

ACT 182

H.B. NO. 1201

A Bill for an Act Relating to Agricultural Theft.

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

SECTION 1. The legislature finds that agricultural theft is a critical problem for Hawaii's farmers. Millions of dollars worth of agricultural products and equipment have been lost due to theft. This monetary cost is in addition to the man-hours that must be expended by farmers trying desperately to replace or replenish stolen products and equipment. Farmers are especially vulnerable to theft since farms generally exist on large parcels of land that are situated in sparsely populated areas and isolated from law enforcement.

To address the issue of agricultural theft, the legislature finds that the current laws relating to ownership and movement certificates for livestock and agricultural commodities should be strengthened.

The purpose of this Act is to establish that:

- (1) Possession of agricultural commodities or products without the required ownership and movement certificate, pursuant to chapter 145, Hawaii Revised Statutes, is prima facie evidence that the items are or have been stolen;
- (2) Possession of livestock without the required ownership and transportation certificate, pursuant to chapter 142, Hawaii Revised Statutes, is prima facie evidence that the livestock is or has been stolen; and
- (3) Theft of agricultural products that exceed twenty-five pounds is included within the offense of theft in the second degree.

SECTION 2. Section 708-800, Hawaii Revised Statutes, is amended by amending the definition of “agricultural equipment, supplies, or products” to read as follows:

““Agricultural equipment, supplies, or products” mean any agricultural equipment, supplies, or commercial agricultural products or commodities raised, grown, or maintained by a commercial agricultural enterprise or research agency while owned by the enterprise or agency.”

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) Of property from the person of another;
- (b) Of property or services the value of which exceeds \$300;
- (c) Of an aquaculture product or part thereof from premises that is fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”; or
- (d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property.” The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen.

(2) Theft in the second degree is a class C felony. A person convicted of committing the offense of theft in the second degree under [{}paragraphs{}] (c) and (d) shall be sentenced in accordance with chapter 706, except that for the first offense, the court may impose a minimum sentence of a fine of at least \$1,000 or two-fold damages sustained by the victim, whichever is greater.”

SECTION 4. Section 708-835.5, Hawaii Revised Statutes, is amended to read as follows:

“[{}§708-835.5{}] 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 [sueh] a live animal, carcass, or meat in any other location.

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

(2) Possession of livestock without a livestock ownership and movement certificate, when a certificate is required pursuant to section 142-49, is prima facie evidence that the livestock is or has been stolen.

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

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~~[(3)]~~ (4) 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 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

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

(Approved July 1, 2005.)