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# A BILL FOR AN ACT

RELATING TO GOVERNMENT IMPOUNDMENT OR DISPOSAL OF PERSONAL  
PROPERTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended  
2 by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4           "§26-           Impoundment or disposal of personal property  
5 stored on state property; state immunity from civil liability.

6           (a) No state entity shall engage in the impoundment or disposal  
7 of personal property stored on state property unless the state  
8 entity provides prior written notices thereof to the owner or  
9 possessor of the personal property as follows:

10           (1) A written notice provided no later than seven days in  
11 advance of the impoundment or disposal; and

12           (2) Another written notice provided on the day immediately  
13 preceding the date of the impoundment or disposal, but  
14 no later than twenty-four hours in advance.

15           (b) Pursuant to section 662-15(1), the State shall not be  
16 liable for the torts of its employees in connection with the



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1 impoundment or disposal of personal property stored on state  
2 property in accordance with this section.

3 (c) No state employee shall be liable in any civil action  
4 for damage, injury, or loss caused by or resulting from an act  
5 or omission of the employee in connection with the impoundment  
6 or disposal of personal property stored on state property in  
7 accordance with this section; provided that the act or omission:

8 (1) Occurred within the employee's scope of employment or  
9 official duties with the State; and

10 (2) Did not result from the intentional or wilful and  
11 wanton misconduct of the employee.

12 (d) For the purposes of this section:

13 "Employee" means:

14 (1) Any public employee of the State, including a  
15 probationary or provisional employee; and

16 (2) Any employee under contract with the State, including  
17 an employee of a contractor or subcontractor  
18 undertaking the execution of a contract with the  
19 State.

20 "Impoundment or disposal of personal property stored on  
21 state property" means the impoundment or disposal by the State



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1 of any tangible personal property that is unlawfully stored on  
2 any property owned or controlled by the State."

3 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
4 by adding a new section to part V to be appropriately designated  
5 and to read as follows:

6 "§46- Impoundment or disposal of personal property  
7 stored on county property; county immunity from civil liability.

8 (a) No county entity, including an employee, shall be liable in  
9 any civil action for damage, injury, or loss caused by or  
10 resulting from an act or omission of an employee in the  
11 enforcement of any law that provides for the impoundment or  
12 disposal of personal property stored on county property;  
13 provided that:

14 (1) The impoundment or disposal giving rise to the civil  
15 action was preceded by prior written notices thereof  
16 provided by the appropriate county to the owner or  
17 possessor of the personal property and consisting of:

18 (A) A written notice provided no later than seven  
19 days in advance of the impoundment or disposal;  
20 and



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1           (B) Another written notice provided on the day  
2                   immediately preceding the date of the impoundment  
3                   or disposal, but no later than twenty-four hours  
4                   in advance; and

5           (2) The act or omission:

6                   (A) Occurred within the employee's scope of  
7                   employment or official duties with the county;  
8                   and

9                   (B) Did not result from the intentional or wilful and  
10                   wanton misconduct of the employee.

11           (b) For the purposes of this section:

12           "Employee" means:

13                   (1) Any public employee of a county, including a  
14                   probationary or provisional employee; and

15                   (2) Any employee under contract with a county, including  
16                   an employee of a contractor or subcontractor  
17                   undertaking the execution of a contract with the  
18                   county.

19           "Impoundment or disposal of personal property stored on  
20           county property" means the impoundment or disposal, by a county  
21           and as provided by law, of any tangible personal property that



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1 is unlawfully stored on any property owned or controlled by the  
2 county."

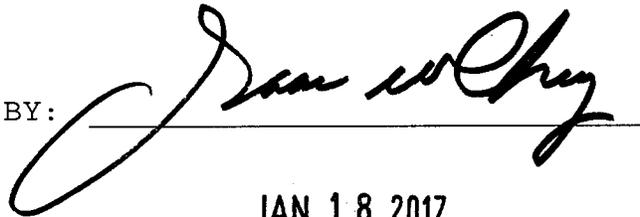
3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

8

INTRODUCED BY:



JAN 18 2017



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**Report Title:**

Impoundment or Disposal of Personal Property Unlawfully Stored on Public Property; Civil Immunity for Government Entities

**Description:**

Provides the State, each county, and their employees with immunity from civil liability arising from the impoundment or disposal of personal property unlawfully stored on public property, if prior notice requirements are met.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

