

ACT 235

S.B. NO. 1249

A Bill for an Act Relating to Agriculture.

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

PART I

SECTION 1. This Act shall be known and may be cited as “Duke’s Law” in memory of Cranston “Duke” Pia.

SECTION 2. The legislature finds that agricultural crimes pose a significant and growing threat to the sustainability and vitality of the State’s agricultural industry. These crimes, which include homicide, terroristic threatening, theft, vandalism, trespassing, and illegal hunting on agricultural lands, not only jeopardize the livelihoods of farmers but also undermine food security, disrupt local economies, and erode public confidence in the protection of vital resources. Agriculture remains a cornerstone of the State’s economy and cultural heritage, contributing to both economic diversification and community resilience. However, the increasing prevalence of agricultural crimes poses a grave risk to this essential sector.

The legislature further finds that unauthorized hunting also significantly impacts agricultural lands. Livestock endangerment and losses are common when unpermitted hunters disturb farm animals on agricultural lands, and accidental shootings, noise-related stress, and damaged enclosures put livestock at risk, leading to financial losses for farmers and ranchers. Addition-

ally, the erosion of landowner rights and agricultural stability are also critical concerns, as farmers and ranchers depend on private property rights to maintain secure and productive operations. Unauthorized hunting disregards these rights, undermining responsible land stewardship.

Recognizing the complexity and multifaceted nature of agricultural crimes, this Act is designed to provide a comprehensive response by strengthening existing legal frameworks and establishing clearer definitions and penalties for violations related to agriculture and agricultural lands. By differentiating between administrative and criminal penalties, this Act ensures that the consequences of agricultural crimes are proportionate and effective, thereby enhancing deterrence and accountability.

The legislature affirms its commitment to preserving the State's agricultural legacy and protecting the individuals and communities who dedicate themselves to this critical industry. Through this Act, the State seeks to ensure the safety, integrity, and sustainability of the State's agricultural lands for present and future generations.

Accordingly, the purpose of this Act is to:

- (1) Establish an agricultural enforcement pilot program within the department of law enforcement on the islands of Oahu and Hawaii, to be implemented at the discretion of the deputy director of law enforcement;
- (2) Appropriate funds for and establish positions within the agricultural enforcement pilot program;
- (3) Clarify, create, and strengthen laws regarding crimes and violations related to agriculture or agricultural lands and hunting on private agricultural lands; and
- (4) Establish clear distinctions between administrative and criminal penalties.

## PART II

SECTION 3. Chapter 353C, Hawaii Revised Statutes, is amended by adding one new section to be appropriately designated and to read as follows:

**“§353C- Agricultural enforcement pilot program.** (a) There shall be established within the department an agricultural enforcement pilot program on the islands of Oahu and Hawaii, to be implemented at the discretion of the deputy director of law enforcement. The department shall employ or appoint, and remove, the following persons, subject to chapter 76 and section 78-1:

- (1) An assistant chief, who shall be the administrator of the agricultural enforcement pilot program and shall have charge, direction, and control, subject to the direction or control of the deputy director, of all matters relating to the enforcement of an offense listed in section 708-835.55 involving theft of an agricultural product or commodity and any other matters as determined by the deputy director. The assistant chief shall be an administrator experienced in addressing agricultural theft; and
  - (2) Personnel, state law enforcement officers, and investigators, including but not limited to state law enforcement officers serving on a voluntary basis without pay.
- (b) In addition to all police powers and duties, state law enforcement officers in the agricultural enforcement pilot program shall:
- (1) Focus on offenses under sections 708-830.5, 708-831, 708-832, and 708-833 that involve the theft of an agricultural product or commodity;

- (2) Gather evidence, conduct investigations, and conduct field observations, as required or assigned;
- (3) Cooperate with any enforcement authorities of the federal, state, or county government in the development of programs and mutual aid agreements for agricultural activities within the State; and
- (4) Carry out other duties and responsibilities as determined by the deputy director.

(c) The department shall enter into memoranda of agreement with the division of conservation and resources enforcement of the department of land and natural resources and each county police department, as necessary, to effectuate the purposes of this section.

(d) For purposes of this section, “deputy director” means the deputy director of law enforcement.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$949,856 or so much thereof as may be necessary for fiscal year 2025-2026 and the same sum or so much thereof as may be necessary for fiscal year 2026-2027 for:

- (1) The establishment of the following positions within the agricultural enforcement pilot program established pursuant to section 353C- , Hawaii Revised Statutes:
  - (A) One full-time equivalent (1.0 FTE) assistant chief position;
  - (B) Two full-time equivalent (2.0 FTE) state law enforcement investigator positions; provided that one position shall be assigned to the county of Hawaii and one position shall be assigned to the city and county of Honolulu; and
  - (C) Six full-time equivalent (6.0 FTE) uniformed state law enforcement officer positions for patrol functions; provided that three positions shall be assigned to the county of Hawaii and three positions shall be assigned to the city and county of Honolulu; and
- (2) Other operating expenditures of the agricultural enforcement pilot program established pursuant to section 353C- , Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of law enforcement for the purposes of this Act.

### PART III

SECTION 5. Chapter 142, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

**“§142-A Administrative penalties.** (a) Except as otherwise provided by law, the department of agriculture may set, charge, and collect administrative fines, fees, and costs for any violation of this chapter for which a penalty is not otherwise provided, including attorneys’ fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys’ fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter or any rule adopted thereunder.

(b) For any administrative violation of this chapter or any rule adopted thereunder, unless provided otherwise by law, the fine shall be as follows:

- (1) For a first violation, or any violation not preceded within a five-year period for the same violation, a fine of not more than \$200;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$500; and
- (3) For a third or subsequent violation within five years of a previous violation, a fine of not more than \$1,000.

