

ACT 52

H.B. NO. 1456

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 the potential for theft of electric guns. On January 1, 2022, it became legal for many members of the public to buy and possess electric guns.

Electric guns can cause severe pain and completely incapacitate a person. Criminals will begin to seek out these devices to utilize in the facilitation of crimes. This is because, while the effect of electric guns on a victim can be severe, the incapacitation caused will likely be temporary and is less likely to result in death or serious bodily injury. Furthermore, the residual injuries for a victim

would be lesser than would occur had a similar level of incapacitation or pain been inflicted by means other than an electric gun.

Electric guns may be used to facilitate a multitude of crimes, including but not limited to robberies, assaults, sexual assaults, human trafficking, and domestic violence.

For these reasons, the legislature further finds that specifying that the theft of an electric gun, regardless of its value, is a higher degree of theft, which may have a long-term deterrent effect, creating a safer environment for the community.

Accordingly, the purpose of this Act is to amend the offense of theft in the second degree to include theft of an electric gun regardless of its monetary value.

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) Property from the person of another;
- (b) Property or services the value of which exceeds \$750;
- (c) 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) 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]~~ premises, a crop is visible. The sign or signs, containing letters 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;
- (e) 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 “agricultural commodities” has the same meaning as in section 145-21;
- (f) Property commonly used to store items of monetary value, including but not limited to any purse, handbag, or wallet; ~~[or~~
- ~~[(g)]~~ Property or services, the value of which exceeds \$250, from a person who is sixty years of age or older and the age of the property owner is known or reasonably should be known to the person who commits theft~~[-];~~ or

(h) An electric gun as defined in section 134-81.”

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 on August 1, 2022.

(Approved June 17, 2022.)