
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 to read as follows:



1 **"§708-822 Criminal property damage in the third degree.**

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

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

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

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

19 (d) The person intentionally or knowingly damages the
20 property of another that is used in a business
21 operation, without the other's consent, regardless of



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

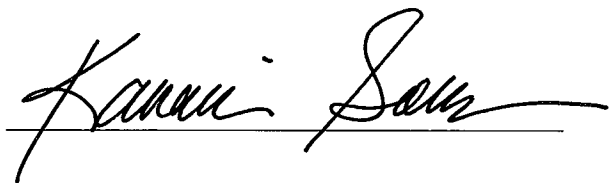
7 (2) Criminal property damage in the third degree is a
8 misdemeanor."

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

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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

15
INTRODUCED BY:



JAN 24 2023



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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.

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