Each day or instance of violation shall constitute a separate violation.

(c) The board of agriculture may impose applicable fines by order in addition to any other administrative or judicial remedy provided by this chapter or any rule adopted thereunder.

(d) For any judicial proceeding to recover a fine, fee, or cost imposed under this section, the chairperson of the board of agriculture need only show that:

- (1) Notice was given and a hearing was held or the time granted for requesting a hearing has expired without receiving a request;
- (2) The fine, fee, or cost was imposed; and
- (3) The fine, fee, or cost remains unpaid.

(e) In addition to any other administrative or judicial remedy provided in this chapter or any rule adopted thereunder, the department of agriculture may impound, seize, confiscate, destroy, quarantine, sell, auction, or dispose of any animal, animal product, container, crate, or any other item under the jurisdiction of this chapter in the best interest of the State.

(f) Any criminal action against a person for any violation of this chapter or any rule adopted thereunder shall not preclude the State from pursuing civil legal action to recover administrative fines, fees, or costs or damages against the person. Any civil legal action to recover administrative fines, fees, or costs or damages for a violation of this chapter or any rule adopted thereunder shall not preclude the State from pursuing any appropriate criminal action against that person. Unless otherwise provided, all fines, fees, costs, and damages recovered by the department of agriculture pursuant to this section shall be deposited in the animal industry special fund established under section 142-3.6.

**§142-B Habitual agricultural crime.** (a) A person commits the offense of habitual agricultural crime if the person is a habitual agricultural crime perpetrator and commits a criminal offense under this chapter.

(b) For the purposes of this section, “habitual agricultural crime perpetrator” means a person who, within five years of the instant offense, has any combination of three or more prior convictions for criminal offenses under this chapter or one or more prior convictions under this section. The convictions shall be for separate incidents on separate dates. The prosecution shall not be required to prove any state of mind with respect to the person’s status as a habitual agricultural crime perpetrator. Proof that the person has the requisite minimum prior convictions shall be sufficient to establish this element.

- (c) Habitual agricultural crime is a class C felony.
- (d) For a conviction under this section, the sentence shall be either:
  - (1) An indeterminate term of imprisonment of five years; provided that the minimum term of imprisonment shall be not less than one year; or
  - (2) A term of probation of five years, with conditions to include but not be limited to one year of imprisonment; provided that probation shall only be available for a first conviction under this section.”

SECTION 6. Chapter 142, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

**“§142-C Definitions.** As used in this part:

“Brand” means a design that is permanently impressed on the hide of an animal by burning with acid, a chemical compound, or a hot iron.

“Mark” means a design that is cut into or from the ear, dewlap, or other part of an animal.

**§142-D Inspection before slaughter.** No person shall allow livestock to enter a livestock harvesting establishment that slaughters or processes livestock meat and meat products unless the establishment’s management has conducted a prior examination and inspection to verify the brand on animals match the ownership of the consignee, collects a copy of and confirms the brand with the ownership of the livestock ownership and movement certificate pursuant to section 142-49. The establishment’s management may seek assistance from the department of agriculture or a law enforcement officer if ownership determination via brand inspection is in question, or violation or theft is suspected. Livestock ownership and movement certificates that correlate with all livestock harvested at the plant shall be submitted by the establishment’s management to the department of agriculture weekly.”

SECTION 7. Section 142-2, Hawaii Revised Statutes, is amended to read as follows:

**“§142-2 Rules.** Subject to chapter 91, the department of agriculture may make and amend rules for the inspection, quarantine, disinfection, or destruction, either upon introduction into the State or at any time or place within the State, of animals and the premises and effects used in connection with the animals. Included therein may be rules governing the control and eradication of transmissible diseases of animals and the transportation of animals between the different islands of the State and along the highways thereof, the registration and inspection of brands or marks on livestock, as well as rules requiring the owner or captain of any vessel or aircraft arriving in the State with animals aboard and the managers or agents of trucking and air and water transportation companies carrying animals within the State to report on the number and class of animals carried, names of owners and consignees, the places to and from which the animals are shipped, the manner of handling the animals, the number of deaths or injuries to animals occurring in transit or while being loaded or unloaded, together with the causes of the deaths or injuries, and all other matters ~~[which]~~ that may be deemed necessary by the department for a full and complete record of the shipping and handling of animals. The department may also prohibit the importation into the State from any foreign country or other parts of the United States or the movement from one island within the State to another island therein or to one locality from another locality on the same island, of animals known to be or suspected of being infected with a contagious, infectious, or communicable disease or known to have been exposed to any of those diseases.”

SECTION 8. Section 142-3, Hawaii Revised Statutes, is amended to read as follows:

**“§142-3 Department~~[-];~~ general duties[-] and powers.** (a) The department of agriculture shall have charge, direction, and control of all matters relating to the inspection of animals, including brand inspection, and the prevention and eradication of contagious, infectious, and communicable diseases among animals and of all matters relating to the animal industry within this chapter.

