

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

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1991, H.D. 2, PROPOSED S.D. 1, RELATING TO CONSUMER PROTECTION.

**BEFORE THE:**

SENATE COMMITTEES ON TRANSPORTATION AND ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

**DATE:** Tuesday, March 22, 2022                      **TIME:** 3:15 p.m.

**LOCATION:** State Capitol, Room 224 and Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Adrian Dhakhwa, Deputy Attorney General

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Chairs Lee and Nishihara and Members of the Committees:

The Department of the Attorney General (Department) submits the following comments on this bill.

This bill would, among other things, add a new section to chapter 293, Hawaii Revised Statutes (HRS), to prohibit the sale of any bicycle that has been reported stolen and listed on a publicly available online database in counties with a population of 500,000 or more. The penalty for such a sale is a fine of "either \$500, the listed sale price on the advertisement, or the actual sale price, whichever is greater" (page 4, lines 14-15).

It is unclear from the bill who would be responsible for enforcement, and whether the penalty would be considered criminal, civil, or administrative in nature. The difference is significant because the characterization of the penalty would determine the applicable burden of proof. The Department notes that section 293-1, HRS, states that defacing the serial number on a bicycle "shall be a misdemeanor and shall result in a fine of not more than \$500."

The Department suggests inserting similar wording to clarify that the sale of a reported stolen bicycle under the circumstances stated in this bill would be a misdemeanor. Suggested wording for page 4, line 13, is: "(c) Any person who violates

this section shall be guilty of a misdemeanor and shall be fined . . . ." This would clarify that a violation of this section would be a criminal offense.

Additionally, in a criminal prosecution under this bill, the prosecution would have to prove not only that the offense occurred in a "county with a population of five hundred thousand or more", but that the person acted intentionally, knowingly, or recklessly as to this attendant circumstance, pursuant to sections 702-204 (State of mind required), 702-205 (Element of an offense), and 702-207 (Specified state of mind applies to all elements), HRS. This could be extremely difficult to prove beyond a reasonable doubt, frustrating this bill's purposes of addressing bicycle theft and consumer protection.

To remedy this, the Department suggests inserting a new subsection (d), as follows, on page 5, line 3: "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."

Similarly, it may be difficult to prove beyond a reasonable doubt that the person acted intentionally, knowingly, or recklessly regarding the bicycle being reported as stolen and that the bicycle was listed on the public database. Currently, a person could falsely claim that the person checked the database and did not see the bicycle listed prior to selling the bicycle. The prosecution would then have the impossible burden of disproving this fact beyond a reasonable doubt in order to obtain a conviction.

To remedy this, the Department suggests inserting a new subsection (f) on page 5, line 3, to make such a claim an affirmative defense: "It shall be an affirmative defense that the person checked the publicly available online stolen item database and did not see the bicycle listed prior to selling it." The person would then have the burden of proving by a preponderance of evidence that it was more likely than not that the person did check the public database and did not see the bicycle listed prior to selling it.

Finally, in section 1, page 1, lines 15-16, to page 2, lines 1-2, the bill indicates "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." To ensure that the serial number or emblem number is documented properly, we recommend that in section 3 of the bill, at page 6, lines 5-9, section 486M-2(7), HRS, be

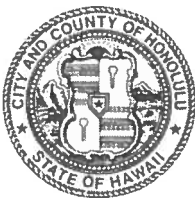
amended to specifically state that the serial number or emblem number is required to be documented, as follows:

~~[(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, ~~[and]~~ inscriptions~~;~~, and unique identifying markings, such as serial numbers or emblem numbers;

Thank you for the opportunity to provide comments.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org



RICK BLANGIARDI  
MAYOR

RADE K. VANIC  
INTERIM CHIEF

OUR REFERENCE **JH-KK**

March 22, 2022

The Honorable Chris Lee, Chair  
and Members  
Committee on Transportation  
The Honorable Clarence K. Nishihara, Chair  
and Members  
Committee on Public Safety,  
Intergovernmental, and Military Affairs  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 224  
Honolulu, Hawaii 96813

Dear Chairs Lee and Nishihara and Members:

SUBJECT: House Bill No. 1991, H.D. 2, Relating to Consumer Protection

I am Jarod Hiramoto, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1991, H.D. 2, Relating to Consumer Protection. This bill would provide not only the opportunity for much-needed public education on the topic but also a tool that law enforcement could use to help recover stolen items and potentially prevent property theft.

