

**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on
Judiciary and Labor**

March 16, 2015

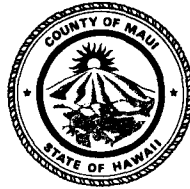
H.B. No. 1326: RELATING TO THEFT

Chair Keith-Agaran and Members of the Committee:

H.B. No. 1326 would increase the dollar threshold level for felony theft from the current \$300 to \$750 and provide for incremental increases in the dollar amount annually. We support this bill because it would eliminate, as felonies, cases where value of the property taken is less than \$750.

The rise in prices of all consumer items has resulted in the threshold amount for felony theft being very low. 1986 was the last time the threshold amount was raised when it went from \$200 to the current \$300. (1986 Session laws of Hawaii, Act 314). The raising of the level would not prevent the courts from imposing prison terms for theft. Even if treated as a misdemeanor, an offender could receive up to a one-year term of prison. In reality, very few felony theft offenders, unless they have a prior felony conviction, receive the possible five-year jail term. The vast majority of these cases are currently resolved by placing the offender on either a deferred acceptance of plea, or probation.

Thank you for the opportunity to comment on this bill.



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
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CONTACT: RICHARD. K. MINATOYA
Deputy Prosecuting Attorney
Supervisor - Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
HB 1326 - RELATING TO THE PENAL CODE

March 16, 2015

The Honorable Gilbert S. C. Keith-Agaran
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES HB 1326 - Relating to the Penal Code. The bill would increase the monetary threshold to \$750 with respect to property or services for Theft in the Second Degree effective 2016, and provides for 2% automatic yearly increases.

We oppose increasing the threshold amount for Theft in the Second Degree. Proponents of this bill refer to the rate of inflation since the current \$300 threshold was set, but the reality is, \$300 is still a lot of money for hard working families, businesses and visitors.

Furthermore, offenders often purposely attempt to steal under the felony threshold level. We have all heard the story of a shoplifter at a supermarket in Honolulu. When told the value of the goods totaled over \$300, the shoplifter responded, "But you didn't take into account my club card." Raising the threshold value will encourage offenders to steal greater amounts, which counters efforts to combat theft. The 2% automatic increases will also lead to confusion in enforcement and setting proper bail amounts.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, OPPOSES HB 1326. We ask that the committee HOLD the bill.

Thank you very much for the opportunity to provide this testimony.

MITCHELL D. ROTH
PROSECUTING ATTORNEY

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PROSECUTING ATTORNEY



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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1326

A BILL FOR AN ACT RELATING TO THE PENAL CODE

COMMITTEE ON JUDICIARY AND LABOR

Sen. Gilbert S.C. Keith-Agaran, Chair
Sen. Maile S.L. Shimabukuro, Vice Chair

Monday, March 16, 2015, 9:30 a.m.
State Capitol, Conference Room 016

Honorable Chair Keith-Agaran, Vice-Chair San Shimabukuro, and Members of the Committee on Judiciary and Labor, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony IN OPPOSITION of House Bill No. 1326.

This measure increases the monetary threshold to \$750 with respect to property or services for theft in the second degree, and provides for 2% automatic yearly increase thereafter.

We oppose allowing offenders to steal products or services of a higher value under Theft in the Second Degree. Offenders often steal products or services just under the value that can be charged as a felony so they can remain subject to only misdemeanor offenses if arrested and charged. If this bill passes, more offenders will steal more – up to \$750 in value and 2% more every year thereafter knowing that they will only be charged a misdemeanor. Such a policy will not help our goals in preventing theft, but instead will hurt families and businesses.