(b) In the performance of its duties under this chapter, the department of agriculture may:

- (1) Conduct investigations, collect data, and require reports from owners of animals, including livestock animals, as may be necessary to conduct inspections or facilitate its decisions;
- (2) Enter upon private property, including agricultural lands, as may be necessary in making any investigation or inspection required or authorized by this chapter; provided that the entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from wilful acts or negligence by the department or its employees acting in the course of their official duties;
- (3) Establish and assess fees pursuant to chapter 91 to cover a portion of the department's costs in carrying out the implementation and administration of any programs established or authorized under this chapter;
- (4) Recover expenses incurred in taking any action required by the owner of the animals, including livestock, in the same manner that debts are recoverable by law;
- (5) Assess and collect administrative penalties for violation of this chapter, any rule adopted thereunder, or order issued by the department or board of agriculture pursuant to this chapter;
- (6) Place liens, as needed, on the owner's property, to be collected as delinquent taxes against lands and property, if the owner neglects to pay any costs, expenses, or penalties chargeable to the owner under this chapter, or any rule, order, or condition adopted, issued, or required under this chapter;
- (7) With the assistance of the attorney general, institute and pursue all court actions that may be necessary to obtain the enforcement of any order issued by the department or board of agriculture in carrying out this chapter;
- (8) Cooperate, advise, consult, contract, or enter into cooperative agreements with the United States government, or any of its agencies, other state agencies, or the county governments, or any of its agencies; and
- (9) Take any and all other actions as may be necessary to carry out this chapter."

SECTION 9. Section 142-3.6, Hawaii Revised Statutes, is amended to read as follows:

**"§142-3.6 Animal industry special fund.** There is established the animal industry special fund to be administered by the board of agriculture. Moneys received by the board of agriculture from:

- (1) The use or rental of the division of animal industry's properties or facilities, including the animal quarantine property or facilities pursuant to section 142-3.5;
- (2) Revenue from fees for diagnostic, surveillance, and other work by the animal industry division veterinary laboratory and animal disease control branch; ~~[and]~~
- (3) Fines, fees, costs, and damages recovered by the department of agriculture under section 142-A;
- (4) Fees for applications to register a brand or mark pursuant to section 142-41; and

~~[(3)]~~ (5) Appropriations or other moneys made available, shall be deposited into the special fund. Fines collected under section 708- shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover costs of the division of animal industry, including the costs of salaries, fringe benefits, operating expenses, equipment, motor vehicles, contract with any qualified person or entity for livestock handling services, improvements to laboratory capabilities and operations, and operating and maintenance of the animal industry facilities; provided that moneys in the special fund may be used to fund the department's resource management and planning programs. A reserve shall be maintained in the special fund to cover contingency costs, including accrued vacation leave, unemployment insurance, and workers' compensation."

SECTION 10. Section 142-4, Hawaii Revised Statutes, is amended to read as follows:

**"§142-4 Entry of animals without inspection prohibited.** (a) No animal shall be allowed to enter the State except after inspection by the department of agriculture and the issuance of a permit by the department to the consignee or owner; provided that no fees for inspection shall be charged, nor delays caused, concerning the landing of any domestic animal for which a certificate of health has been issued as prescribed by the Federal Cattle Contagious Disease Act. Every carrier, owner, or handler bringing animals into the State shall be required to present these animals to the department of agriculture for inspection.

(b) Any person who fails to present an animal pursuant to subsection (a) shall be assessed an administrative penalty of not more than \$1,000 for each violation. Each animal that enters the State without inspection shall constitute a separate violation."

SECTION 11. Section 142-8, Hawaii Revised Statutes, is amended to read as follows:

**"§142-8 Notification of arrival.** (a) The captain of any vessel or aircraft transporting any live animal to any port in ~~[this] the~~ State shall immediately upon arrival in the State notify the department of agriculture. No animal so transported, nor any portion of the food or water nor any effects connected therewith or provided for the animal's use during transit, shall be removed from the wharf or airport until the department of agriculture has inspected and passed the same. The department~~[-]~~ of agriculture, at the owner's or shipper's expense, may require that the animal be moved to a more suitable location for inspection.

(b) A person who violates this section shall be guilty of a misdemeanor."

SECTION 12. Section 142-12, Hawaii Revised Statutes, is amended to read as follows:

**"§142-12 Penalties.** (a) Any person violating any provision of this chapter or any rule adopted pursuant ~~[thereto, for which action a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction thereof,]~~ to this chapter that is designated as a petty misdemeanor shall be [punished] sentenced as follows:

- (1) For the first ~~[conviction, by]~~ offense, or any offense not preceded within a five-year period by an offense under the same section, a fine of not ~~[more]~~ less than ~~[\$1,000]~~ \$250 or ~~[by]~~ imprisonment of ~~[not more than one year,]~~ thirty days or less, but not less than three consecutive days, or both~~[-]~~;



