

ACT 5

H.B. NO. 170

A Bill for an Act Relating to Theft in the Second Degree.

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

SECTION 1. The legislature finds that the State's Penal Code does not adequately address situations in which an offender takes the property of another that is commonly used to store items of personal or monetary value, including purses, handbags, or wallets. The Hawaii supreme court decision in *State v. Cabrera*, 90 Haw. 359, 978 P.2d 797 (1999), established that the prosecution must prove beyond a reasonable doubt that an accused offender intended to steal property or services valued in excess of \$750 to convict a defendant of theft in the second degree under section 708-831(1)(b), Hawaii Revised Statutes. Thus, an offender may be arrested for the offense of theft in the second degree when the value of property taken exceeds \$750, but due to the high standard of proof required, this offense is typically amended or dropped.

The legislature further finds that including any instance in which an offender takes the property of another that is commonly used to store items of personal or monetary value, including purses, handbags, or wallets, as an offense

of theft in the second degree may deter potential offenders from engaging in theft of these items. The legislature finds that specifying this particular offense as a felony may have a long-term deterrent effect and create a safer environment for the community.

Additionally, the legislature finds that purses, handbags, wallets, or similar items often contain personal information of not just the victim whose property was taken in a theft, but also the personal information of the victim's family, employer, friends, or acquaintances. These items can also contain sensitive medical information, credit cards, workplace information, personal photos, or other sensitive information. The victim's personal information stored in these items typically leads to further victimization, including fraud, identity theft, harassment, or stalking.

Accordingly, the purpose of this Act is to amend the offense of theft in the second degree to include theft of property commonly used to store items of monetary value, including any purse, handbag, or wallet.

SECTION 2. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the second degree if the person commits theft~~[-]~~ of:

- (a) ~~[Of property]~~ Property from the person of another;
- (b) ~~[Of property]~~ Property or services the value of which exceeds \$750;
- (c) ~~[Of an]~~ An aquacultural product or part thereof from premises that are 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”, “No Trespassing”, or a substantially similar message;
- (d) ~~[Of agricultural]~~ 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 where there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: “Private Property”, “No Trespassing”, or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters ~~[not]~~ no less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a 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; ~~[or]~~
- (e) ~~[Of agricultural]~~ Agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that ~~[“agriculture”]~~ “agricultural commodities” has the same meaning as in section 145-21~~[-]~~; or
- (f) Property commonly used to store items of monetary value, including but not limited to any purse, handbag, or wallet.”

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

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

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

(Approved April 14, 2021.)