
A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that objects, such as
2 tents and other illegal structures, that obstruct public
3 sidewalks are increasingly being anchored or attached to
4 adjacent property, such as fences belonging to private owners.
5 The legislature further finds that existing law does not appear
6 to empower law enforcement officers to summarily detach these
7 objects from the private property. Complaints about objects
8 attached to fences or other structures are likely to be treated
9 as civil complaints that property owners must initiate through
10 the courts.

11 The purpose of this Act is to prevent the attachment of
12 objects to fences and other structures without permission, and
13 facilitate the removal of objects attached in this manner, by
14 establishing the criminal offense of unauthorized attachment of
15 an object to a fence, gate, or wall.



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§708- Unauthorized attachment of an object to a fence,
5 gate, or wall; penalty. (1) A person commits the offense of
6 unauthorized attachment of an object to a fence, gate, or wall
7 if the person knowingly attaches an object to a fence, gate,
8 wall, or other structure or barrier without permission from the
9 owner.

10 (2) The owner, acting in good faith, may detach the object
11 without delay or notice. The owner shall not be subject to
12 liability for detaching an object under this section, except for
13 any damages that may result from the owner's gross negligence or
14 wanton acts or omissions. A law enforcement officer, at the
15 request of the owner, may also detach the object without delay
16 or notice. Removal of the object may be conducted at the law
17 enforcement officer's discretion, pursuant to state law or
18 county ordinance that authorizes the removal.

19 (3) Unauthorized attachment of an object to a fence, gate,
20 or wall is a violation; provided that a second or subsequent



1 offense committed within one year of a prior conviction for the
2 same offense is a petty misdemeanor.

3 (4) For purposes of this section, "owner" means:

4 (a) The owner of the fence, gate, wall, or other structure
5 or barrier; or

6 (b) The owner, agent, tenant, lessor, or sublessor of the
7 real property on which the fence, gate, wall, or other
8 structure or barrier is situated, or their respective
9 assigns or successors in interest."

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

13 SECTION 4. New statutory material is underscored.

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

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Report Title:

Penal Code; Offenses Against Property Rights; Unauthorized Attachment of Object

Description:

Establishes the offense of unauthorized attachment of an object to a fence, gate, or wall, which is committed when a person knowingly attaches an object to a fence, gate, wall, or other structure or barrier without the owner's permission. (SD1)

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