The Office of the Prosecuting Attorney, County of Hawai'i OPPOSES the passage of House Bill No. 1326. Thank you for the opportunity to testify on this matter.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

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Victim/Witness Program 808-241-1898 or 800-668-5734

**TESTIMONY IN OPPOSITION TO
HB1326 – RELATING TO THEFT**

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

Senate Committee on Judiciary and Labor
March 16, 2015, 9:30 a.m., Conference Room 016

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, OPPOSES HB1326 – RELATING TO THEFT. The purpose of this bill is to amend the offense of Theft in the Second Degree under section 708-831 of the HRS to increase the amount an offender can steal property or services from an excess of \$300 to an excess of \$750, and increasing the value that can be stolen by 2% every year thereafter.

Theft in the Second Degree is a class C felony. Theft of property from visitors and kama'aina is rampant in our community. Offenders often steal products or services just under the felony threshold value so they can remain subject to only misdemeanor penalties if arrested and charged. Passing this bill would not reduce crime or further any cognizable public policy purpose. This Bill will not further our shared goals of preventing theft, but instead will hurt families and businesses.

Accordingly, we OPPOSE HB1326. We request that your Committee HOLD the bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai'i

March 16, 2015

RE: H.B. 1326; RELATING TO THE PENAL CODE.

Chair Keith-Agaran, Vice-Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney submits the following testimony in opposition to H.B. 1326.

H.B. 1326 would increase the minimum value of property or services stolen under theft in the second degree, from \$300 to \$750, and impose a 2% increase to this minimum value every year.

Such a change would be contrary to our goal of preventing theft in this State, harming not only our many business owners, but also our residents as well. Moreover, to our knowledge, an annual percentage-based increase in the minimum value would be entirely unique to this statute, whether one is considering the threshold value necessary to commit an offense, the amounts of fines paid by offenders, restitution provided to victims, or any other dollar-figures addressed in the penal code.

If the minimum value for theft in the second degree is increased in this manner, retailers will only be increasingly victimized by repeat or 'professional' offenders, who are quite aware of this threshold value. In court, our Deputy Prosecuting Attorneys have come across offenders who reportedly steal items of value just under the current threshold of \$300, repeatedly, because they know that this will be charged as a misdemeanor rather than a felony. If H.B. 1326 were to pass, those offenders would likely adapt to stealing just under \$750, rather than the current threshold of \$300, causing even more harm to businesses in Hawaii. Ultimately, it is the legitimate, law abiding consumers of Hawaii—residents and tourists—who pay for the losses caused by offenders.

We also urge you not to implement an annual increase in the minimum value needed to commit the offense, as it would be inappropriate to increase this value to the benefit of offenders—and the detriment of victims and public safety—particularly when no such standards are imposed on monetary penalties for offenders, nor provided to victims in terms of restitution.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 1326. Thank you for this opportunity to testify on this bill.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 10:10:42 PM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Kailua Neighborhood Board	Oppose	No

Comments: Please oppose. If passed the criminals will simply know that they can steal more. This will make our homes less safe.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TO:
COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Monday, March 16, 2015
TIME: 9:30am
PLACE: Conference Room 16
State Capitol
415 South Beretania Street

RE: HB 1326

Position: Oppose

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee;

Theft is a very real, and unfortunately very common problem for me and my business. \$300 may not seem like a lot of money but the cost of these crimes goes far beyond that, many shoplifters will intentionally take just under the current threshold, and they will do so over and over again; theft causes me to have to cover the cost of the stolen merchandise; theft means I have to spend money on theft prevention measures. These costs don't just affect the bottom line of my business, they negatively impact my prices and my customers and my community as well.

ABC Stores is a resort retailer. Our customers are both kamaaina and visitors. Hawaii is already struggling with the perception of being an expensive travel destination. To make up for the rise in theft which will happen, our prices will have to rise as well.

The proposal to increase the threshold every year by 2% is also objectionable. Many individuals in the state do not enjoy a 2% raise in wages annually, yet you want to give this benefit to criminals. Do we raise the minimum wage 2% every year? Where are your priorities?

