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# A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PROPERTY RIGHTS.

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

1           SECTION 1. The Hawaii Revised Statutes contain a number of  
2 provisions aimed at addressing the high number of vehicle thefts  
3 that occur on the island of Oahu. Frequently, a stolen vehicle  
4 is recovered during the commission of a crime or after it has  
5 been used to commit other crimes. In many vehicle theft cases,  
6 the vehicle is recovered while being operated or occupied by  
7 individuals who were not authorized to operate or occupy the  
8 vehicle. However, law enforcement may be unable to connect the  
9 actual theft of the vehicle with a specific individual.

10           Current statutory provisions have been rendered ineffective  
11 by state court rulings that require the State to prove that a  
12 defendant operating or occupying a stolen vehicle knew that the  
13 vehicle was stolen. In the great majority of cases, this  
14 requires a confession from the defendant, which may be difficult  
15 to obtain because defendants have the right to remain silent.  
16 Thus, law enforcement is often hindered in meeting the burden of  
17 proof needed to prosecute these cases.



1           The purpose of this Act is to establish the offense of  
2 unauthorized controlled of propelled vehicle in the second  
3 degree, which applies if a person recklessly or negligently  
4 exerts unauthorized control over another's propelled vehicle by  
5 operating the vehicle without the owner's consent or by changing  
6 the identity of the vehicle without the owner's consent.

7           SECTION 2. Chapter 708, Hawaii Revised Statutes, is  
8 amended by adding a new section to part IV to be appropriately  
9 designated and to read as follows:

10           "§708-     Unauthorized control of propelled vehicle in the  
11 second degree. (1) A person commits the offense of  
12 unauthorized control of a propelled vehicle in the second degree  
13 if the person recklessly or negligently exerts unauthorized  
14 control over another's propelled vehicle by operating the  
15 vehicle without the owner's consent or by changing the identity  
16 of the vehicle without the owner's consent.

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

19           (a) Received authorization to use the vehicle from an  
20           agent of the owner where the agent had actual or  
21           apparent authority to authorize such use; or



1        (b) Is a lien holder or legal owner of the propelled  
2                    vehicle, or an authorized agent of the lien holder or  
3                    legal owner, engaged in the lawful repossession of the  
4                    propelled vehicle.

5        (3) For the purposes of this section:

6                    "Owner" means the registered owner of the propelled vehicle  
7                    or the unrecorded owner of the vehicle pending transfer of  
8                    ownership; provided that if there is no registered owner of the  
9                    propelled vehicle or unrecorded owner of the vehicle pending  
10                   transfer of ownership, "owner" means the legal owner.

11                   "Propelled vehicle" shall have the same meaning as in  
12                   section 708-836.

13                   (4) Unauthorized control of a propelled vehicle in the  
14                   second degree is a misdemeanor."

15                   SECTION 3. Section 708-836, Hawaii Revised Statutes, is  
16                   amended to read as follows:

17                   **"§708-836 Unauthorized control of propelled vehicle[-] in**  
18                   **the first degree.** (1) A person commits the offense of  
19                   unauthorized control of a propelled vehicle in the first degree  
20                   if the person intentionally or knowingly exerts unauthorized  
21                   control over another's propelled vehicle by operating the



1 vehicle without the owner's consent or by changing the identity  
2 of the vehicle without the owner's consent.

3 [~~(2)~~] ~~"Propelled vehicle" means an automobile, airplane,~~  
4 ~~motorcycle, motorboat, or other motor propelled vehicle.~~

5 ~~(3)~~ (2) It is an affirmative defense to a prosecution  
6 under this section that the defendant:

7 (a) Received authorization to use the vehicle from an  
8 agent of the owner where the agent had actual or  
9 apparent authority to authorize such use; or

10 (b) Is a lien holder or legal owner of the propelled  
11 vehicle, or an authorized agent of the lien holder or  
12 legal owner, engaged in the lawful repossession of the  
13 propelled vehicle.

14 [~~(4)~~] (3) For the purposes of this section [~~,"owner"~~]:

15 "Owner" means the registered owner of the propelled vehicle  
16 or the unrecorded owner of the vehicle pending transfer of  
17 ownership; provided that if there is no registered owner of the  
18 propelled vehicle or unrecorded owner of the vehicle pending  
19 transfer of ownership, "owner" means the legal owner.

20 "Propelled vehicle" means an automobile, airplane,  
21 motorcycle, motorboat, or other motor-propelled vehicle.



1            [~~(5)~~] (4) Unauthorized control of a propelled vehicle in  
2 the first degree is a class C felony."

3            SECTION 4. 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 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

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



**Report Title:**

Honolulu Police Department Package; Vehicles; Unauthorized Control

**Description:**

Establishes the offense of unauthorized control of propelled vehicle in the second degree, which applies if a person recklessly or negligently exerts unauthorized control over another's propelled vehicle by operating the vehicle without the owner's consent or by changing the identity of the vehicle without the owner's consent. (SD1)

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

