

JAN 19 2022

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# A BILL FOR AN ACT

RELATING TO UNAUTHORIZED CONTROL OF A PROPELLED VEHICLE.

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

1           SECTION 1. Section 708-836, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§708-836 Unauthorized control of a propelled vehicle in**  
4 **the first degree.** (1) A person commits the offense of  
5 unauthorized control of a propelled vehicle in the first  
6 degree if the person intentionally or knowingly exerts  
7 unauthorized control over another's propelled vehicle by  
8 operating the propelled vehicle without the owner's consent or  
9 by changing the identity of the propelled vehicle without the  
10 owner's consent.

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

13           (a) Received authorization to use the propelled vehicle  
14 from an agent of the owner where the agent had actual  
15 or apparent authority to authorize use; [~~or~~]

16           (b) Is a lien holder or legal owner of the propelled  
17 vehicle, or an authorized agent of the lien holder or



1           legal owner, engaged in the lawful repossession of the  
2           propelled vehicle[-]; or

3           (c) Purchased the vehicle in good faith, and believed  
4           themselves to be the actual owner of the 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 propelled vehicle pending  
8           transfer of ownership; provided that if there is no registered  
9           owner of the propelled vehicle or unrecorded owner of the  
10          propelled vehicle pending transfer of ownership, "owner" means  
11          the legal owner.

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

14          (4) Unauthorized control of a propelled vehicle in the  
15          first degree is a class C felony."

16          SECTION 2. Section 708-836.1, Hawaii Revised Statutes, is  
17          amended to read as follows:

18          "**[+]§708-836.1[+] Unauthorized control of a propelled**  
19          **vehicle in the second degree.** (1) A person commits the offense  
20          of unauthorized control of a propelled vehicle in the second  
21          degree if the person recklessly or negligently exerts



1 unauthorized control over another's propelled vehicle by  
2 operating the propelled vehicle without the owner's consent or  
3 by changing the identity of the propelled vehicle without the  
4 owner's consent.

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

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

14 (c) Purchased the vehicle in good faith, and believed  
15 themselves to be the actual owner of the vehicle.

16 (3) For the purposes of this section:

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





# S.B. NO. 2095

**Report Title:**

Honolulu Prosecuting Attorney's Office Package; Unauthorized Control of a Propelled Vehicle; Criminal Procedure

**Description:**

Creates an affirmative defense for anyone charged with unauthorized control of a propelled vehicle, where the defendant purchased the vehicle in good faith and believed themselves to be the actual owner of the vehicle.

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