If you want to work on a bill, may I suggest you create a bill that will apply cumulative penalties. Many of us struggle with repeat offenders that easily steal more than \$300 if their thefts were added up. Why should someone have double digit number of convictions for theft yet be allowed to have every theft be treated individually. These criminals obviously are treating shoplifting as a career. Are you prepared to make it more lucrative for them?

Mahalo for the opportunity to testify.

Newell Hirata
Loss Prevention Manager
ABC Stores
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COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON JUDICIARY & LABOR

Chair: Sen. Gilbert Keith-Agaran

Vice Chair: Sen. Maile Shimabukuro

Monday, March 16, 2015

9:30 a.m.

Room 016

SUPPORT for HB 1326 – FELONY THRESHOLD FOR THEFT

Aloha Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 1326 increases the monetary threshold to \$750 with respect to property or services for theft in the second degree, effective 2016. Provides for 2% automatic yearly increase thereafter.

Community Alliance on Prisons supports adjusting the threshold since Hawai'i's threshold has remained at \$300 since 1986. We, therefore, decided that an impartial way to determine a proper threshold for Hawai'i's felony theft would be to go to the Bureau of Labor Statistics¹ and use their Inflation Calculator to see what \$300 in 1986 would equate to in 2014.

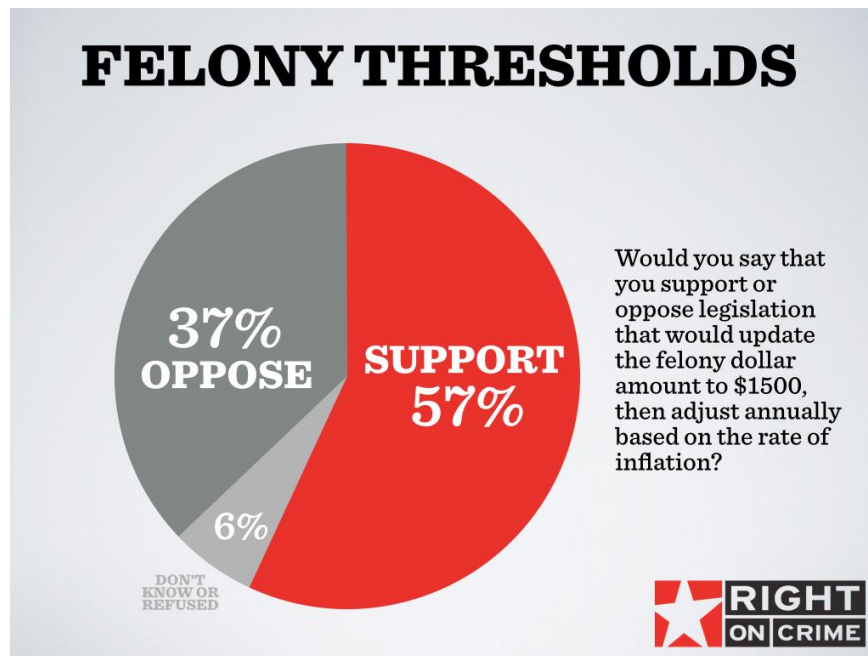
Calculating the inflation rate from 1986 to 2014, the Bureau of Labor Statistics determined that \$300 in 1986 equates to \$648 in 2014. When one adjusts for the 'paradise tax' of +30%, that adds another \$194.40 meaning that \$300 in Hawai'i in 1986 would equate to \$842.40 in 2014.

Understanding the increasing costs of incarceration and that theft is primarily a crime that is fueled by substance abuse, many states have sought ways to address the theft felony threshold. Community Alliance on Prisons has been researching this issue for more than a decade to get a

¹ Bureau of Labor Statistics – Inflation Calculator http://www.bls.gov/data/inflation_calculator.htm

landscape view of how other states deal with theft. Our research shows that Hawai'i has remained at the low-end of the threshold for felony theft and that the range for the felony threshold varied from \$200 - \$3,000.