Currently, the HPD and individual pawnbrokers and secondhand dealers contract with a third-party vendor to facilitate the type of information exchange required under statute. However, by developing our own customized computer program, we can not only internally facilitate information flow more quickly and effectively, but also distribute the solution free-of-charge to those businesses that require it. While there is a cost associated with the development of such a computer program, the HPD views this as an investment in the future that we are absolutely willing to make now.

The Honorable Chris Lee, Chair  
and Members  
The Honorable Clarence K. Nishihara, Chair  
and Members  
March 22, 2022  
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During previous hearings on this bill, several members of Hawaii's pawn and second-hand industry expressed concerns regarding access to and ease of use for the type of technology that would be required to implement a statewide electronic reporting system. The HPD met with several of the stakeholders and developed language that all parties felt comfortable supporting. The full text of our suggestions was sent to Representative Lisa Marten.

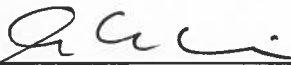
The HPD urges you to support House Bill No. 1991, H.D. 2, Relating to Consumer Protection, by passing it as amended, and we appreciate the committee's consideration on these concerns. Thank you for the opportunity to testify.

Sincerely,



Jarod Hiramoto, Captain  
Criminal Investigation Division

APPROVED:



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Rade K. Vanic  
Interim Chief of Police

March 20, 2022

Jonathan E. Spiker, Esq.  
707 Richards Street, Suite 610  
Honolulu, Hawaii 96813  
Telephone (808) 523-3900  
Facsimile (808) 526-9829  
Website: [koshibalaw.com](http://koshibalaw.com)  
[jspiker@koshibalaw.com](mailto:jspiker@koshibalaw.com)

Honorable Clarence K. Nishihara, Chair  
Honorable Lynn DeCoite, Vice Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Honorable Chris Lee, Chair  
Honorable Lorraine R. Inouye, Vice Chair  
Senate Committee on Transportation

**Re: HB1991 SD1 PROPOSED**

Dear Chair Nishihara, Chair Lee, Vice Chair DeCoite, Vice Chair Inouye & Committee Members,

**On behalf of the Hawaii Pawnbrokers Association, we Support HB1991\_SD1\_PROPOSED.**

This bill addresses the concerns that were previously raised at the Hawaii State Legislature in 2005, 2008, 2014 and 2019, and before the Honolulu City Council in 2013. The Honolulu Police Department and Hawaii Pawnbrokers Association met in February 2022 to discuss this bill and are in agreement with passing this bill.

This bill allows senior citizens and senior citizens with disabilities who have been in business for decades but are computer illiterate to continue their businesses and livelihood to support their families. Thank you for supporting small businesses.

**The Hawaii Pawnbrokers Association SUPPORTS HB1991\_SD1\_PROPOSED and asks that this version of HB1991 be passed .**

Very truly yours,

*/s/ Jonathan Spiker*

Jonathan E. Spiker  
for  
KOSHIBA & PRICE

March 21, 2022

TO: Senate Committee on Transportation

FROM: Richard Dan, manager of Kama'aina Loan and Cash for Gold on Maui

RE: HB 1991 (HD2, SD1) - supporting in part, opposing in part, and suggesting amendments

Aloha, my name is Richard Dan. I have been a pawnbroker and secondhand dealer on Maui since 1977 and have been involved in most legislation before this esteemed body throughout the entire span of those 45 years.

HB 1991 attempts to address two entirely separate issues: (1) bicycle theft and (2) tweaks to the reporting requirements for other goods received by pawnbrokers and secondhand dealers. In my view it would be advisable to separate the two issues into two separate bills – in other words to delete Sections 3 and 4 from this bill (and corresponding statements in Section 1 that refer only to sections 3 and 4). In that case the bill should easily pass and will establish the proposed stolen bicycle database and penalties. (Alternatively, since the provisions targeting bicycle theft are only designed to apply to Honolulu I wonder if the issue might be more appropriately handled by the Honolulu City Council rather than the State Legislature?)

Action on the non-bicycle, pawnbroker provisions should be deferred in order to implement the prior mandate of this body that the stakeholders collaborate in designing the appropriate changes to current law. In 2014 a bill came before the legislature which was almost identical to this year's original version of HB 1991 except that it did not include special treatment of bicycles. Instead of acting on that bill, the legislature wisely decided to convene a working group of the stakeholders in order to determine if a statewide electronic reporting system was/is feasible. That working group will be best equipped to determine what information should be posted on the electronic reporting database. The resolution to establish that working group was passed by the legislature in the form of HR No. 154, a copy of which is attached to this testimony. But although the police and pawnbrokers were eager to meet and work on appropriate changes to the current law, the stakeholders meeting was never held. This was apparently due to a lack of action by the state agencies named in HR 154. The working group should still be convened, prior to any further action by the legislature; it can craft a bill that most effectively addresses the issues. The Senate committee considering SB 2646 (the companion

bill to HR 1991) last month recommended following that very route, and therefore deferred action on SB 2646.