- (2) For ~~[a second conviction within one year]~~ an offense that occurs within five years of a previous conviction[, by] for an offense under the same section, a fine of not less than \$500 ~~[nor more than \$1,000]~~ or ~~[by]~~ imprisonment of ~~[not more than one year,]~~ thirty days or less, but not less than ten days, or both~~[-]; and~~
  - (3) For ~~[a third conviction]~~ an offense that occurs within five years of [the first conviction, by] two or more previous convictions for offenses under the same section, a fine of ~~[not less than]~~ \$1,000 or ~~[by]~~ imprisonment of ~~[one year,]~~ thirty days, or both.
- (b) Any person~~[-, carrier, or handler who has been convicted of a violation]~~ violating any provision of this chapter ~~[more than three times within a five-year period or whose violation poses a grave or serious health threat to the State's citizens, animal industry, wildlife, or domestic animals, shall be guilty of a class C felony and upon conviction]~~ or any rule adopted pursuant to this chapter that is designated as a misdemeanor shall be [punished] sentenced as follows:
- (1) For the first ~~[conviction, by]~~ offense, or any offense not preceded within a five-year period by an offense under the same section, a fine of not ~~[more]~~ less than ~~[\$5,000]~~ \$500 or ~~[by]~~ imprisonment of ~~[not more than five years,]~~ one year or less, but not less than five consecutive days, or both~~[-];~~
  - (2) For ~~[a second conviction]~~ an offense that occurs within five years of a previous conviction[, by] for an offense under the same section, a fine of not less than ~~[\$3,000 nor more than \$5,000 or by]~~ \$1,000 or imprisonment of ~~[not more than five years,]~~ one year or less, but not less than thirty days, or both~~[-]; and~~
  - (3) For ~~[a third or subsequent conviction]~~ an offense that occurs within five years of [the first conviction, by] two or more previous convictions for offenses under the same section, a fine of ~~[not less than \$5,000 or by]~~ \$2,000 or imprisonment of ~~[not more than five years,]~~ one year, or both.
- (c) ~~[In addition to the penalties in subsection (a) or (b) and for the first conviction, the department of agriculture may impound, seize, confiscate, destroy, quarantine, sell, auction, or dispose of any animal, animal product, container, crate, or any other item under the jurisdiction of this chapter in the best interest of the State.] Any provision of this chapter or any rule adopted pursuant to this chapter that is not specifically designated as a petty misdemeanor, misdemeanor, or felony, shall be enforced via civil or administrative means.~~
- (d) ~~[Persons found to be in possession of any animal, fodder, fittings, or effects contrary to this chapter shall be found guilty and upon conviction shall be punished in accordance with this section.] Any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a violation of this chapter, or that facilitated or assisted the activity, and any proceeds or other property acquired or maintained with the proceeds from a violation of this chapter may be ordered forfeited to the State, subject to the requirements of chapter 712A.]~~

SECTION 13. Section 142-18, Hawaii Revised Statutes, is amended to read as follows:

**“§142-18 Disposal of tuberculous animals.** (a) The owner of all cattle reacting to the tuberculin test shall, subject to section 142-16, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered



for slaughter at ~~[such]~~ a time and place as may be designated by the department of agriculture. The slaughter shall be under the direct supervision of the department of agriculture and in accordance with the meat inspection regulations of the United States Department of Agriculture.

(b) Any person who fails to segregate tuberculous animals or deliver them for slaughter shall be guilty of a misdemeanor."

SECTION 14. Section 142-20, Hawaii Revised Statutes, is amended to read as follows:

**"§142-20 Premises from which tuberculous cattle removed to be disinfected.** (a) Any premises ~~[upon which have been kept]~~ where animals affected with tuberculosis have been kept shall be disinfected promptly after the removal of the animals ~~[and]~~, in a manner satisfactory to the department of agriculture and at the expense of the owner.

(b) Violation of this section shall be a misdemeanor."

SECTION 15. Section 142-23.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person who violates [the provisions of] subsection (a) [of this section] shall be [fined not more than \$1,000 or imprisoned not more than one year, or both:] guilty of a misdemeanor."

SECTION 16. Section 142-41, Hawaii Revised Statutes, is amended to read as follows:

**"§142-41 Brands or marks to be registered and recorded[, etc.]; penalties.** (a) Every owner of livestock in the State shall have the owner's brand or mark, in order to secure its validity and individuality, recorded in a separate book kept for that purpose by the department of agriculture to be known as the "Hawaii Brand Book". No brand or mark shall be recorded ~~[which]~~ that may be similar or approximate in design to any brand or mark ~~[which]~~ that has been previously recorded. No record shall be made of any earmark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to preemptive use but shall be the common property of all persons.

(b) The department of agriculture shall establish, by rule adopted pursuant to chapter 91, a fee for each application [for registration shall be established by rule adopted pursuant to chapter 91:] to register a brand or mark. The application may be made directly to the department[.] of agriculture, through its duly authorized agents, or through any duly authorized police officer. The chief of police of the respective counties shall authorize police officers to receive applications for registration of brands under this section. All moneys [so] received under this section shall be [paid to the director of finance,] deposited with the director of finance who shall deposit the moneys into the animal industry special fund established pursuant to section 142-3.6. A signed and dated receipt shall be issued for each paid application. All applications shall be promptly forwarded to the department[.] of agriculture.

(c) If it is determined that the application seeks the registration of a brand [which] that either has not already been recorded by another person or is not similar in design to any other previously recorded brand [which] that has not expired, then a certificate showing that [such] the brand or mark has been duly recorded shall be issued forthwith to the applicant. [No record shall be made of any earmark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to preemptive use but shall be the common property of all persons.]

(d) It shall be unlawful for any person to use any brand that has not been duly registered pursuant to this section and any rule adopted thereunder. Any person who violates this subsection shall be fined not more than \$200. Each instance a brand is used in violation of this subsection shall constitute a separate violation.

SECTION 17. Section 142-47, Hawaii Revised Statutes, is amended to read as follows:

**“§142-47 [Obliterating] Altering, removing, or obliterating brand[;] or mark; penalty.** Any person who alters, removes, or obliterates any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, ~~[although without felonious intent,]~~ shall be fined not more than ~~[\$200]~~ \$500 for every brand or mark so altered, removed, or obliterated.”

SECTION 18. Section 142-48, Hawaii Revised Statutes, is amended to read as follows:

**“§142-48 [Felonious] Prohibited branding[;] or marking; penalty.** ~~[Whoever wilfully and feloniously brands, or otherwise marks,]~~ Any person who intentionally or knowingly places their own brand or mark on any kine, horse, mule, sheep, goat, or other cattle belonging to another~~[-with one's mark,]~~ or ~~[with]~~ places the brand or mark of ~~[another not]~~ anyone other than the animal's owner ~~[of the animal so branded or marked,]~~ with the intent to convert it to one's own use~~[-]~~ or to the use of another shall be ~~[imprisoned not more than one year, or fined not more]~~ guilty of a class C felony and, in addition to any other penalties imposed by the court, be fined not less than ~~[\$200]~~ \$1,000 for each kine, horse, mule, sheep, goat, or other cattle thus branded or marked.”