A new poll² released on March 9, 2015 by Right on Crime, the nation's leading conservative public policy campaign for criminal justice reform, shows voters strongly support criminal justice reforms in Texas. The poll conducted by Wilson Perkins Allen Opinion Research for the Texas Public Policy Foundation found that the vast majority of likely Texas voters want to hold more nonviolent offenders accountable in communities, make penalties proportionate to the crime, and ensure those leaving prison spend part of their sentence under community supervision. When asked about felony thresholds for theft, here is the response:



The Pew Center on the States' Public Safety Performance Project reported:

The length of time served in prison has increased markedly over the last two decades, according to a new study by Pew's Public Safety Performance Project. Prisoners released in 2009 served an average of nine additional months in custody, or 36 percent longer, than offenders released in 1990.

Several states have reclassified or redefined criminal offenses in recent years; such changes impact sentence length and, ultimately, Length of Stay (LOS) in prison. In many states, the monetary value of stolen goods necessary to trigger a felony was established decades ago and has not been adjusted to keep pace with inflation. The result is that someone can have a longer sentence for a property crime today for the theft of less

² **New Poll Shows Voters Strongly Support New Justice Reforms in Texas**, Right on Crime, AUSTIN, TX, March 9, 2015. <http://rightoncrime.com/2015/03/new-poll-shows-voters-strongly-support-new-justice-reforms-in-texas/>

valuable material goods than in the past. In 2010, South Carolina revised several offense definitions and increased the monetary value threshold that triggers a felony charge for certain property offenses. A number of other states—including Alabama (2003), Arkansas (2011), California (2009), Delaware (2009), Montana (2009), and Washington (2009)—also have raised the felony threshold dollar amount for various theft offenses.³

Property offenders released in West Virginia and Hawaii in 2009 served 3.2 and 3.3 years on average, a full year longer than the national average⁴ (see Table 3). South Dakota and Tennessee tied for the shortest average LOS for property offenders released in 2009, at 1.3 years in each state, a full year less than the average. (page 18).

Since the national average of time spent is 1 year less than Hawai'i, our taxpayers are spending \$48,910 per incarcerated individual serving time for a property offense.⁵

In short, this bill proposes that **a person who steals property worth \$401** commits the offense of theft for which they could serve 3 years and 3 months on average (\$48,910 x 3 years + 90 days/3 months @ \$134/day (\$12,060)) **can cost taxpayers \$162,810**. Taxpayers have no insurance to cover our losses. Especially when Hawai'i could implement proven alternatives, but hasn't done so.

Community Alliance on Prisons has been asserting that sending low level lawbreakers to prison is paying to send individuals to criminal college.

NPR had a story on February 1, 2013⁶ that cited the work of Donald T. Hutcherson II, a sociology professor at Ohio University in Lancaster, who recently decided to tackle the question by mining the vast data in the U.S. government's National Longitudinal Survey of Youth.

The survey conducts incredibly detailed and confidential interviews, and then repeats those interviews with the same people year after year — often going to extraordinary lengths to track down those who may have moved overseas or ended up in prison.

Included in the survey are questions about how much money individuals make legally

³ TIME SERVED - The High Cost and Low Returns of Longer Prison Sentences, Pew Center on the States, Public Safety Performance Project, page 39, June 2012.

<http://www.pewstates.org/research/reports/time-served-85899394616>

⁴ The national average is 2.3 years.

⁵ TIMESERVED, Hawai'i Fact Sheet.

<http://www.pewstates.org/research/state-fact-sheets/time-served-in-hawaii-85899396333>

⁶ **When Crime Pays: Prison Can Teach Some To Be Better Criminals**, SHANKAR VEDANTAM, February 01, 2013. <http://www.npr.org/2013/02/01/169732840/when-crime-pays-prison-can-teach-some-to-be-better-criminals> Listen to the Story

<http://www.npr.org/player/v2/mediaPlayer.html?action=1&t=1&islist=false&id=169732840&m=170823697>

and illegally. Because the survey also ascertains whether people have spent time in prison, Hutcherson pored through data from tens of thousands of queries to a large number of young people to establish whether illegal earnings went up or down after individuals served time.

