

JAN 28 2026

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# A BILL FOR AN ACT

RELATING TO THEFT.

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

1           SECTION 1. The legislature finds that the State's theft  
2 statutes currently require proof of a culpable mental state as  
3 to the value of stolen property when value determines the grade  
4 of the offense, a requirement that is inconsistent with the  
5 approach taken in the Model Penal Code and the majority of  
6 jurisdictions nationwide. The legislature further finds that  
7 this minority-rule framework has resulted in unnecessary  
8 complexity and litigation, without materially advancing public  
9 safety or proportionality.

10           The legislature also finds that the monetary thresholds  
11 used to distinguish between degrees of theft have not kept pace  
12 with inflation. As a result, conduct that historically  
13 constituted lower-level theft offenses is increasingly  
14 classified as more serious crimes based solely on nominal dollar  
15 amounts. Adjusting these thresholds to reflect inflation  
16 promotes fairness, proportionality, and consistency in  
17 enforcement.



1 Accordingly, the purpose of this Act is to:

2 (1) Clarify that value is a grading factor for theft  
3 offenses that does not require proof of a culpable  
4 mental state; and

5 (2) Update theft threshold amounts to reflect inflation.

6 SECTION 2. Section 708-801, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§708-801 Valuation of property or services.** Whenever the  
9 value of property or services is determinative of the class or  
10 grade of an offense, or otherwise relevant to a prosecution, the  
11 following shall apply:

12 (1) Except as otherwise specified in this section, value  
13 means the market value of the property or services at  
14 the time and place of the offense, or the replacement  
15 cost if the market value of the property or services  
16 cannot be determined.

17 (2) Whether or not they have been issued or delivered,  
18 certain written instruments, not including those  
19 having a readily ascertained market value, shall be  
20 evaluated as follows:



- 1 (a) The value of an instrument constituting an  
2 evidence of debt, such as a check, traveler's  
3 check, draft, or promissory note, shall be deemed  
4 the amount due or collectible thereon or thereby,  
5 that figure ordinarily being the face amount of  
6 the indebtedness less any portion thereof that  
7 has been satisfied; or
- 8 (b) The value of any other instrument that creates,  
9 releases, discharges, or otherwise affects any  
10 valuable legal right, privilege, or obligation  
11 shall be deemed the greatest amount of economic  
12 loss that the owner of the instrument might  
13 reasonably suffer by virtue of the loss of the  
14 instrument.
- 15 (3) When property or services have value but that value  
16 cannot be ascertained pursuant to the standards set  
17 forth above, the value shall be deemed to be an amount  
18 not exceeding \$100.
- 19 ~~(4) [When acting intentionally or knowingly with respect~~  
20 ~~to the value of property or services is required to~~  
21 ~~establish an element of an offense, the value of~~



1 ~~property or services shall be prima facie evidence~~  
2 ~~that the defendant believed or knew the property or~~  
3 ~~services to be of that value. When acting recklessly~~  
4 ~~with respect to the value of property or services is~~  
5 ~~sufficient to establish an element of an offense, the~~  
6 ~~value of the property or services shall be prima facie~~  
7 ~~evidence that the defendant acted in reckless~~  
8 ~~disregard of the value.] When the value of property or~~  
9 ~~services determines the grade of an offense pursuant~~  
10 ~~to this chapter, the prosecution shall not be required~~  
11 ~~to prove a culpable mental state with respect to~~  
12 ~~value. Value shall be treated as a grading factor and~~  
13 ~~proof of value beyond a reasonable doubt shall be~~  
14 ~~sufficient for grading purposes.~~

15 [~~(5) When acting intentionally or knowingly with respect to~~  
16 ~~the value of property or services is required to~~  
17 ~~establish an element of an offense, it is a defense,~~  
18 ~~which reduces the class or grade of the offense to a~~  
19 ~~class or grade of offense consistent with the~~  
20 ~~defendant's state of mind, that the defendant believed~~  
21 ~~the valuation of the property or services to be less.~~



1           ~~When acting recklessly with respect to the value of~~  
2           ~~property or services is required to establish an~~  
3           ~~element of an offense, it is a defense that the~~  
4           ~~defendant did not recklessly disregard a risk that the~~  
5           ~~property was of the specified value.~~

6           ~~(6)~~ (5) Amounts involved in thefts committed pursuant to  
7           one scheme or course of conduct, whether the property  
8           taken be of one person or several persons, may be  
9           aggregated in determining the class or grade of the  
10          offense. Amounts involved in offenses of criminal  
11          property damage committed pursuant to one scheme or  
12          course of conduct, whether the property damaged be of  
13          one person or several persons, may be aggregated in  
14          determining the class or grade of the offense."