IF this body instead chooses to go beyond a bicycle theft bill at this time and incorporate revisions to the pawnbroker reporting and recordkeeping requirements, then here are my specific recommendations in that regard:

1. The bill as currently drafted would require free electronic reporting in the City and County of Honolulu, but on the neighbor islands it would allow the police chiefs unbridled discretion to choose the manner in which reports shall be submitted, and it fails to guarantee that electronic submission can be done free of charge, as is guaranteed for Oahu. This amounts to discrimination against the neighbor islands. The rules should be the same: if a smaller county wants to use electronic reporting, then ideally they should use the same (hopefully statewide) program as Oahu, as contemplated by HR 154, but in any case they should be required to ensure that no expenditure is required of pawnbrokers for the software needed to upload the data or the data transfer.
2. In Section 3 of the bill, the proposed amendment to HRS § 486M-2(c) exempts from certain requirements any pawnbroker or secondhand goods dealer who “has continually held a pawn or second-hand license since January 1, 2002.” I support the intent of that provision, but I wish to point out that it is only natural that there might be a brief gap or two over the course of 20 years, where the pawnbroker was inadvertently a month or two late in renewing their annual registration. Therefore I request that you change the language to read “where the dealer first obtained a pawn or second-hand license on or before January 1, 2002 and has operated a pawn or secondhand goods store with a physical address open to the public, ever since that date.”

Those two changes, along with the changes to current law included in the current draft, would increase the fairness and effectiveness of the pawnbroker reporting provisions of current law. However, as already required by this legislature, a better route would be to allow the pawnbrokers, police departments, and State agencies to work together on this matter to address the public interests involved while avoiding unnecessary regulations that only impose an added cost on the State, the taxpayers, and those who use the services of pawnbrokers and secondhand dealers.



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## HOUSE RESOLUTION

REQUESTING THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS TO  
CONVENE A WORKING GROUP TO EXAMINE THE FEASIBILITY OF  
ESTABLISHING A STATEWIDE ELECTRONIC REPORTING SYSTEM FOR  
PAWN SHOPS.

1           WHEREAS, transactions with pawnbrokers frequently allow  
2 thieves to convert stolen property into cash; and  
3

4           WHEREAS, while existing law empowers the chief of police in  
5 each county to require that pawn transaction information be  
6 electronically submitted to the police department, no unified  
7 statewide system for the electronic filing of this information  
8 currently exists; and  
9

10           WHEREAS, generally, records of pawn transactions are  
11 manually prepared and submitted to the police, which results in  
12 thousands of paper reports per month on Oahu alone; and  
13

14           WHEREAS, the manual reporting system hampers law  
15 enforcement investigations by creating waiting periods to gain  
16 access to needed information; and  
17

18           WHEREAS, the introduction of an electronic reporting system  
19 for pawn shops would reduce recovery time for stolen items,  
20 increase the speed by which information is transferred to law  
21 enforcement agencies, and allow law enforcement officials to  
22 inspect and track transactions in a more timely manner; and  
23

24           WHEREAS, a unified statewide electronic database of pawn  
25 transactions would increase the probability of solving stolen  
26 property crimes and aid in the recovery of stolen property; now,  
27 therefore,



1  
2 BE IT RESOLVED by the House of Representatives of the  
3 Twenty-seventh Legislature of the State of Hawaii, Regular  
4 Session of 2014, that the Director of Commerce and Consumer  
5 Affairs is requested to convene a working group to examine the  
6 feasibility of establishing a unified statewide electronic  
7 reporting system for pawn shops; and

8  
9 BE IT FURTHER RESOLVED that the Director of Commerce and  
10 Consumer Affairs is requested to serve as the chairperson of the  
11 working group and to invite the following parties to be members  
12 of the working group:

- 13  
14 (1) One member from the State Procurement Office;  
15  
16 (2) One member from the Department of the Prosecuting  
17 Attorney of the City and County of Honolulu;  
18  
19 (3) Two members of law enforcement agencies, with one  
20 member representing the island of Oahu and one member  
21 representing a neighbor island;  
22  
23 (4) Two members who are pawnbrokers, with one member  
24 representing the island of Oahu and one member  
25 representing a neighbor island;  
26  
27 (5) One member from the National Pawnbrokers Association;  
28 and  
29  
30 (6) One member from the Hawaii Pawnbrokers Association;  
31 and  
32