If prison reformed criminals, illegal earnings once people were released ought to have gone down. But if prison was a "finishing school" for criminals, illegal earnings after serving time should have increased.

"Spending time in prison leads to increased criminal earnings," Hutcherson says. "On average, a person can make roughly \$11,000 more [illegally] from spending time in prison versus a person who does not spend time in prison."

We know that the retail merchants association will oppose any increase in the felony threshold, yet these merchants have insurance to cover their losses. The poor, over-burdened Hawai'i taxpayer, however, is burdened with a \$134 per day/\$48, 910 per year cost for incarcerating individuals convicted of felony theft. There is no insurance for us.

Community Alliance on Prisons respectfully asks the committee to consider the research, the situation of Hawai'i's taxpayers and to raise the threshold to \$750 with the 2% yearly adjustment for inflation. This will still keep Hawai'i in the middle range of what most jurisdictions are doing.

Mahalo for this opportunity to submit our research on this important subject,



**Testimony to the Senate Committee on Judiciary and Labor
Monday, March 16, 2015 at 9:30 A.M.
Conference Room 016, State Capitol**

RE: HOUSE BILL 1326 RELATING TO THE PENAL CODE

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 1326, which increases the monetary threshold to \$750 with respect to property or services for theft in the second degree, effective 2016 and provides for 2% automatic yearly increase thereafter.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber believes that the increase proposed in HB 1326 could lead to an increase in theft. The 150% increase from \$300 to \$750 allows thieves to steal more without serious consequences. Loss Prevention professionals have reported that there are chronic shoplifters who calculate the value of merchandise to steal in order to keep it under the \$300 limit and avoid prosecution and serious penalties. For retailers that have to deal with these chronic shoplifters, increasing the monetary threshold would only harm those businesses as they cannot be compensated and cannot penalize the thieves, who will return and continue stealing.

The National Retail Federation estimates that the value of merchandise lost to theft is over 1% of annual sales. If we apply that same percentage to retail sales in Hawaii (\$24.3 billion in 2010), the loss to theft is more than \$240 million lost by Hawaii businesses in 2010 alone.

We respectfully ask that this bill be held in committee. Thank you for the opportunity to testify.



Executive Officers:

John Schilf, RSM Hawaii - Chairperson
Derek Kurisu, KTA Superstores - Vice Chair
Lisa DeCoito, Aloha Petroleum - Treasurer
John Erickson, Frito-Lay - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
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Telephone : 808-533-1292

TO:
COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 16, 2015
TIME: 9:30am
PLACE: Conference Room 16

RE: HB1326

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA strongly opposes increasing the threshold property and services valuation for theft in the second degree.

Food retailers, small and large, operate at a profit margin of around 1%, any loss to theft has to be offset if our businesses are to stay open. The only way to do that is to increase prices. Shoplifting is not a victimless crime against, "big corporations" it is a crime against real people and real businesses in our communities, and it negatively affects all of us.

The increase proposed in this bill will encourage theft. The National Retail Federation estimates that the value of merchandise lost to theft is over 1% of annual sales. If we apply that same percentage to retail sales in Hawaii (\$24.3 billion in 2010), the loss to theft is more than \$240 million lost by Hawaii businesses in 2010 alone.

Increasing the threshold value by 150% is basically just saying thieves can steal over 150% more without fear of serious consequences. Our Loss Prevention professionals report that there are chronic shoplifters, some with dozens of arrests or more, these professional shoplifters know the system and actually calculate the value of the merchandise they are stealing to keep it under the \$300 amount to avoid prosecution and serious penalties. In these cases the retailer is never compensated and has absolutely no hope of recovery. For a small business this kind of loss, especially when it occurs repeatedly can be devastating. By raising the threshold each year this bill also means that thieves will continually increase the amount that they steal.

