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# A BILL FOR AN ACT

RELATING TO SIDEWALKS.

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

1       SECTION 1. The legislature finds that keeping public  
2 sidewalks free and clear of obstructions and other hazards is a  
3 matter of statewide concern. Sidewalks serve several important  
4 functions, including allowing for safe pedestrian movement,  
5 facilitating deliveries of goods and services, and providing  
6 convenient access to business establishments. However, when  
7 sidewalks are obstructed by persons who are sitting or lying  
8 down, the sitting or lying persons are at risk of injury from  
9 passing motorists. Further, other members of the public are  
10 deprived of walking as a healthy and green option to access  
11 shops, restaurants, and essential services. Moreover, the  
12 delivery of goods and services is hampered, which interferes  
13 with commercial activities necessary to a robust economy. In  
14 more egregious cases, persons having mobility issues are forced  
15 to navigate around the person who is sitting or lying on the  
16 sidewalk.



1       It is not the legislature's intent to unduly burden an  
2 individual's First Amendment right to speak, protest, or engage  
3 in other lawful activity on a public sidewalk. This Act  
4 contains exceptions for expressive activities as well as other  
5 situations, such as those involving medical emergencies.

6       Accordingly, the purpose of this Act is to establish the  
7 petty misdemeanor offense of sitting or lying on a public  
8 sidewalk.

9       SECTION 2. Chapter 711, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12       "§711-       Sitting or lying on a public sidewalk. (1) A  
13 person commits the offense of sitting or lying on a public  
14 sidewalk if the person intentionally or knowingly sits or lies  
15 on a:

16       (a) Publicly owned or maintained sidewalk; or  
17       (b) Tarp, towel, sheet, blanket, sleeping bag, bedding,  
18       planter, chair, bench, or any other object or material  
19       placed upon a publicly owned or maintained sidewalk.

20       (2) The prohibitions in subsection (1) shall not apply to:



- 1        (a) Any person sitting or lying on a sidewalk due to a  
2                    medical emergency;
- 3        (b) Any person who, as a result of a disability, is using  
4                    a wheelchair or other similar device to move about the  
5                    sidewalk;
- 6        (c) Any person sitting or lying on a sidewalk for the  
7                    purpose of engaging in an expressive activity;
- 8        (d) Any person sitting on a sidewalk while attending or  
9                    viewing any parade, festival, performance, rally,  
10                   demonstration, or similar event conducted on the  
11                   street pursuant to a permit issued by a governmental  
12                   entity;
- 13       (e) Any person engaged in a maintenance, repair, or  
14                   construction activity on behalf of a governmental  
15                   entity or a public utility;
- 16       (f) Any child who is sitting or lying in a baby carriage,  
17                   stroller, or carrier, or similar device, to move about  
18                   the sidewalk;
- 19       (g) Any person sitting on a chair or bench located on the  
20                   sidewalk that is placed there by a governmental  
21                   entity; or



1        (h) Any person sitting in line for goods or services,  
2                unless the person or person's possessions impede the  
3                ability of pedestrians to travel along the length of  
4                the sidewalk or enter a doorway or other entrance  
5                alongside the sidewalk.

6        (3) No person shall be cited or arrested for violating  
7        this section unless the person engages in conduct prohibited by  
8        this section after having been notified by a law enforcement  
9        officer that the conduct violates this section.

10       (4) Sitting or lying on a public sidewalk is a petty  
11       misdemeanor.

12       (5) As used in this section:

13       "Expressive activity" means speech or conduct, the  
14       principal object of which is the expression, dissemination, or  
15       communication by verbal, visual, literary, or auditory means of  
16       political, religious, philosophical, or ideological opinions,  
17       views, or ideas, and for which no fee is charged or required as  
18       a condition of participation in or attendance at the activity.  
19       The term does not include sports events such as marathons;  
20       fundraising events; beauty contests; commercial events; cultural



1 celebrations; or other events having the principal purpose of  
2 entertainment.

3 "Sidewalk" means:

4 (a) That portion of a street between the curb lines, or  
5 the lateral lines of a roadway, and the adjacent  
6 property lines, intended for use of pedestrians; or

7 (b) A pedestrian passageway that crosses private property  
8 pursuant to a public easement, resulting from an  
9 obstruction on public land that requires pedestrians  
10 to pass along adjacent private property."

11 SECTION 3. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: BR (BR)

JAN 22 2024



# H.B. NO. 2171

**Report Title:**

Penal Code; Public Sidewalks; Petty Misdemeanor

**Description:**

Establishes the petty misdemeanor offense of sitting or lying on a public sidewalk. Contains exceptions, including for expressive activities that are protected by the First Amendment, and for medical emergencies.

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