33 BE IT FURTHER RESOLVED that the Department of Commerce and  
34 Consumer Affairs is requested to provide any necessary  
35 administrative, professional, technical, and clerical support to  
36 the working group; and  
37

38 BE IT FURTHER RESOLVED that the members of the working  
39 group shall receive no compensation for their services, but may  
40 be reimbursed for incidental expenses, including travel costs,  
41 necessary for the performance of their duties; and  
42



1 BE IT FURTHER RESOLVED that the working group be exempt  
2 from the requirements of chapter 92, Hawaii Revised Statutes;  
3 and  
4

5 BE IT FURTHER RESOLVED that the Director of Commerce and  
6 Consumer Affairs is requested to submit a report of the working  
7 group's findings and recommendations, including any proposed  
8 legislation, to the Legislature no later than twenty days prior  
9 to the convening of the Regular Session of 2016; and  
10

11 BE IT FURTHER RESOLVED that certified copies of this  
12 Resolution be transmitted to the Director of Commerce and  
13 Consumer Affairs, Administrator of the State Procurement Office,  
14 Prosecuting Attorney of the City and County of Honolulu,  
15 President of the National Pawnbrokers Association, and President  
16 of the Hawaii Pawnbrokers Association.  
17  
18  
19

OFFERED BY:

*[Handwritten signature]*  
*John M. [unclear]*  
*Cindy Evans*  
*Tou Brun*  
*[unclear]*  
*Kal Rhoad*  
*[unclear]*  
*Bhakarshimat*  
*[unclear]*  
*[unclear]*  
*[unclear]*



**HB-1991-HD-2**

Submitted on: 3/19/2022 9:27:58 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Azuma Chrupalyk	Individual	Support	Written Testimony Only

Comments:

Hawai'i Island also needs this service. Although I'm aware that O'ahu has more people and consequently more crime, Hawai'i Island has some serious theft issues and could certainly benefit from such a service.

**HB-1991-HD-2**

Submitted on: 3/19/2022 4:47:31 PM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Lewis	Individual	Support	Written Testimony Only

Comments:

As someone who has had a bicycle stolen I strongly support HB1991.

**HB-1991-HD-2**

Submitted on: 3/20/2022 4:09:56 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stuart Simmons	Individual	Support	Written Testimony Only

Comments:

I strongly support HB1991. This well-written bill will make a significant impact on curbing bicycle theft.

**HB-1991-HD-2**

Submitted on: 3/20/2022 4:13:17 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Adrian L Kinimaka Jr	Individual	Support	Written Testimony Only

Comments:

I support HB1991 HD2

**HB-1991-HD-2**

Submitted on: 3/20/2022 6:50:26 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gary Wiegand Jr	Individual	Support	Written Testimony Only

Comments:

I approve!



**HB-1991-HD-2**

Submitted on: 3/20/2022 7:26:44 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marcy	Individual	Support	Written Testimony Only

Comments:

I urge support of this bill that will reduce petty crime and allow bike owners to recover stolen property.

**HB-1991-HD-2**

Submitted on: 3/20/2022 8:23:46 AM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kyle Stevens	Individual	Support	Written Testimony Only

Comments:

I support

**HB-1991-HD-2**

Submitted on: 3/20/2022 2:03:17 PM

Testimony for TRS on 3/22/2022 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Scott Sullivan	Individual	Support	Written Testimony Only

Comments:

I Support!

**3/20/22**

**Testimony Supporting HB1991**

**Submitted by John Spiker, Owner – Hawaii Gold & Silver Company**

My name is John Spiker. I am the owner of Hawaii Gold & Silver Company and have been in business for over 43 years. I have been the President of the Hawaii Pawnbrokers Association for 20 years. I have been giving testimony at the Hawaii State Legislature since 1981.

I support House Bill 1991 SD1 in its current form as this bill allows senior citizens and senior citizens with disabilities who have been in business for decades and are not able to computerize because of their age and disabilities to continue their business.

I want to thank the current Legislature and the Honolulu Police Department for their time and effort in putting this bill forward. I would like to also acknowledge HPD Major Ben Moskowitz and other Honolulu Police Department officers for meeting with us to listen and discuss our industry's concerns. I respectfully submit this testimony and thank you for your attention to this bill which affects our struggling pawn and secondhand dealers' industry that provides a much-needed service to our community.

Thank you.

John Spiker  
Hawaii Gold and Silver Company  
President, Hawaii Pawnbrokers Association  
808-735-5188