We should also note that this measure is not limited to shoplifting; it applies to individuals as well. Having \$300 worth of personal property stolen is already a tremendous and often traumatic loss. For most of us it means the loss of many hours worked and savings accumulated. Increasing it to \$750 leaves individuals open to even greater loss.

This bill is bad for businesses, bad for customers, bad for individuals, and bad for Hawaii. The only people this bill seems that it would benefit are thieves. We strongly encourage you to vote no on this measure.

Thank you for the opportunity to testify.



**Testimony to Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair**

**Monday, March 16, 2015 ~ 9:30 a.m.
Conference Room 325, State Capitol**

RE: HOUSE BILL 1326 RELATING TO THEFT

Chair Agaran, Vice-Chair Shimabukuro and Members of the Judiciary Committee,

Retail Merchants of Hawaii (RMH) opposes HB1326. This bill would amend the offense of Theft in the Second Degree under section 708-831 of the HRS to increase the amount offender can steal property or services from an excess of \$300 to an excess of \$750, and increasing the value that can be stolen by 2% every year thereafter.

As the single largest generator of general excise tax in the State of Hawaii; employing nearly 25% of Hawaii's workforce and representing over 3000 storefronts throughout the State, we believe this measure would work against the thousands of retailers helping to enhance Hawaii's economy. Retailers already deal with individuals and groups who steal property under the \$300 threshold in order to ensure the crime remains a misdemeanor. Loss prevention and fraud is a major issue for retailers and by passing this measure, offenders will steal more with less consequences. This will not help retailers build their business nor help to enhance our communities.

In order to foster retail business growth in our State, we must find solutions to enhance opportunities for business(s) to stay afloat. Implementing this measure will increase theft, increase costs to businesses, increase costs to consumers, affect future job growth and ultimately hurt the State's economy.

RMH respectfully ask each member to consider the detrimental consequences that will hinder our business(s) by the passage of this bill. We respectfully ask that you OPPOSE HB 1326.

Thank you for the opportunity to provide testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1326 on Mar 16, 2015 09:30AM*
Date: Saturday, March 14, 2015 7:22:00 AM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Beau Bayne	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 8:52:42 AM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Cindy Stewart	Individual	Oppose	No

Comments: The legislature is supposed to be working for honest citizens, not making it easier on criminals. Please don't make it easier to put criminals back on the street to steal and maybe injure the honest citizens of Hawaii.

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TESTIMONY IN OPPOSITION OF HB 1326 RELATING TO THEFT

To: Chair Gilbert S.C. Keith-Agaran
Vice Chair Maile S.L. Shimabukuro, and
Members of the Judiciary and Labor Committee

From: Claudine M. Tomasa, RN

Date: March 14, 2015

I am testifying against HB 1326. This bill will not prevent theft-instead, it will perpetuate more criminal activities. HB 1326 gives offenders the opportunity to STEAL SELECTIVELY- any property/services totaling up to \$750- knowing they will get away with a misdemeanor versus a felony.

What's to prevent the same offender from stealing again since HB 1326 allows stolen property to be valued 2% more each year before the offense is counted as a felony?

More legislative effort should be focused on protecting / compensating victim(s) and not perpetuating criminal activities. Please hold HB 1326 in committee.

Thank you for allowing me to testify in opposition to HB 1326.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Sunday, March 15, 2015 8:54:39 AM

HB1326

Submitted on: 3/15/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Thompson	Individual	Oppose	No

Comments: I am opposed to the increase to \$750 theft value for a felony. This encourages criminals to steal more. A \$700 theft amount can buy a lot of drugs. Stop pampering.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Friday, March 13, 2015 9:31:31 AM

