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# A BILL FOR AN ACT

RELATING TO PENALTIES.

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

1           SECTION 1. The legislature finds that Hawaii ranks fifth  
2 among states for the highest average total value of stolen goods  
3 per resident. Many of those targeted are small businesses which  
4 comprise ninety-nine per cent of the business landscape in the  
5 islands. The Honolulu Police Department confirmed that between  
6 October 2023 and January 2024, there have been about eighty  
7 smash-and-grab burglaries around the island.

8           Recent crime data in California reported a steady increase  
9 in shoplifting between 2021 and 2022, and the state responded by  
10 adopting a measure increasing penalties for certain types of  
11 theft and burglary. Hawaii should follow suit and adopt similar  
12 reform.

13           The purpose of this Act is to:

14           (1) Target fencing operations and impose enhanced  
15                 sentencing to those who knowingly receive stolen  
16                 property or resell such property;



- 1           (2) Increase penalties for habitual property crime
- 2                   perpetrators; and
- 3           (3) Create steeper penalties for felony theft and burglary
- 4                   offenses.

5           SECTION 2. Section 708-803, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§708-803 Habitual property crime.** (1) A person commits  
8 the offense of habitual property crime if the person is a  
9 habitual property crime perpetrator and commits a property  
10 crime.

11           (2) For the purposes of this section, "habitual property  
12 crime perpetrator" means a person who, within ten years of the  
13 instant offense, has convictions for offenses within this  
14 chapter for:

- 15           (a) Any combination of two felonies or misdemeanors; or
- 16           (b) Any combination of either one felony or one
- 17                   misdemeanor and one petty misdemeanor; or
- 18           (c) Three petty misdemeanors.

19 The convictions shall be for separate incidents on separate  
20 dates. The prosecution is not required to prove any state of  
21 mind with respect to the person's status as a habitual property



1 crime perpetrator. Proof that the person has the requisite  
2 minimum prior convictions shall be sufficient to establish this  
3 element.

4 (3) A person commits a property crime if the person  
5 engages in conduct that constitutes an offense under this  
6 chapter. It can be established that the person has committed a  
7 property crime by either the prosecution proving that the person  
8 is guilty of or by the person pleading guilty or no contest to  
9 committing any offense under this chapter.

10 (4) Habitual property crime is a class [C] B felony.

11 (5) For a conviction under this section, the sentence  
12 shall be either:

13 (a) An indeterminate term of imprisonment of [~~five~~] ten  
14 years; provided that the minimum term of imprisonment  
15 shall be not less than [~~one~~] five years; or

16 (b) A term of probation of [~~five~~] ten years, with  
17 conditions to include but not be limited to [~~one~~] five  
18 years of imprisonment; provided that probation shall  
19 only be available for a first conviction under this  
20 section."



1 SECTION 3. Section 708-830, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "PART IV. THEFT AND RELATED OFFENSES

4  
5 §708-830 **Theft.** A person commits theft if the person does  
6 any of the following:

7 (1) Obtains or exerts unauthorized control over property.

8 A person obtains or exerts unauthorized control over  
9 the property of another with intent to deprive the  
10 other of the property.

11 (2) Property obtained or control exerted through  
12 deception. A person obtains, or exerts control over,  
13 the property of another by deception with intent to  
14 deprive the other of the property.

15 (3) Appropriation of property. A person obtains, or  
16 exerts control over, the property of another that the  
17 person knows to have been lost or mislaid or to have  
18 been delivered under a mistake as to the nature or  
19 amount of the property, the identity of the recipient,  
20 or other facts, and, with the intent to deprive the



1 owner of the property, the person fails to take  
2 reasonable measures to discover and notify the owner.

3 (4) Obtaining services by deception. A person  
4 intentionally obtains services, known by the person to  
5 be available only for compensation, by deception,  
6 false token, or other means to avoid payment for the  
7 services. When compensation for services is  
8 ordinarily paid immediately upon the rendering of  
9 them, absconding without payment or offer to pay is  
10 prima facie evidence that the services were obtained  
11 by deception.

12 (5) Diversion of services. Having control over the  
13 disposition of services of another to which a person  
14 is not entitled, the person intentionally diverts  
15 those services to the person's own benefit or to the  
16 benefit of a person not entitled thereto.

17 (6) Failure to make required disposition of funds.  
18 (a) A person intentionally obtains property from  
19 anyone upon an agreement, or subject to a known  
20 legal obligation, to make specified payment or  
21 other disposition, whether from the property or



1 its proceeds or from the person's own property  
2 reserved in equivalent amount, and deals with the  
3 property as the person's own and fails to make  
4 the required payment or disposition. It does not  
5 matter that it is impossible to identify  
6 particular property as belonging to the victim at  
7 the time of the defendant's failure to make the  
8 required payment or disposition. A person's  
9 status as an officer or employee of the  
10 government or a financial institution is prima  
11 facie evidence that the person knows the person's  
12 legal obligations with respect to making payments  
13 and other dispositions. If the officer or  
14 employee fails to pay or account upon lawful  
15 demand, or if an audit reveals a falsification of  
16 accounts, it shall be prima facie evidence that  
17 the officer or employee has intentionally dealt  
18 with the property as the officer's or employee's  
19 own.

