

ACT 28

H.B. NO. 2799

A Bill for an Act Relating to the Theft of Livestock.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§708- Theft of livestock. (1) A person commits the offense of theft of livestock if the person commits theft by having in the person’s possession a live animal of the bovine, equine, swine, or sheep species, or its carcass or meat, while in or upon premises which the person knowingly entered or remained unlawfully in or upon, and which are fenced or enclosed in a manner designed to exclude intruders, or by having in the person’s possession such live animal, carcass, or meat in any other location.

(2) Theft of livestock is a class C felony.

(3) A person convicted of committing the offense of theft of livestock shall be sentenced in accordance with chapter 706, except that for a first offense the court shall impose a minimum sentence of a fine of at least \$1,000 or restitution, whichever is greater.”

SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: section 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-713 relating to reckless endangering in the first degree; 707-716 relating to terroristic threatening in the first degree; 707-721 relating to unlawful imprisonment in the first degree; 707-732 relating to sexual assault or rape in the third degree; 707-735 relating to sodomy in the third degree; 707-736 relating to sexual abuse in the first degree; 707-751 relating to promoting child abuse in the second degree; 707-766 relating to extortion in the second degree; 708-811 relating to burglary in the second degree; 708-821 relating to criminal property damage in the second degree; 708-831 relating to theft in the first degree as amended by Act 68, Session Laws of Hawaii 1981; 708-831 relating to theft in the second degree; 708- relating to theft of livestock; 708-852 relating to forgery in the second degree; 708-854 relating to criminal possession of a forgery device; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 711-1103 relating to riot; 712-1203 relating to promoting prostitution in the second degree; 712-1221 relating to gambling in the first degree; 712-1224 relating to possession of gambling records in the first degree; 712-1243 relating to promoting a dangerous drug in the third degree; 712-1247 relating to promoting a detrimental drug in the first degree; 134-7 relating to

ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry, or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (a) One prior felony conviction:
 - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—ten years;
 - (ii) Where the instant conviction is for a class A felony—six years, eight months;
 - (iii) Where the instant conviction is for a class B felony—three years, four months;
 - (iv) Where the instant conviction is for a class C felony offense enumerated above—one year, eight months;
- (b) Two prior felony convictions:
 - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—twenty years;
 - (ii) Where the instant conviction is for a class A felony—thirteen years, four months;
 - (iii) Where the instant conviction is for a class B felony—six years, eight months;
 - (iv) Where the instant conviction is for a class C felony offense enumerated above—three years, four months;
- (c) Three or more prior felony convictions:
 - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—thirty years;
 - (ii) Where the instant conviction is for a class A felony—twenty years;
 - (iii) Where the instant conviction is for a class B felony—ten years;
 - (iv) Where the instant conviction is for a class C felony offense enumerated above—five years.”

SECTION 3. Section 708-831, Hawaii Revised Statutes, is amended to read as follows:

“§708-831 Theft in the second degree. (1) A person commits the offense of theft in the second degree if the person commits theft:

- (a) By obtaining property from the person of another;
- (b) Of property or services the value of which exceeds \$300;
- (c) Of a firearm; or
- (d) Of dynamite or other explosive[;
- (e) By having in the person’s possession a live animal or the carcass or meat, of the bovine, equine, swine, or sheep species, while in or upon premises which the person entered knowingly or remained unlawfully in or upon, and which are fenced or enclosed in a manner designed to exclude intruders or by having in the person’s possession such live animal, carcass, or meat in any other location].

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(2) Theft in the second degree is a class C felony.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved April 18, 1990.)

Note

1. Edited pursuant to HRS §23G-16.5.