15          SECTION 3. Section 708-830.5, Hawaii Revised Statutes, is  
16          amended to read as follows:

17          "**§708-830.5 Theft in the first degree.** (1) A person  
18          commits the offense of theft in the first degree if the person  
19          commits theft of:

- 20               (a) Property or services, the value of which exceeds  
21               ~~[\$20,000]~~ \$28,000;



- 1 (b) A firearm;
- 2 (c) Dynamite or other explosive;
- 3 (d) Property or services during an emergency period
- 4 proclaimed by the governor or mayor pursuant to
- 5 chapter 127A, within the area covered by the emergency
- 6 or disaster under chapter 127A, the value of which
- 7 exceeds [~~\$300,~~] \$500;
- 8 (e) Property from the person of another who is sixty years
- 9 of age or older and the age of the property owner is
- 10 known or reasonably should be known to the person who
- 11 commits theft;
- 12 (f) Property or services, the value of which exceeds \$750,
- 13 from a person who is sixty years of age or older and
- 14 the age of the property owner is known or reasonably
- 15 should be known to the person who commits theft; or
- 16 (g) A motor vehicle or motorcycle as defined in section
- 17 291C-1.
- 18 (2) Theft in the first degree is a class B felony."

19 SECTION 4. Section 708-831, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:



1           "(1) A person commits the offense of theft in the second  
2 degree if the person commits theft of:  
3           (a) Property from the person of another;  
4           (b) Property or services the value of which exceeds  
5                ~~[\$750;]~~ \$1,100;  
6           (c) An aquacultural product or part thereof from premises  
7                that are fenced or enclosed in a manner designed to  
8                exclude intruders or there is prominently displayed on  
9                the premises a sign or signs sufficient to give notice  
10              and reading as follows: "Private Property", "No  
11              Trespassing", or a substantially similar message;  
12           (d) Agricultural equipment, supplies, or products, or part  
13              thereof, the value of which exceeds \$100 but does not  
14              exceed \$20,000, or of agricultural products that  
15              exceed twenty-five pounds, from premises that are  
16              fenced, enclosed, or secured in a manner designed to  
17              exclude intruders or where there is prominently  
18              displayed on the premises a sign or signs sufficient  
19              to give notice and reading as follows: "Private  
20              Property", "No Trespassing", or a substantially  
21              similar message; or if at the point of entry of the



1 premises, a crop is visible. The sign or signs,  
2 containing letters no less than two inches in height,  
3 shall be placed along the boundary line of the land in  
4 a manner and in such a position as to be clearly  
5 noticeable from outside the boundary line. Possession  
6 of agricultural products without ownership and  
7 movement certificates, when a certificate is required  
8 pursuant to chapter 145, is prima facie evidence that  
9 the products are or have been stolen;

10 (e) Agricultural commodities that are generally known to  
11 be marketed for commercial purposes. Possession of  
12 agricultural commodities without ownership and  
13 movement certificates, when a certificate is required  
14 pursuant to section 145-22, is prima facie evidence  
15 that the products are or have been stolen; provided  
16 that "agricultural commodities" has the same meaning  
17 as in section 145-21;

18 (f) Property commonly used to store items of monetary  
19 value, including but not limited to any purse,  
20 handbag, or wallet;



- 1 (g) Property or services, the value of which exceeds \$250,
- 2 from a person who is sixty years of age or older and
- 3 the age of the property owner is known or reasonably
- 4 should be known to the person who commits theft; or
- 5 (h) An electric gun as defined in section 134-81."

6 SECTION 5. Section 708-832, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) A person commits the offense of theft in the third  
9 degree if the person commits theft:

10 (a) Of property or services the value of which exceeds  
11 [~~\$250.~~] \$400; or

12 (b) Of gasoline, diesel fuel, or other related petroleum  
13 products used as propellants of any value not  
14 exceeding [~~\$750.~~] \$1,100."

15 SECTION 6. Section 708-833, Hawaii Revised Statutes, is  
16 amended by amending subsection (1) to read as follows:

17 "(1) A person commits the offense of theft in the fourth  
18 degree if the person commits theft of property or services of  
19 any value not in excess of [~~\$250.~~] \$400."



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

4 SECTION 8. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.

7

INTRODUCED BY: Karl Rhoads



# S.B. NO. 3211

**Report Title:**

Theft; Value Threshold; Inflation; Valuation

**Description:**

Clarifies that the value of property or services is a grading factor for theft offenses that does not require proof of a culpable mental state. Increases theft threshold amounts.

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

