
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 measures that promote public health and community safety
7 include wearing face coverings and maintaining six feet or more
8 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 that customers 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. The legislature believes that retail
3 workers face a heightened risk of physical injury when enforcing
4 governmental health and safety measures relating to COVID-19 and
5 thus should be afforded additional protection under the law.

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

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

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

16 (a) Intentionally, knowingly, or recklessly causes
17 substantial bodily injury to another;

18 (b) Recklessly causes serious bodily injury to another;

19 (c) Intentionally or knowingly causes bodily injury to a
20 correctional worker, as defined in section 710-



1031(2), who is engaged in the performance of duty or who is within a correctional facility;

(d) Intentionally or knowingly causes bodily injury to another with a dangerous instrument;

(e) Intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education or an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function;

(f) Intentionally or knowingly causes bodily injury to any emergency medical services provider who is engaged in the performance of duty. For the purposes of this paragraph, "emergency medical services provider" means



1 emergency medical services personnel, as defined in
2 section 321-222, and physicians, physician's
3 assistants, nurses, nurse practitioners, certified
4 registered nurse anesthetists, respiratory therapists,
5 laboratory technicians, radiology technicians, and
6 social workers, providing services in the emergency
7 room of a hospital;

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

18 (h) Intentionally or knowingly causes bodily injury to a
19 person who:

20 (i) The defendant has been restrained from, by order
21 of any court, including an ex parte order,



1 contacting, threatening, or physically abusing
2 pursuant to chapter 586; or

3 (ii) Is being protected by a police officer ordering
4 the defendant to leave the premises of that
5 protected person pursuant to section 709-906(4),
6 during the effective period of that order;

7 (i) Intentionally or knowingly causes bodily injury to any
8 firefighter or water safety officer who is engaged in
9 the performance of duty. For the purposes of this
10 paragraph, "firefighter" has the same meaning as in
11 section 710-1012 and "water safety officer" means any
12 public servant employed by the United States, the
13 State, or any county as a lifeguard or person
14 authorized to conduct water rescue or ocean safety
15 functions;

16 (j) Intentionally or knowingly causes bodily injury to a
17 person who is engaged in the performance of duty at a
18 health care facility as defined in section 323D-2.
19 For purposes of this paragraph, "a person who is
20 engaged in the performance of duty at a health care
21 facility" includes health care professionals as



1 defined in section 451D-2, physician assistants,
2 surgical assistants, advanced practice registered
3 nurses, nurse aides, respiratory therapists,
4 laboratory technicians, and radiology technicians;

5 (k) Intentionally or knowingly causes bodily injury to a
6 person who is engaged in providing home health care
7 services, as defined in section 431:10H-201;

8 (l) Intentionally or knowingly causes bodily injury to a
9 person, employed or contracted to work by a mutual
10 benefit society, as defined in section 432:1-104, to
11 provide case management services to an individual in a
12 hospital, health care provider's office, or home,
13 while that person is engaged in the performance of
14 those services; [~~or~~]

15 (m) Intentionally or knowingly causes bodily injury to a
16 person who is sixty years of age or older and the age
17 of the injured person is known or reasonably should be
18 known to the person causing the injury[~~-~~]; or

19 (n) Intentionally or knowingly causes bodily injury to any
20 owner, employee, or agent of a retail mercantile
21 establishment who is engaged in enforcing, on behalf



1 of the retail mercantile establishment, a governmental
2 health or safety requirement relating to the
3 coronavirus disease 2019 pandemic. For the purposes
4 of this paragraph, "retail mercantile establishment"
5 has the same meaning as in section 663-2(b). It shall
6 be prima facie evidence that a person believes or is
7 aware that the other person is an owner, employee, or
8 agent of the retail mercantile establishment if, at
9 the time of enforcing the health or safety
10 requirement, the other person:

11 (i) Identifies the person's self as an owner,
12 employee, or agent of the retail mercantile
13 establishment;

14 (ii) Is wearing a name tag or clothing that identifies
15 the person as being associated with the retail
16 mercantile establishment; or

17 (iii) Is engaged in a task commonly performed by an
18 owner, employee, or agent of a retail mercantile
19 establishment, including greeting customers,
20 assisting customers, operating a cash register,
21 or restocking merchandise."



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

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

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

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INTRODUCED BY: TS Teh
JAN 20 2022



H.B. NO. 1589

Report Title:

Retail Mercantile Establishments; Health and Safety; Enforcement of COVID-19 Requirements; Penalties

Description:

Provides 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 pandemic is a class C felony.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

