prohibition of sale; stolen.** (a) In any county with a population of five hundred thousand or more, no person shall sell or offer for sale a bicycle on an online sales platform, at a dealer, or elsewhere if the bicycle:

- (1) Has been reported as stolen to a county police department; and
- (2) Is listed on a publicly available online stolen bicycle database as provided in subsection (b).

(b) In any county with a population of five hundred thousand or more, the county police department or any other agency as designated by the county shall establish the publicly available online stolen bicycle database that allows persons to verify if a bicycle serial number or emblem number has been reported as stolen.

(c) Any person who violates this section shall be guilty of a misdemeanor and shall be fined either \$500, the listed sale price on the advertisement, or the actual sale price, whichever is greater.

(d) For purposes of this section:

“Dealer” has the same meaning as in section 486M-1.

“Online sales platform” means an internet website or application that:

- (1) Is open to the public;
- (2) Operates in the State; and
- (3) Enables the sale of goods between persons using any medium of facilitation.

(e) The prosecution need not prove the person’s state of mind as to the attendant circumstance of the offense occurring in a county with a population of five hundred thousand or more.

(f) It shall be an affirmative defense that the person viewed the publicly available online stolen bicycle database and did not see the bicycle listed before selling or offering to sell the bicycle.”

SECTION 3. Section 486M-2, Hawaii Revised Statutes, is amended to read as follows:

**“§486M-2 Record of transactions.** (a) Every dealer, or the agent, employee, or representative of the dealer, shall, immediately upon receipt of any article, record the following information, on an electronic recordkeeping form or a paper form authorized by the chief of police in each county:

- (1) The name and address of the dealer;
- (2) The name, residence address, date of birth, and ~~the~~ age of the person from whom the article was received;
- (3) The date and time the article was received by the dealer;
- (4) The signature of the person from whom the article was received;
- (5) The Hawaii ~~driver’s~~ license number, or if the person does not possess a Hawaii ~~driver’s~~ license, the number of and description of any government issued identification ~~which~~ that bears a photograph of the person from whom the article was received;

(6) A photograph of the person from whom the article was received;

- ~~(6)~~ (7) Either a complete and accurate description of the article received, including all markings, names, initials, and inscriptions, and unique identifying markings, such as serial numbers or emblem numbers, or photographs accurately depicting the article received, including all markings, names, initials, inscriptions, and unique identifying markings, such as serial numbers or emblem numbers;

- (7) (8) A reasonable estimate of the fineness and weights of the precious and semiprecious metals and precious and semiprecious gems received; ~~and~~
- (8) (9) The price paid by the dealer for each article~~[-]; and~~
- (10) A signed copy of any pawn transaction agreement made pursuant to part V of chapter 445, if any.
- (b) Upon request and at the discretion of the chief of police of each county, copies of all completed forms required by this section shall be surrendered, mailed, or electronically inputted and transmitted via modem or by facsimile transmittal to the chief of police or to the chief of police's authorized representative. ~~[The method of submittal to the chief of police shall be at the option of the dealer.]~~ The chief of police of each county or the chief of police's authorized representative shall determine the method of submission for record-keeping, whether the submissions be by electronic forms or paper forms; provided that, in any county with a population of five hundred thousand or more, completed forms shall be submitted free of charge through a webpage, online service, or online application established by the county police department or any other agency as designated by the county.
- (c) The requirements for a photograph of the person from whom the article was received, the submission of recordkeeping by electronic means through a webpage, online service, or online application, and the submission of a photograph of the person from whom the article was received shall not apply to any dealer, or dealer's agent, employee, or representative, where the dealer first obtained a pawnbroker or secondhand license on or before January 1, 2002, and has continuously operated a pawnbroker or secondhand business that is open to the public and has a physical address since January 1, 2002."

SECTION 4. Section 486M-4, Hawaii Revised Statutes, is amended to read as follows:

**"§486M-4 Minimum retention of items.** (a) No dealer, ~~[the dealer's agents, employees, or representatives]~~ or agent, employee, or representative of the dealer, shall alter, melt, deface, break apart, dispose of, or change the character or integrity of the precious or semiprecious metals or precious or semiprecious gems received or purchased for a period of fifteen calendar days ~~[in counties with a population of less than three hundred thousand and thirty calendar days in counties with a population of three hundred thousand or more]~~ after the purchase or possession by the dealer, whichever comes later. Every article received by the dealer~~[-]; or the dealer's agents, employees, or representatives]~~ shall be retained by the dealer in the county where received or purchased for a period of fifteen calendar days ~~[in counties with a population of less than three hundred thousand and thirty calendar days in counties with a population of three hundred thousand or more]~~ after the purchase or possession by the dealer, whichever comes later.

~~[(b) At the discretion of the chief of police of each county, the holding period may be reduced to fifteen calendar days; provided that the dealer has computerized record-keeping and transmittal capabilities acceptable to the chief of police or the chief of police's authorized representative.~~

(e) (b) Notwithstanding subsection (a) to the contrary, a secondhand dealer operating an automated recycling kiosk shall retain previously owned consumer handheld electronic cellular phone devices for a total period of thirty calendar days from the date they were received or purchased; provided that the secondhand dealer operating an automated recycling kiosk may store the previously owned consumer handheld electronic cellular phone devices at a business location outside the county where the devices were received or purchased;

## ACT 108

provided further that[;] upon request by law enforcement within the thirty-day retention period, a secondhand dealer operating an automated recycling kiosk shall promptly return any requested devices no later than five business days from the date of the request at no cost to the requesting law enforcement agency.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 2022.)

### Note

1. Edited pursuant to HRS §23G-16.5.