SECTION 19. Section 142-49, Hawaii Revised Statutes, is amended to read as follows:

**“§142-49 Livestock ownership and movement certification[-]; penalty.**  
(a) Every owner, upon sale or transportation of livestock, including cattle, horses, sheep, goats, pigs, bison, or llamas, shall complete a certificate describing the animal or animals including sex, breed, age, and brand and indicating the seller or owner, buyer or consignee, and origin and destination. Two copies of the certificate shall accompany the shipment, one copy shall be given or electronically transmitted to the department of agriculture, and ~~[a]~~ one copy shall be retained by the owner. One of the copies of the certificate shall be presented upon request to a law enforcement officer or other officer or employee as described in section 142-29.

(b) Any person who violates this section upon the sale of livestock, transport of livestock to slaughter, or transport of livestock interisland or interstate shall be assessed an administrative penalty of up to \$500 per animal moved without a certificate.”

SECTION 20. Section 142-61, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) Any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments not conforming to the requirements of this section shall be [fined no more than \$500, or imprisoned no more than one year, or both.] guilty of a misdemeanor.”

SECTION 21. Section 142-62, Hawaii Revised Statutes, is amended to read as follows:

**“§142-62 Breaking, etc., of fence; penalty.** If any person maliciously and designedly opens a gateway, or breaks a fence, so as to allow any animal ingress or egress, so that it may commit a trespass, or maliciously and designedly drives or leads any animal into another locality where it may commit a trespass, the person shall, for every offense, be ~~[fined not more than \$100, or imprisoned not more than one year.]~~ guilty of a petty misdemeanor.”

SECTION 22. Section 142-72, Hawaii Revised Statutes, is amended to read as follows:

**“§142-72 Procedure, if owner believes impounding illegal.** If the owner of any animal taken up for trespass has reason to believe that the taking up or impounding of the animal was illegal, or if the owner regards the claim for damages or expenses as excessive, the owner may have the owner’s animal returned to the owner upon the ~~[owner’s]~~ owner delivering to the landowner or to the pound keeper~~[-if the animal has been impounded,]~~ a certificate from any district judge of the circuit~~[-]~~ in which the animal was impounded, stating that the owner has deposited with the judge the amount claimed by the landowner, together with the pound fees, if any, or a good and sufficient bond for the same and the costs of an action before the judge.”

SECTION 23. Section 142-74, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any dog, while on private property without the consent of the owner of that property, injures or destroys any sheep, cattle, goat, hog, fowl, or other property belonging to any person other than the owner of the dog, the owner of the dog shall be liable in damages to the person injured for the value of the property so injured or destroyed. The owner of the dog shall confine or destroy the dog, and if the owner of the dog neglects or refuses to do so, the owner of the dog, in the event of any further damage being done to the person or property of any person by the dog, in addition to paying the person injured for the damage, shall be guilty of a misdemeanor and pay the costs of the trial ~~[together with the penalty imposed under section 142-12],~~ and it shall be lawful for any other person to destroy the dog.”

SECTION 24. Section 142-91, Hawaii Revised Statutes, is amended to read as follows:

**“§142-91 Destruction of animals ferae naturae~~[-];~~ penalty.** (a) No person shall shoot or otherwise destroy any animal ferae naturae or its progeny within ten years of the introduction of the species into the State.

(b) Nothing in this section shall be construed to prohibit the destruction of ~~[such]~~ animals ~~[as shall be proved]~~ that are proven to be common nuisances.

(c) Any person who violates this section shall be guilty of a misdemeanor.”

SECTION 25. Section 142-93, Hawaii Revised Statutes, is amended to read as follows:

**“§142-93 Harboring mongoose; penalty.** Any person harboring, feeding, or in any way caring for a mongoose, except upon and according to the terms of a written permit ~~[which]~~ that may be granted ~~[therefor]~~ by the department of agriculture, in its discretion, to scientists, scientific institutions, associations, or colleges, or to officers, boards, or commissions of the State or any county, shall be ~~[penalized pursuant to section 142-12;]~~ guilty of a misdemeanor.”

SECTION 26. Section 142-95, Hawaii Revised Statutes, is amended to read as follows:

**“§142-95 Rabbits, Belgian hares, to be kept off ground; penalty.** (a) Any person who breeds, raises, or keeps rabbits or Belgian hares shall keep them off the ground.

(b) Any person who violates this section shall be ~~[fined not more than \$100 or imprisoned not more than six months, or both.]~~ guilty of a petty misdemeanor.”

#### PART IV

SECTION 27. Section 145-5, Hawaii Revised Statutes, is amended to read as follows:

**“§145-5 Reports of consignment sales.** Every commission merchant shall make a written report to the producer for farm produce handled on consignment ~~[in] on~~ behalf of said producer ~~[which shall be]~~, within ~~[such]~~ the time and ~~[in such detail]~~ manner as may be prescribed by the department. Making a false or incorrect report shall constitute a misdemeanor under section 145-12.”

SECTION 28. Section 145-12, Hawaii Revised Statutes, is amended to read as follows:

**“§145-12 [Misdemeanor.] Criminal penalties.** ~~[Any]~~ Unless otherwise provided, any person who violates this chapter shall be ~~[fined not more than \$1,000 or imprisoned not more than one year, or both.]~~ guilty of a misdemeanor.”

