
A BILL FOR AN ACT

RELATING TO RETAIL ESTABLISHMENTS.

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

1 SECTION 1. The legislature finds that retail
2 establishments in the State have been forced to bear the burden
3 of enforcing state and county requirements intended to slow the
4 spread of the SARS-CoV-2 virus responsible for the coronavirus
5 disease 2019 (COVID-19) pandemic. The legislature recognizes
6 that these measures to promote public health and community
7 safety include wearing face coverings and maintaining six feet
8 or more of physical distance from other persons when in public.
9 However, in the absence of robust enforcement of these measures
10 by law enforcement officers, retail establishments have had
11 little choice but to assume an enforcement role for the
12 immediate protection of their employees and customers.

13 The legislature further finds that across the United
14 States, retail workers have sometimes been subjected to verbal
15 abuse, belligerence, and threats of physical violence when
16 requesting customers to observe COVID-19-related health or
17 safety rules. In some cases, retail workers have been seriously



1 injured, shot at, or even killed as a result of attempting to
2 enforce these rules. Therefore, the legislature believes that
3 retail workers face a heightened risk of physical injury when
4 enforcing a governmental health or safety measure relating to
5 COVID-19 and should thus be afforded additional protection under
6 the law.

7 Accordingly, the purpose of this Act is to amend the
8 offense of assault in the second degree to specify that
9 intentionally or knowingly causing bodily injury to any owner,
10 employee, or agent of a retail mercantile establishment who is
11 engaged in enforcing a governmental health or safety requirement
12 relating to the COVID-19 pandemic is a class C felony.

13 SECTION 2. Section 707-711, Hawaii Revised Statutes, is
14 amended by amending subsection (1) read as follows:

15 "(1) A person commits the offense of assault in the second
16 degree if:

17 (a) The person intentionally, knowingly, or recklessly
18 causes substantial bodily injury to another;

19 (b) The person recklessly causes serious bodily injury to
20 another;



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- 1 (c) The person intentionally or knowingly causes bodily
2 injury to a correctional worker, as defined in section
3 710-1031(2), who is engaged in the performance of duty
4 or who is within a correctional facility;
- 5 (d) The person intentionally or knowingly causes bodily
6 injury to another with a dangerous instrument;
- 7 (e) The person intentionally or knowingly causes bodily
8 injury to an educational worker who is engaged in the
9 performance of duty or who is within an educational
10 facility. For the purposes of this paragraph,
11 "educational worker" means any administrator,
12 specialist, counselor, teacher, or employee of the
13 department of education or an employee of a charter
14 school; a person who is a volunteer, as defined in
15 section 90-1, in a school program, activity, or
16 function that is established, sanctioned, or approved
17 by the department of education; or a person hired by
18 the department of education on a contractual basis and
19 engaged in carrying out an educational function;
- 20 (f) The person intentionally or knowingly causes bodily
21 injury to any emergency medical services provider who



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1 is engaged in the performance of duty. For the
2 purposes of this paragraph, "emergency medical
3 services provider" means emergency medical services
4 personnel, as defined in section 321-222, and
5 physicians, physician's assistants, nurses, nurse
6 practitioners, certified registered nurse
7 anesthetists, respiratory therapists, laboratory
8 technicians, radiology technicians, and social
9 workers, providing services in the emergency room of a
10 hospital;

11 (g) The person intentionally or knowingly causes bodily
12 injury to a person employed at a state-operated or
13 -contracted mental health facility. For the purposes
14 of this paragraph, "a person employed at a state-
15 operated or -contracted mental health facility"
16 includes health care professionals as defined in
17 section 451D-2, administrators, orderlies, security
18 personnel, volunteers, and any other person who is
19 engaged in the performance of a duty at a state-
20 operated or -contracted mental health facility;



- 1 (h) The person intentionally or knowingly causes bodily
2 injury to a person who:
 - 3 (i) The defendant has been restrained from, by order
4 of any court, including an ex parte order,
5 contacting, threatening, or physically abusing
6 pursuant to chapter 586; or
 - 7 (ii) Is being protected by a police officer ordering
8 the defendant to leave the premises of that
9 protected person pursuant to section 709-906(4),
10 during the effective period of that order;
- 11 (i) The person intentionally or knowingly causes bodily
12 injury to any firefighter or water safety officer who
13 is engaged in the performance of duty. For the
14 purposes of this paragraph, "firefighter" has the same
15 meaning as in section 710-1012 and "water safety
16 officer" means any public servant employed by the
17 United States, the State, or any county as a lifeguard
18 or person authorized to conduct water rescue or ocean
19 safety functions;
- 20 (j) The person intentionally or knowingly causes bodily
21 injury to a person who is engaged in the performance



1 of duty at a health care facility as defined in
2 section 323D-2. For purposes of this paragraph, "a
3 person who is engaged in the performance of duty at a
4 health care facility" shall include health care
5 professionals as defined in section 451D-2, physician
6 assistants, surgical assistants, advanced practice
7 registered nurses, nurse aides, respiratory
8 therapists, laboratory technicians, and radiology
9 technicians;

10 (k) The person intentionally or knowingly causes bodily
11 injury to a person who is engaged in providing home
12 health care services, as defined in section
13 431:10H-201; ~~or~~

14 (l) The person intentionally or knowingly causes bodily
15 injury to a person, employed or contracted to work by
16 a mutual benefit society, as defined in section
17 432:1-104, to provide case management services to an
18 individual in a hospital, health care provider's
19 office, or home, while that person is engaged in the
20 performance of those services ~~[-]~~; or



- 1 (m) The person intentionally or knowingly causes bodily
2 injury to any owner, employee, or agent of a retail
3 mercantile establishment who is engaged in enforcing,
4 on behalf of the retail mercantile establishment, a
5 governmental health or safety requirement relating to
6 the coronavirus disease 2019 pandemic. For the
7 purposes of this paragraph, "retail mercantile
8 establishment" has the same meaning as in section
9 663-2(b). It is prima facie evidence that a person
10 believes or is aware that the other person is an
11 owner, employee, or agent of the retail mercantile
12 establishment if, at the time of enforcing the health
13 or safety requirement, the other person:
- 14 (i) Identifies the person's self as an owner,
15 employee, or agent of the retail mercantile
16 establishment;
- 17 (ii) Is wearing a name tag or clothing that identifies
18 the person as being associated with the retail
19 mercantile establishment; or
- 20 (iii) Is engaged in a task commonly performed by an
21 owner, employee, or agent of a retail mercantile



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1 establishment, including greeting customers,
2 assisting customers, operating a cash register,
3 or restocking merchandise."

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

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

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

10

INTRODUCED BY: 
JAN 20 2021



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Report Title:

Assault in the Second Degree; Retail Mercantile Establishments;
Enforcement of COVID-19 Health or Safety Requirement

Description:

Specifies that intentionally or knowingly causing bodily injury to any owner, employee, or agent of a retail mercantile establishment who is engaged in enforcing a governmental health or safety requirement relating to the coronavirus disease 2019 (COVID-19) pandemic is a class C felony.

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