20 (b) A person obtains personal services from an  
21 employee upon agreement or subject to a known



1            legal obligation to make a payment or other  
2            disposition of funds to a third person on account  
3            of the employment, and the person intentionally  
4            fails to make the payment or disposition at the  
5            proper time.

6            (7) Receiving stolen property. A person intentionally  
7            receives, retains, or disposes of the property of  
8            another, knowing that it has been stolen, with intent  
9            to deprive the owner of the property. It is prima  
10            facie evidence that a person knows the property to  
11            have been stolen if, being a dealer in property of the  
12            sort received, the person acquires the property for a  
13            consideration that the person knows is far below its  
14            reasonable value.

15            (8) Sale of stolen goods. A person intentionally  
16            receives, retains, conceals, stores, barter,  
17            exchanges, returns for value, or attempts to sell the  
18            property of another, including online, knowing it has  
19            been previously stolen, with the intent to deprive the  
20            owner of the property. It is prima facie evidence  
21            that a person has attempted to resell stolen property



1           if the dealer in the property of the sort sells the  
2           property at a rate that is far below its reasonable  
3           value.

4       ~~(8)~~ (9)    Shoplifting.

5           (a)    A person conceals or takes possession of the  
6                    goods or merchandise of any store or retail  
7                    establishment, with intent to defraud.

8           (b)    A person alters the price tag or other price  
9                    marking on goods or merchandise of any store or  
10                   retail establishment, with intent to defraud.

11          (c)    A person transfers the goods or merchandise of  
12                    any store or retail establishment from one  
13                    container to another, with intent to defraud.

14        The unaltered price or name tag or other marking on  
15                    goods or merchandise, duly identified photographs  
16                    or photocopies thereof, or printed register  
17                    receipts shall be prima facie evidence of value  
18                    and ownership of such goods or merchandise.

19                   Photographs of the goods or merchandise involved,  
20                   duly identified in writing by the arresting  
21                   police officer as accurately representing such



1 goods or merchandise, shall be deemed competent  
 2 evidence of the goods or merchandise involved and  
 3 shall be admissible in any proceedings, hearings,  
 4 and trials for shoplifting to the same extent as  
 5 the goods or merchandise themselves."

6 SECTION 4. Chapter 706, Hawaii Revised Statutes, is  
 7 amended by adding a new section to be appropriately designated  
 8 and to read as follows:

9 "§706- Sentence of imprisonment for theft. (1) The  
 10 court may sentence a person who has been convicted of an offense  
 11 under chapter 708, part IV, to the imprisonment structure in  
 12 paragraph (2).

13 (2) In addition and consecutive to the punishment  
 14 prescribed for the crime of which the defendant has been  
 15 convicted, the court shall impose the following enhanced  
 16 sentencing of:

17 (a) One year if the property value exceeds \$50,000;

18 (b) Two years if the property value exceeds \$200,000;

19 (c) Three years if the property value exceeds  
 20 \$1,000,000;



1           (d) Four years if the property value exceeds  
 2           \$3,000,000; and  
 3           (e) For property value in excess of \$6,000,000, the  
 4           court shall impose a term of one year per \$3,000,000,  
 5           in addition to the term specified in subparagraph  
 6           (d)."

7           SECTION 5. Chapter 706, Hawaii Revised Statutes, is  
 8 amended by adding a new section to be appropriately designated  
 9 and to read as follows:

10           "§706- Sentence of imprisonment for burglary. (1) The  
 11 court may sentence a person who has been convicted of an offense  
 12 under chapter 708, part II, to the imprisonment structure in  
 13 paragraph (2).

14           (2) In addition and consecutive to the punishment  
 15 prescribed for the crime of which the defendant has been  
 16 convicted, the court shall impose the following enhanced  
 17 sentencing of:

18           (a) Two years if the property value exceeds \$50,000;  
 19           (b) Four years if the property value exceeds  
 20           \$200,000;



- 1           (c) Six years if the property value exceeds
- 2           \$1,000,000;
- 3           (d) Eight years if the property value exceeds
- 4           \$3,000,000; and
- 5           (e) For property value in excess of \$6,000,000, the
- 6           court shall impose a term of one year per \$3,000,000,
- 7           in addition to the term specified in subparagraph
- 8           (d)."

9           SECTION 6. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 7. 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 8. This Act shall take effect upon its approval.

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17

INTRODUCED BY:   
JAN 21 2025



# H.B. NO. 836

**Report Title:**

Penalties; Sentencing; Theft; Burglary; Smash and Grab

**Description:**

Mandates courts to impose an enhanced sentence for theft and burglary offenses over a certain property value threshold. Increases penalties for habitual property crime perpetrators. Targets fencing operations and imposes enhanced sentencing to those who knowingly receive stolen property or resell such property.

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

