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# A BILL FOR AN ACT

RELATING TO CRIMINAL PROPERTY DAMAGE.

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

1           SECTION 1. The legislature finds that vandalism of local  
2 businesses has become a common occurrence. Reports of  
3 "smash-and-grab" crimes, in which thieves aggressively smash a  
4 door, window, or display case and grab as much merchandise as  
5 possible before fleeing the scene, are on the rise. The  
6 legislature also finds that these crimes are especially  
7 concerning when perpetrated against small businesses. Many of  
8 these businesses are locally- or independently-owned and survive  
9 month-to-month on thin profit margins. Given the importance of  
10 small businesses in a vibrant and diversified economy and their  
11 continued survival, the legislature believes that greater  
12 protections for small businesses are needed.

13           The legislature further finds that small businesses are  
14 disproportionately burdened by the amount of time required to  
15 make a complete report of criminal property damage with  
16 supporting documentation to law enforcement authorities. When a  
17 business owner is unable to obtain an estimate to repair or



1 replace damaged property within the short time frame typically  
2 requested by law enforcement authorities, the alleged offender  
3 may receive more lenient treatment, especially if being held in  
4 custody pending the initial court appearance. More  
5 specifically, the crime that is ultimately charged may be the  
6 petty misdemeanor offense of criminal property damage in the  
7 fourth degree, which does not account for the dollar amount of  
8 property damage committed. Although it is more expedient to  
9 initiate a prosecution for this lesser offense due to the need  
10 to prove fewer elements, especially when the case may be  
11 resolved quickly by sentencing the alleged offender to credit  
12 for time served, this outcome has less deterrent value.

13 The purpose of this Act is to reduce the burden on business  
14 owners in the State by amending the misdemeanor offense of  
15 criminal property damage in the third degree to include  
16 intentionally or knowingly damaging the property of another that  
17 is used in a business operation, without the other's consent, in  
18 any amount.

19 SECTION 2. Section 708-822, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:



1           "(1) A person commits the offense of criminal property  
2 damage in the third degree if by means other than fire:

3           (a) The person recklessly damages the property of another,  
4                 without the other's consent, by the use of widely  
5                 dangerous means;

6           (b) The person intentionally or knowingly damages the  
7                 property of another, without the other's consent, in  
8                 an amount exceeding \$500; [~~e~~]

9           (c) The person intentionally damages the agricultural  
10                equipment, supplies, or products or aquacultural  
11                equipment, supplies, or products of another, including  
12                trees, bushes, or any other plant and livestock of  
13                another, without the other's consent, in an amount  
14                exceeding \$100. In calculating the amount of damages  
15                to agricultural products, the amount of damages  
16                includes future losses and the loss of future  
17                production[~~-~~]; or

18           (d) The person intentionally or knowingly damages the  
19                property of another that is used in a business  
20                operation, without the other's consent, in an amount  
21                exceeding \$100. As used in this paragraph, property



1           that is "used in a business operation" includes  
2           signage, furniture, doors, windows, vehicles bearing  
3           the name of the business operation, and any other  
4           fixtures or equipment that are associated with the  
5           business operation."

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

9           SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 5. This Act shall take effect on June 30, 3000.

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**Report Title:**

Penal Code; Criminal Property Damage; Business Property;  
Increased Penalty

**Description:**

Amends the misdemeanor offense of criminal property damage in the third degree to include intentionally or knowingly damaging the property of another that is used in a business operation, without the other's consent in an amount exceeding \$100. Effective 6/30/3000. (HD1)

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

