

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE CLAYTON HEE, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai'i**

February 5, 2013

**RE: S.B. 570; RELATING TO THEFT.**

Chair Hee, Vice-Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney submits the following testimony in opposition to, S.B. 570.

S.B. 570 increases the threshold value of property or services stolen from \$300 to \$750 under the offense of theft in the second degree, a class C felony, which would undercut our goal of preventing theft in our State. While we understand the desire to adjust this amount for inflation, the proposed increase seems unduly high, as it more than doubles the current threshold.

Moreover, retailers may be particularly distressed by repeat or 'professional' offenders who would undoubtedly adjust their methods to account for the drastic increase in dollar amount. In court, Deputy Prosecuting Attorneys have worked on cases where offenders have repeatedly stolen items of value just under the current threshold of \$300 because they know that they will be charged as a misdemeanor rather than a class C felony. If S.B. 570 passes, these offenders will likely learn to steal just under \$750 rather than the current threshold of \$300, which will only cause more harm to people and businesses in Hawaii. In the end, it is the law abiding citizens that pay for the losses caused by offenders.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes S.B. 570. Thank you for this opportunity to testify on this bill.

ALAN M. ARAKAWA  
Mayor



# LATE TESTIMONY

JOHN D. KIM  
Prosecuting Attorney

ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

## TESTIMONY

ON

SB 570 - RELATING TO THEFT

February 5, 2013

The Honorable Clayton Hee  
Chair  
The Honorable Maile S. L. Shimabukuro  
Vice Chair  
and Members  
Senate Committee on Judiciary and Labor

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY OPPOSES** SB 570, Relating to Theft.

This bill provides for an increase in the felony theft threshold from \$300 to \$750. We believe that this bill sends the wrong message to the public. Our economic recovery is just beginning, and many of our law abiding citizens are still struggling. Increasing the felony theft threshold will not deter crimes against property, and may have the opposite effect. Such a proposal is a disservice to our citizens.

We ask that SB 570 be HELD.

Thank you very much for the opportunity to provide testimony on this bill.



## Testimony to the Senate Committee on Judiciary and Labor

Tuesday, February 5, 2013

10:00 a.m.

State Capitol - Conference Room 016

### **RE: SENATE BILL NO. 570 RELATING TO THEFT**

Chair Hee, Vice Chair Shimabukuro, and members of the committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 570 Relating to Theft.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber opposes SB570, which increases the threshold value of property or services from \$300 to \$750 under the offense of theft in the second degree. The National Retail Federation estimates that the value of merchandise lost to theft is over 1% of annual sales. We estimate that the loss is more than \$290 million each year to local businesses.

Local Loss Prevention professionals report that there are chronic shoplifters that know the system and actually calculate the value of the merchandise they are stealing to keep under the \$300 amount to avoid prosecution and serious penalties. The retailer is never compensated and has absolutely no hope of recovery.

For a small business, a loss of 1% of sales has a serious impact on their solvency. More importantly, this measure is not limited to shoplifting; we must remember that it applies to individuals as well. We should ask ourselves just how many hours one must work, or for how long one must save, to afford an item worth \$750. If stolen, the loss to the victim is devastating. If classified as a misdemeanor, there is little or no consequence for the thief.

Thank you very much for the opportunity to testify.



Senator Clayton Hee, Chair  
Senator Maile Shimabukuro, Vice Chair  
Committee on Judiciary and Labor

HEARING Tuesday, February 4, 2013  
10:00 am  
Conference Room 016  
State Capitol, Honolulu, Hawaii 96813

RE: SB570 Relating to Theft

Chair Hee, Vice Chair Shimabukuro, Members of the Committee:

My name for the record is Newell Hirata and I am the Loss Prevention Manager for the ABC Stores

**The ABC Stores strongly opposes SB570**, which increases the threshold value of property or services from \$300 to \$750 under the offense of theft in the second degree.

In 2012, our stores prevented over 300 shoplifting attempts. Realistically, the thefts that were not prevented are easily in excess of 600-700. As many Loss Prevention Professionals have probably stated, shoplifters are well aware of the limits that define a theft as a misdemeanor or a felony. An increase in these limits will allow a shoplifter to increase their thefts by \$450 without the fear of a more severe felony prosecution. Shoplifting is a huge problem for retailers. Many retailers are already struggling with repeat offenders; some of our shoplifters have over 85 charges on their record. Are we trying to make it easier for them to stay out of jail? If anything, a bill treating all shoplifting convictions in the aggregate is what should be in the works.

While we all struggle to make ends meet in this economy, our efforts should be focused on our customers. We should be focused on providing our visitors with an unforgettable memory of their time in our islands, which includes their shopping experience.

Raising the definition of a felony over the current \$300 amount will allow shoplifters to increase their theft activity. This will force businesses to focus more of their attention toward theft prevention and away from servicing customers. Retailers will be forced to increase their prices in an effort to make up for the losses they have incurred due to a rise in shoplifting. Ultimately, this will hurt Hawaii's reputation as an affordable vacation destination. Since we are already battling this perception, I see SB570 hurting Hawaii's image and its number one industry, tourism.

Thank you for your consideration, I would like to respectfully request that you hold SB570

Aloha and Mahalo,

A handwritten signature in black ink, appearing to read "Newell Hirata", with a long horizontal line extending to the right.

Newell Hirata  
Loss Prevention Manager



Committee: Committee on Judiciary and Labor  
Hearing Date/Time: Tuesday, February 5, 2013, 10:00 a.m.  
Place: Conference Room 016  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 570, Relating to Theft

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The ACLU of Hawaii generally supports S.B. 570. However, we respectfully suggest that the threshold for theft in the second degree ought to be increased above \$750, to at least \$1,000. Other states have set the threshold at or above \$1,000, and this higher threshold has not had an impact on public safety.

Further, the theft statute has not been increased since 1986, when it was increased from \$200 to \$300. With increase cost of consumer goods, a threshold of \$1,000 seems more appropriate for a charge of second-degree theft. Generally those who steal are drug abusers, stealing in order to feed their drug habits. This type of crime could be drastically reduced if there was more effort put into programs that have been proven to reduce recidivism, including education, prevention and treatment programs.

Thank you for this opportunity to testify.

Sincerely,  
Laurie A. Temple  
Staff Attorney and Legislative Program Director  
ACLU of Hawaii

*About the American Civil Liberties Union of Hawaii*

*The American Civil Liberties Union of Hawaii ("ACLU") has been the state's guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.*

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808-522-5900  
F: 808-522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)