SECTION 29. Section 145-22, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Every person, upon sale of any agricultural commodity or upon transportation of lots of any agricultural commodity ~~[of more than two hundred pounds or with a value of at least \$100 that is marketed for commercial purposes]~~, shall complete and retain a certificate describing the commodity, the amount of the commodity, and value of the commodity~~[-and]~~. The certificate shall include:

- (1) The seller’s name, residence address, telephone number, and license plate number of any vehicle used by the seller to deliver the commodity to the place of purchase;
- (2) The name of the farm owner and address of origin;
- (3) The name of the buyer or consignee, and destination; and
- (4) The signature of the seller and, upon sale, the signature of the buyer or consignee.”

2. By amending subsection (e) to read:

“(e) ~~[This]~~ A failure to comply with any requirement under this section shall constitute a criminal offense subject to penalties under section 145-25; provided that this section shall not apply to the retail sale of an agricultural commodity to the final consumer.”

SECTION 30. Section 145-24, Hawaii Revised Statutes, is amended to read as follows:

**“[§145-24] Authorization to inspect.** (a) Every law enforcement officer or other officer or employee ~~[as described in section 145-25]~~ having ~~[probable cause]~~ reason to believe based upon specific and articulable facts that the possession, sale, or transportation of agricultural commodities is unlawful, may take reasonable steps to detain the person having possession, selling, or

transporting the agricultural commodities and request from the person being detained proof of ownership of the commodities.

(b) For the purposes of this section, “officer or employee” has the same meaning as defined in section 145-27.”

SECTION 31. Section 145-25, Hawaii Revised Statutes, is amended to read as follows:

**“§145-25 Enforcement; criminal penalties.** ~~[Violations]~~ In addition to any civil or administrative penalties or remedies, violations of this part or any rule adopted pursuant thereto shall be criminal offenses and shall be sentenced as follows:

- (1) ~~[A violation]~~ Any offense in which the value of the agricultural commodity exceeds \$100 shall be a class C felony; and
- (2) ~~[A violation]~~ Any offense in which the value of the agricultural commodity is \$100 or less shall be a misdemeanor.”

SECTION 32. Section 145-23, Hawaii Revised Statutes, is repealed.

## PART V

SECTION 33. Section 146-22, Hawaii Revised Statutes, is amended to read as follows:

**“§146-22 Reports.** Every person who slaughters a calf, heifer, cow, steer, or bull, whether wild or domesticated, at any place other than a duly licensed slaughterhouse shall comply with section 146-21 and~~[, in addition thereto, shall forthwith]~~ report ~~[such]~~ the slaughtering to the officer in charge of recording brands. ~~[Such]~~ The report shall include a description of the animal slaughtered, including its sex and a full description of each and every brand on the animal, the date and place of slaughter, and the name of the person from whom, and date when, the animal was acquired. If any of the described brands on the animal appear to be altered, removed, or obliterated, as described in section 142-47, or to be ~~[felonious]~~ prohibited, as described in section 142-48, the person discovering the altered, removed, obliterated, or prohibited brand shall make a report of the altered, removed, obliterated, or [felonious] prohibited brand to any law enforcement officer or the department of agriculture, as provided by law, and the appropriate law enforcement agency [pursuant to rules adopted by the department of agriculture].”

SECTION 34. Section 159-15, Hawaii Revised Statutes, is amended to read as follows:

**“§159-15 Bonding.** Upon a person being granted a license to slaughter animals for the purpose of using the meat or meat products thereof in intrastate commerce, the board shall exact from the licensee a bond, or other form of surety acceptable to the board or an appropriate agent, officer, or employee designated by the board, in the penal sum of \$5,000, the bond or other form of surety to be obtained from a surety company or financial institution authorized to do business in the State and to be so conditioned that the licensee shall be required to keep a full and accurate record concerning every animal ~~[which]~~ that the licensee may purchase, kill, or sell; and that the licensee will at all times during regular business hours keep the record open for the inspection by representatives of the board who may desire to examine the same. The record shall contain:

- (1) The sex of the animal[-];
- (2) A full description of each and every brand on the animal, stating the position of each brand on the animal. If any of the described brands on the animal appear to be altered, removed, or obliterated, as described in section 142-47, or to be ~~[felonious,]~~ prohibited, as described in section 142-48, the person shall make a report of the altered, removed, obliterated, or ~~[felonious]~~ prohibited brand to the appropriate law enforcement agency pursuant to rules adopted by the department of agriculture[-];
- (3) Ear tag number or other mark of identification[-];
- (4) The principal color of the animal[-];
- (5) The name of the person who sold the animal to the licensee[-];
- (6) The date when the animal was sold to the licensee[-];
- (7) The date when the animal was delivered to the licensee[-]; and
- (8) The date when the animal was killed.”

## PART VI

SECTION 35. Section 183D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Agricultural land” means any land used primarily for a farming operation, as defined in section 165-2. “Agricultural land” includes land used for farm buildings and dwellings and roads and irrigation infrastructure associated with the agricultural land.”

SECTION 36. Section 183D-5, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-5 Penalties.** (a) Any person violating section 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under this chapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be ~~[punished]~~ sentenced as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;
  - (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and
  - (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State.
- (b) Any person violating section ~~[183D-66,]~~ 183D-25.5, ~~[183D-26, 183D-27,]~~ 183D-32, 183D-62, ~~[or]~~ 183D-64, or 183D-66 shall be guilty of a misdemeanor, and upon conviction thereof, shall be ~~[punished]~~ sentenced as follows:
- (1) For a first conviction, by a mandatory fine of not less than \$200, or by imprisonment of not more than one year, or both and all animal parts, products, or items containing prohibited animal parts or products involved in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State;
  - (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts,



products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and

- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$2,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State[-];

provided that any violation of section 183D-26 or 183D-27 that occurs on agricultural land shall be sentenced pursuant to subsection (d).

