

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1           SECTION 1. The legislature finds that objects, such as  
2 tents and other illegal structures, that obstruct public  
3 sidewalks, are increasingly being anchored or attached to  
4 adjacent property, such as fences belonging to private owners.  
5 The legislature further finds that existing law does not appear  
6 to empower law enforcement officers to summarily detach these  
7 objects from the private property. Complaints about objects  
8 attached to fences or other structures are likely to be treated  
9 as civil complaints that property owners must initiate through  
10 the courts.

11           The purpose of this Act is to prevent the attachment of  
12 objects to fences and other structures without permission, and  
13 facilitate the removal of objects attached in this manner, by  
14 establishing the criminal offense of unauthorized attachment of  
15 an object to a fence, gate, or wall.



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4 "§708- Unauthorized attachment of an object to a fence,  
5 gate, or wall; penalty. (1) A person commits the offense of  
6 unauthorized attachment of an object to a fence, gate, or wall  
7 if the person knowingly attaches an object to a fence, gate,  
8 wall, or other structure or barrier without permission from the  
9 owner.

10 (2) The owner, acting in good faith, may summarily detach  
11 the object and shall not be subject to liability, except for any  
12 damages that may result from the owner's gross negligence or  
13 wanton acts or omissions. A law enforcement officer, at the  
14 request of the owner, may summarily detach the object.

15 Subsequent removal of the object may be conducted at the law  
16 enforcement officer's discretion, but only pursuant to a state  
17 law or county ordinance that authorizes the removal.

18 (3) Unauthorized attachment of an object to a fence, gate,  
19 or wall is a violation; provided that a second or subsequent  
20 offense committed within one year of a prior conviction for the  
21 same offense is a petty misdemeanor.



- 1        (4) For purposes of this section, "owner" means:
- 2        (a) The owner of the fence, gate, wall, or other structure
- 3        or barrier; or
- 4        (b) The owner, agent, tenant, lessor, or sublessor of the
- 5        real property on which the fence, gate, wall, or other
- 6        structure or barrier is situated, or their respective
- 7        assigns or successors in interest."

8        SECTION 3. This Act does not affect rights and duties that

9        matured, penalties that were incurred, and proceedings that were

10       begun before its effective date.

11       SECTION 4. New statutory material is underscored.

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

13       INTRODUCED BY: Kal Rhoads



# S.B. NO. 566

**Report Title:**

Penal Code; Offenses Against Property Rights; Unauthorized Attachment of Object

**Description:**

Establishes the offense of unauthorized attachment of an object to a fence, gate, or wall, which is committed when a person knowingly attaches an object to a fence, gate, wall, or other structure or barrier without the owner's permission.

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

