

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

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

January 31, 2022

H.B. No. 1456: RELATING TO THEFT IN THE SECOND DEGREE

Chair Nakashima, Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender respectfully opposes H.B. No. 1456, which would amend the offense of Theft in the Second Degree to include the theft of electric guns.

Current theft statutes adequately cover all forms of theft of personal property including electric guns. The penalties for the theft offenses are dependent upon the value of the items stolen. This is the appropriate and proper method for the classification of property crimes.

Electric guns, similar to many other types of personal property, vary greatly in value. For instance, an internet search of “electric stun guns for sale” revealed values ranging as low as \$18, whereas a law enforcement grade taser is valued as high as \$1,599.99.¹ The current structure of the theft statutes would account for such differences in value.

Rather than deter the commission of actual electric gun crimes, this bill will result in making what is currently petty misdemeanor conduct – for property valued under \$250 – a felony offense. Elevating the crime to a felony will result in higher numbers of pre-trial detainees and a greater burden on our criminal justice system, including not only the courts and jails but also the probation and parole officers tasked with monitoring convicted felons. Are additional resources going to be financed to deal with this increase?

Moreover, this law is simply unnecessary, as any individual who steals or attempts to steal an electric gun would likely be committing a Class C felony offense or greater. Retail establishments selling electric guns will not be displaying them on an open shelf; more likely, the electric guns will be displayed behind a counter or in

¹ <https://www.thehomesecuritysuperstore.com/collections/police-stun-guns>

a locked case. A shoplifter will not be able to pick up an electric gun and walk out of the store without paying for it. To steal an electric gun, the individual will have to use force or threaten to use force on the storeowner, which would make the individual liable for the offense of robbery in the second degree, a Class B felony. If an individual takes an electric gun from a person, the individual will be committing the offense of theft from a person, which is a Class C felony (same class as the proposed offense of theft of an electric gun) or the offense of robbery, which is a Class B offense. If a criminal breaks and enters a retail establishment to steal an electric gun, he/she will be committing the offense of burglary in the second degree, which is Class C felony. If the individual illegally enters a home to steal a gun, the individual will be charged with the offense of burglary in the first degree, which is a Class B felony.

Finally, increased penalties for theft of an electric gun (from a maximum of 30 days jail for a theft in the fourth degree offense to five years for a class C felony) will only continue to exacerbate the Hawai‘i prison overcrowding problem. Our jails and prisons are filled above not only design capacity but also operational capacity. A significant portion of the State’s prison population are incarcerated in a contracted private, for-profit prison in Arizona; they are exiled thousands of miles away from their families, friends, and crucial support networks. According to a recent study by the Prison Policy Initiative, in 2018, Hawai‘i had an incarceration rate of 487 per 100,000 people.² Although Hawai‘i ranked 37th among the 50 states, if every state was an independent nation, Hawai‘i would have the 43rd highest incarceration rate in the world.³ Only three foreign countries have a higher incarceration rate than Hawai‘i.⁴ Thus, Hawai‘i locks up a higher percentage of its people than many wealthy democracies do.⁵

With the recent nationwide review of criminal justice policies, it is concerning that the trend in the State of Hawai‘i is to increase penalties. The courts currently have the ability to incarcerate defendants up to thirty days in jail if the value of the electric

² Prison Policy Initiative, “Hawaii profile.” See <https://www.prisonpolicy.org/profiles/HI.html>

³ Prison Policy Initiative, “States of Incarceration: The Global Context.” See <https://www.prisonpolicy.org/global/2018.html>

⁴ Id.

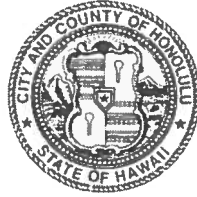
⁵ Prison Policy Initiative, “Hawaii profile.” See <https://www.prisonpolicy.org/profiles/HI.html>

gun is under \$250 and up to one year in jail if the value of the electric gun is between \$250 and \$750.

Thank you for the opportunity to comment on this measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE

JH-KK

February 1, 2022

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 1456, Relating to Theft in the Second Degree

I am Jarod Hiramoto, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1456, Relating to Theft in the Second Degree.

As the legalization to purchase and possess electric guns by members of the public was enacted this year, the issue of the theft of these electric guns come into question. Affirmation of the bill's reasons that criminals will utilize a stolen electric gun to their advantage and benefit against victims in a multitude of crimes is sound and reasonable. To better protect the community, addressing the theft of an electric gun will be a great deterrence for potential criminals.

The HPD urges you to support House Bill No. 1456, Relating to Theft in the Second Degree.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

A handwritten signature in black ink, appearing to read "Rade K. Vanic", is written over a horizontal line.

Rade K. Vanic
Interim Chief of Police

A handwritten signature in black ink, appearing to read "Jarod Y. Hiramoto", is written over a horizontal line.

Jarod Y. Hiramoto, Captain
Criminal Investigation Division



House Committee on Judiciary and Hawaiian Affairs
Representative Mark Nakashima, Chair
Representative Scot Matayoshi, Vice Chair

HEARING: February 1, 2022 at 2pm
RE: HB1456 Relating to Theft in the Second Degree

Hawaii Firearms Coalition **SUPPORTS HB1456.** We generally support tougher laws on criminals and enforcement of those laws, especially those using weapons in the commission of violent crimes. This bill would discourage criminals from taking electric guns from people who need them for self-defense.

However I would like to emphasize that electric guns are categorized as “less lethal” and present a lesser danger than other common items that can be stolen and later used in violent crimes such as knives, baseball bats, machetes, etc. These items are used in violent crimes yet do not have their own category under Hawaii theft laws.

Mahalo

Todd Yukutake
Director
Hawaii Firearms Coalition
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HB-1456

Submitted on: 1/31/2022 10:17:21 AM

Testimony for JHA on 2/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marcus Tanaka	Individual	Support	No

Comments:

I support this.