(c) Any person who violates section 183D-52 shall be guilty of a misdemeanor, and upon conviction thereof, shall be ~~[punished]~~ sentenced as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$10,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or [by]¹ imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$15,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$25,000 and payment of any costs incurred in the eradication of any deer and the deer's progeny that has been possessed, transferred, transported, or released after transport, or by imprisonment of not more than one year, or both[-];

provided that any violation of section 183D-26 or 183D-27 that occurs on agricultural land shall be sentenced pursuant to subsection (d).

(d) Any person who violates section 183D-26 or 183D-27, if the offense occurred on agricultural land, shall be guilty of a class C felony, and upon conviction thereof, shall be sentenced as follows, without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a ten-year period by a conviction for an offense under the same section:
  - (A) An indeterminate term of imprisonment of five years with a mandatory minimum term of imprisonment of not less than one hundred eighty days; or
  - (B) A term of probation of four years with conditions to include but not be limited to not less than one hundred eighty days of imprisonment; or
- (2) For an offense that occurs within ten years of a previous conviction for an offense under the same section, an indeterminate term of imprisonment of five years with a mandatory minimum term of imprisonment of not less than one year;

provided that all animal parts, products, or items containing prohibited animal parts or products involved in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; provided further



that any property used in the commission of the offense, or that facilitated or assisted in the offense, including firearms, hunting animals, or vehicles, shall be subject to forfeiture under chapter 712A.

~~[(d)]~~ (e) Any person who violates section 183D-35, 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be fined not less than \$100 or imprisoned not more than thirty days, or both.

~~[(e)]~~ (f) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

~~[(f)]~~ (g) Any person who is convicted of violating any of the game laws of the State shall immediately have the person's hunting license forfeited and any person convicted for a second offense shall not be granted a license to hunt for a period of three years after the date of the second conviction.

~~[(g)]~~ (h) The environmental court, in lieu of the actual cash payment of any mandatory fine, may allow the defendant to perform the community service as directed by the department of land and natural resources at the rate of one hour of service for every \$10 of mandatory fine imposed.

~~[(h)]~~ (i) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person."

SECTION 37. Section 183D-27, Hawaii Revised Statutes, is amended to read as follows:

**"§183D-27 Night hunting on private lands; prohibition.** (a) Notwithstanding section 183D-26, no person shall take or pursue any game bird, game mammal, wild bird, or wild mammal at night on privately owned lands, except as authorized by the department pursuant to section 183D-61. For the purpose of this section, "night" means the period between one-half hour after sunset and one-half hour before sunrise.

(b) For purposes of this section, the fact that the person is found upon any privately owned agricultural land shall be prima facie evidence that the person knew that the person had entered privately owned agricultural land.

(c) If the offense occurs on agricultural land, any property used or intended for use in the commission of, attempt to commit, or conspiracy to commit the offense, or that facilitated or assisted the activity, and any proceeds or other property acquired or maintained with the proceeds from the offense may be ordered forfeited to the State, subject to the requirements of chapter 712A."

## PART VII

SECTION 38. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

**"§708- Criminal trespass on agricultural land.** (1) A person commits the offense of criminal trespass on agricultural land if the person enters or remains unlawfully on agricultural land without the permission of the owner of the land, the owner's agent who is authorized by the owner to give the permission, or the person in lawful possession of the land, and the agricultural land:

- (a) Is fenced, enclosed, or secured in a manner designed to exclude intruders or marked by a structure or barrier, including a cattle grid, cattle grate, or other obstacle, used to secure livestock; or
- (b) At the time of entry, is fallow or has a visible presence of livestock-raising, such as cattle, horses, water troughs, shelters, or paddocks, or a crop:
  - (i) Under cultivation;
  - (ii) In the process of being harvested; or
  - (iii) That has been harvested.
- (2) Subsection (1) shall not apply to:
  - (a) A process server who enters or remains in or upon the land or premises of another, unless the land or premises are secured with a fence and locked gate, for the purpose of making a good faith attempt to perform the process server's legal duties and to serve process upon any of the following:
    - (i) An owner or occupant of the land or premises;
    - (ii) An agent of the owner or occupant of the land or premises; or
    - (iii) A lessee of the land or premises.
 For the purposes of this paragraph, "process server" means any person authorized under the Hawaii rules of civil procedure, district court rules of civil procedure, Hawaii family court rules, or section 353C -11 to serve process; or
  - (b) A professional land surveyor, or assistant under the direct supervision of the professional land surveyor, who enters or remains in or upon the land or premises of another for the purpose of performing land surveying at the request of the landowner of, or person with an interest in, the real property to be surveyed.
- (3) Except as provided in subsection (4), criminal trespass on agricultural land shall be a misdemeanor, and any person who violates this section shall be sentenced as follows, without possibility of probation or suspension of sentence:
  - (a) For a first offense, or any offense not preceded within five years of a previous conviction for an offense under this section:
    - (i) A term of imprisonment of not less than three consecutive days; and
    - (ii) A fine of not less than \$500;
  - (b) For an offense that occurs within five years of a previous conviction for an offense under this section:
    - (i) A term of imprisonment of not less than thirty days; and
    - (ii) A fine of not less than \$1,000; and
  - (c) For an offense that occurs within five years of two or more previous convictions for offenses under this section:
    - (i) A term of imprisonment of not less than ninety days; and
    - (ii) A fine of \$2,000.
- (4) Any person who violates this section while in possession of a dangerous instrument shall be guilty of a class C felony.
- (5) Any fines imposed in connection with the offense under this section shall be deposited with the director of finance who shall deposit the fines into the animal industry special fund established pursuant to section 142-3.6.
- (6) For the purposes of this section:
 

"Agricultural land" means any land used primarily for a farming operation. "Agricultural land" includes state- or county-owned agricultural land, pri-

vately owned agricultural land, and land used for farm buildings and dwellings and roads and irrigation infrastructure associated with these lands.