HB1326

Submitted on: 3/13/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments: COMMITTEE ON JUDICIARY AND LABOR Sen. Gilbert Keith-Agaran, Chair Sen. Maile Shimabukuro, Vice Chair Monday, March 16, 2015 9:30 am Conference Room 016 Dear Chair Keith-Agaran, Vice Chair Shiabukuro, and Committee Members: I've been a long-time supporter of raising the felony threshold from \$300. I'm sorry to say that I can't understand why the legislators desire to keep it at \$300 when it costs the State more than double that amount to incarcerate one person for ONE DAY, and for FIVE YEARS. It has been 29 years since the \$300 threshold was set. Isn't it time we keep up with the change in economy? I'm a senior and I wish the cost of living stayed stagnant. Thank you for the opportunity to repeatedly submit my testimony on this subject. With much Aloha, e. ileina funakoshi Hawai'i's \$300 felony threshold (punishable by up to 5 years incarceration) has not changed since 1986

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 10:49:56 AM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
erich smith	Individual	Oppose	No

Comments: This is ridiculous and an insult to all hard working,law abiding citizens . I have been the victim of theft and harsh sentences need to be imposed when laws are broken, 300 dollars is a lot of money for most people! Along with mandatory drug treatment!

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From: info@HonoluluCouncilTracker.com
To: [JDL Testimony](#)
Subject: second degree theft threshold increase
Date: Thursday, March 12, 2015 7:38:42 PM

TO: COMMITTEE ON JUDICIARY AND LABOR Senator Gilbert S.C. Keith-Agaran, Chair Senator Maile S.L. Shimabukuro, Vice Chair DATE: Monday, March 16, 2015 TIME: 9:30am PLACE: Conference Room 16 State Capitol 415 South Beretania Street RE: HB 1326 Position: Oppose Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee; Theft is a very real, and unfortunately very common problem for me and my business. \$300 may not seem like a lot of money but the cost of these crimes goes far beyond that, many shoplifters will intentionally take just under the current threshold, and they will do so over and over again; theft causes me to have to cover the cost of the stolen merchandise; theft means I have to spend money on theft prevention measures. These costs don't just affect the bottom line of my business, they negatively impact my prices and my customers and my community as well. The increase proposed in this measure is more than doubling the amount that my business could lose to theft without the thief ever having to answer in a serious way for their crime. And with this bill my business losses would increase each year as the threshold goes up. I don't know how much additional theft my business and businesses like it, will be able to bear. I want my business to continue to provide quality products to our customers at good prices and I want to continue to provide jobs to my employees. I'm asking you to help me to do those things by voting no on this measure. Thank you for the opportunity to testify.

Our stores have been in the last several months been frequented by what seems to be organized gangs of shoplifters. They are well aware of the laws, and the elements that HPD need to make an arrest. We depend on our legislature to make laws that will protect the rights and property of our business from these individuals that elect to challenge our judicial system. Let's not make it worse for businesses and consumers.

Herbert Gushikuma

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
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Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Friday, March 13, 2015 6:27:53 AM

HB1326

Submitted on: 3/13/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
james crowe	Individual	Support	No

Comments: Good opportunity to update the amount.

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Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 11:00:54 AM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Leila Uyehara	Individual	Oppose	No

Comments: I oppose raising the monetary threshold for felony theft mainly because reclassifying the crime as a misdemeanor makes drug addicts ineligible for drug treatment programs offered only to felons.

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Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 2:55:23 PM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Miles	Individual	Oppose	No

Comments: I stongly oppose this bill because it would do nothing to help victims of crimes, and would enable the criminals to get away with even more. We have been robbed twice in one year, suffering over \$5,000 in losses. We received only a small insurance reimbursement for one item which was insured through our storage facility, and nothing for the rest because it was stolen from a lot with no structure, so we could not obtain homeowner's insurance. One item was recovered and has yet to be returned by the police department, while we are forced to do without it. There was no one caught for the first theft, and we do not know the status of the second. The criminals are difficult to catch in the first place, and then even more difficult to procecute. They manage to get away with their crimes by avoiding being caught, and if caught, able to plead down and never really have any consequences. Why would it make sense to make it EASIER on THE CRIIMINALS? We should be LOWERING the thresholds, not raising them! We are very tired of the police attitudes of not caring much about the crimes, no follow up, even when leads to locations and identities of criminals are furnished to them, and no reimbursement for our stolen property. We would like the penalties for thefts increased, and the dollar value for it to be considered a felony lowered, not increased. Thank you.

