

## ACT 53

H.B. NO. 1469

A Bill for an Act Relating to Unauthorized Control of a Propelled Vehicle.

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

SECTION 1. 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, electro-fishing 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).”

SECTION 2. Section 708-836, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

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

- (a) Received authorization to use the propelled vehicle from an agent of the owner where the agent had actual or apparent authority to authorize the use; [øɹ]
- (b) Is a lien holder or legal owner of the propelled vehicle, or an authorized agent of the lien holder or legal owner, engaged in the lawful repossession of the propelled vehicle[-]; or
- (c) Purchased the vehicle and reasonably believed oneself to be the actual owner of the vehicle.”

SECTION 3. Section 708-836.1, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

“[H§708-836.1] **Unauthorized control of a propelled vehicle in the second degree.**”

2. By amending subsection (2) to read:

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

- (a) Received authorization to use the propelled vehicle from an agent of the owner where the agent had actual or apparent authority to authorize the use; [øɹ]
- (b) Is a lien holder or legal owner of the propelled vehicle, or an autho-

rized agent of the lien holder or legal owner, engaged in the lawful repossession of the propelled vehicle[-:]; or

- (c) Purchased the vehicle and reasonably believed oneself to be the actual owner of the vehicle.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved June 17, 2022.)