“Dangerous instrument” has the same meaning as defined in section 707-700.

“Fallow” means land associated with agricultural production that is left unseeded or unplanted for one or more growing seasons.

“Farming operation” means a commercial agricultural or aquacultural facility or pursuit conducted, in whole or in part, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.”

SECTION 39. Section 708-814, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal trespass in the second degree if:

- (a) The person knowingly enters or remains unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced;
- (b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner’s or lessee’s authorized agent, or a police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

For the purposes of this paragraph, “reasonable warning or request” means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may be evidenced by a copy of the previously issued written warning or request, whether or not the copy is posted at the premises or retained by the county police department, and which may contain but is not limited to the following information:

- (i) A warning statement advising the person that the person’s presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to this subsection, and that criminal trespass in the second degree is a petty misdemeanor;
  - (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;
  - (iii) The name of the person giving the warning along with the date and time the warning was given; and
  - (iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator;
- [(e) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner’s agent, or the person in lawful possession of the land, and the agricultural lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude intruders;

- (ii) ~~Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property" or "Government Property - No Trespassing". The sign or signs, containing letters no less than two inches in height, shall be placed at reasonable intervals no less than three signs to a mile along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or~~
- (iii) ~~At the time of entry, are fallow or have a visible presence of livestock or a crop:~~
  - ~~(A) Under cultivation;~~
  - ~~(B) In the process of being harvested; or~~
  - ~~(C) That has been harvested;~~
- (d) (c) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent[;] who is authorized to give the permission, or the person in lawful possession of the land, and the lands:
  - (i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or
  - (ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property - No Trespassing", "Government Property - No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters no less than two inches in height and shall be placed at reasonable intervals no less than three signs to a mile along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

For the purposes of this paragraph, "unimproved or unused lands" means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains "unimproved or unused land" under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties; or

- (e) (d) The person enters or remains unlawfully in or upon any area of a housing project that is closed to the public pursuant to section 356D-6.7 and meets the signage requirements of section 356D-6.7, or the person enters or remains unlawfully in or upon any property that is subject to section 356D-6.7 and meets the signage requirements of section 356D-6.7 after a reasonable warning or request to leave by the housing authority or law enforcement officer, as defined in section 710-1000, based upon an alleged violation of law or administrative rule, notwithstanding any invitation or authoriza-

tion provided to the person by a tenant of that housing project or a member of that tenant's household.

As used in this paragraph:

"Housing authority" means a property manager, resident manager, tenant monitors, security guards, or others officially designated by the Hawaii public housing authority, for the housing project.

"Housing project" means a public housing project, or elder or elderly housing as defined in section 356D-1, or state low-income housing project as defined in section 356D-51.

"Reasonable warning or request" means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:

- (i) A warning statement advising the person that for a period of one year from the date of the notice, the person's presence is no longer desired in or on the areas of the subject housing project that are closed to the public, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to this subsection, and that criminal trespass in the second degree is a petty misdemeanor;
- (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;
- (iii) The name of the person giving the warning along with the date and time the warning was given;
- (iv) The signature of the person giving the warning and, if possible, the signature of the violator; and
- (v) The name and signature of a witness or law enforcement officer, as defined in section 710-1000, who was present when the warning was given."

SECTION 40. Section 708-820, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Criminal property damage in the first degree is a class B felony[-]; provided that any person convicted of violating subsection (1)(d) shall be sentenced to a term of imprisonment of not less than one hundred eighty days, without possibility of probation or suspension of sentence."

SECTION 41. Section 708-821, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Criminal property damage in the second degree is a class C felony[-]; provided that any person convicted of violating subsection (1)(c) shall be sentenced to a term of imprisonment of not less than one hundred eighty days, without possibility of probation or suspension of sentence."

SECTION 42. Section 708-822, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Criminal property damage in the third degree is a misdemeanor[-]; provided that any person convicted of violating subsection (1)(c) shall be sentenced to a term of imprisonment of not less than ninety days, without possibility of probation or suspension of sentence."

PART VIII

SECTION 43. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

**“§712A-4 Covered offenses.** Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder; kidnapping; labor trafficking; unlicensed sale of liquor; unlicensed manufacture of liquor; gambling; criminal property damage; robbery; bribery; extortion; theft; unauthorized entry into motor vehicle; burglary; money laundering; trademark counterfeiting; insurance fraud; promoting a dangerous, harmful, or detrimental drug; commercial promotion of marijuana; methamphetamine trafficking; manufacturing of a controlled substance with a child present; promoting child abuse; promoting prostitution; sex trafficking; commercial sexual exploitation of a minor; habitual commercial sexual exploitation; or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or commercial sexual exploitation near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; ~~[and]~~
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture[-]; and
- (e) Criminal trespass on agricultural land as defined in section 708- .”

PART IX

SECTION 44. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 45. In codifying the new sections added by sections 5 and 6 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 46. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 47. This Act shall take effect on July 1, 2025; provided that part II of this Act shall be repealed on July 1, 2028.

(Approved June 27, 2025.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.