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TO: SENATE COMMITTEE ON JUDICIARY & LABOR
Senator Gilbert Keith-Agaran, Chair
Senator Maile Shimabukuro, Vice Chair

FROM: Lisa Cates, Individual DATE: Monday, March 16, 2015

RE: **Testimony in Opposition to HB1326 which would increase the
monetary threshold valuation for felony theft to \$750**

Aloha Chair Keith-Agaran and Members of the Committee on Judiciary,

My name is Lisa Cates and I strongly **oppose** HB1326 for the following reasons:

- When someone is charged with felony theft it does not necessarily mean they will receive a felony conviction. There may be facts or circumstances that their attorney will present to the prosecutor in order to negotiate a lesser sentence. Convictions are determined on a case-by-case basis by judges who generally have sizeable discretion with sentencing decisions. Therefore in that respect, this measure is unnecessary.
- Theft and substance abuse go hand-in-hand, and often someone is under the influence when committing property crimes. An addict will turn to theft in desperation as means of feeding an addiction. Therefore, a felony conviction in this case could potentially help those facing substance abuse by making them eligible for certain programs and treatment, whereas a misdemeanor conviction will not.
- Damages for loss of personal property often cannot take into account the intrinsic value to the victim. For example, a Hawaiian bracelet may be “valued” at \$350, but to the victim there is no compensation worthy of replacing such an heirloom. Likewise, a one-year old iMac may have a market value less than \$500, but the effect of lost data upon a student or small business could be devastating. A misdemeanor conviction in either of these scenarios would be insufficient and unjust.

Please do not marginalize the effects of theft upon the general public. First time theft offenders will likely receive a relatively lighter penalty for theft. However, offenders with a prior conviction or drug charges associated with their crime warrant a felony charge that will result in meaningful consequences such as fines, restitution, and perhaps the option for treatment through State supervised programs like HOPE Probation or Drug Court. Raising the minimum threshold for felony theft will fail to protect the property rights of the general public and will fall short in helping those offenders that need it most.

Please do not pass HB1326.

Mahalo for your consideration to my testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
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Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Saturday, March 14, 2015 10:19:11 PM

HB1326

Submitted on: 3/14/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
marty heede	Individual	Oppose	No

Comments: Culpability is not a numerical figure. It is based on intent. Although stealing a pencil isn't the same as taking a television, anything beyond \$100 (or \$300 in this case) should be considered a major crime. Increasing the amount does not help prevent crime which should be the major objective. It may actually result in more crime.

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Subject: Submitted testimony for HB1326 on Mar 16, 2015 09:30AM
Date: Sunday, March 15, 2015 7:46:44 AM

HB1326

Submitted on: 3/15/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Philip J. Valenti	Individual	Oppose	No

Comments: I believe that HB1326 is detrimental to criminals, victims, and the general public for the following reasons: •Property crime, especially theft, is usually drug-related or drug-fueled •Habitual thieves graduate to more serious crimes (use of weapons, assault, grand theft) without proper rehabilitation and drug treatment •Categorizing theft as a misdemeanor offense will make drug addicted thieves ineligible for drug treatment programs only offered to felons •Victims should be able to be compensated through restitution or a meaningful sentence as recommended for felony theft penalties •The State should not further violate theft victims by downplaying the trauma of their experience -- "My heirloom jewelry, passed down from my great-grandmother, was only valued as a misdemeanor crime so our case was pled down with no real consequence". •Professional shoplifters will calculate and steal below felony threshold values to avoid serious consequences while forcing businesses to pass on losses to the consumer.

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