

IN THE SUPREME COURT OF THE STATE OF HAWAII

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

In the Matter of the Publication and Distribution
of the
Hawai'i Pattern Jury Instructions - Criminal

ORDER APPROVING PUBLICATION AND DISTRIBUTION
OF HAWAII PATTERN JURY INSTRUCTIONS - CRIMINAL
(By: Moon, C.J., for the court¹)

Upon consideration of the Pattern Criminal Jury Instructions Standing Committee's request to publish and distribute revisions to Criminal Instructions 10.05, 10.05A through 10.05C, 10.06, 10.06A, 10.07, 10.07A, 10.08, 10.08A, 10.09, 10.09A, 10.10, and 10.10A to the Hawai'i Pattern Jury Instructions - Criminal,

IT IS HEREBY ORDERED that the attached criminal jury instructions 10.05, 10.05A through 10.05C, 10.06, 10.06A, 10.07, 10.07A, 10.08, 10.08A, 10.09, 10.09A, 10.10, and 10.10A are approved for publication and distribution.

IT IS FURTHER ORDERED that this approval for publication and distribution is not and shall not be considered by this court or any other court to be an approval or judgment

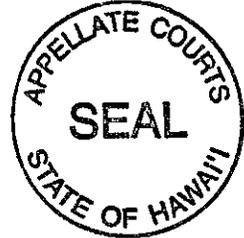
¹ Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

concerning the validity or correctness of the substance of any
pattern instruction or notes.

DATED: Honolulu, Hawai'i, October 1, 2008.

FOR THE COURT:


Chief Justice



10.05 CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
 DANGER OF DEATH OR BODILY INJURY:
 H.R.S. § 708-820(1)(a)
(Applicable to offenses occurring on or after June 9, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if by means other than fire, he/she
intentionally or knowingly damages property and thereby
recklessly places another person in danger of death or bodily
injury.

There are three material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property; and
2. That the Defendant did so intentionally or knowingly; and
3. That such conduct recklessly placed another person in
danger of death or bodily injury.

Notes

H.R.S. §§ 708-820(1)(a), 702-206(1), (2), and (3).

For definition of states of mind, see instructions:

10.05 (proposed 09/03/08)

6.02--"intentionally"

6.03--"knowingly"

6.03--"recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instruction:

10.00--"property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00--"bodily injury"

10.05 (proposed 09/03/08)

10.05 CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
 DANGER OF DEATH OR BODILY INJURY:
 H.R.S. § 708-820(1)(a)
(Applicable to offenses occurring on or after June 9, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if by means other than fire, he/she
intentionally or knowingly damages property and thereby
recklessly places another person in danger of death or bodily
injury.

There are three material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property; and
2. That the Defendant did so intentionally or knowingly; and
3. That such conduct recklessly placed another person in
danger of death or bodily injury.

Notes

H.R.S. §§ 708-820(1)(a), 702-206(1), (2), and (3).

For definition of states of mind, see instructions:

6.02--"intentionally"
6.03--"knowingly"
6.03--"recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instruction:

10.00--"property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00--"bodily injury"

10.05A CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
DAMAGE EXCEEDS \$20,000:
H.R.S. § 708-820(1)(b)

(Applicable to offenses occurring on or after June 9, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if by means other than fire, he/she
intentionally or knowingly damages the property of another,
without the other's consent, in an amount exceeding \$20,000.

There are five material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally or knowingly;
and
4. That the Defendant was aware or believed the damage to

the property exceeded \$20,000; and

5. That the damage to the property exceeded \$20,000.

Notes

H.R.S. §§708-820(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

For prima facie inference and defense regarding Defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of HRS § 708-801 (valuation of property). However, "HRS § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . HRS § 708-822 does not, on its face, require a determination of the value of property; HRS § 708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if HRS § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.05A CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --

DAMAGE EXCEEDS \$20,000:

H.R.S. § 708-820(1)(b)

~~(Applicable to offenses occurring on or after June 17, 1996)~~

(Applicable to offenses occurring on or after June 9, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if by means other than fire, he/she
intentionally or knowingly damages the property of another,
without the other's consent, in an amount exceeding \$20,000.

There are five material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another;

and

2. That the Defendant did so without the other's consent;

and

3. That the Defendant did so intentionally or knowingly;

and

10.05A (proposed 09/03/08)

4. That the Defendant was aware or believed the damage to the property exceeded \$20,000; and

5. That the damage to the property exceeded \$20,000.

Notes

H.R.S. §§ 708-820(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

For prima facie inference and defense regarding Defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. § 708-801 (valuation of property). However, "H.R.S. § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . H.R.S. § 708-822 does not, on its face, require a determination of the value of property; H.R.S. § 708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.05B CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
DANGER OF DEATH OR BODILY INJURY:

H.R.S. § 708-820(1)(a)

(Applicable to offenses that occurred on or before June 8, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if he/she intentionally or knowingly damages
property and thereby recklessly places another person in danger
of death or bodily injury.

There are three material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property; and
2. That the Defendant did so intentionally or knowingly;
and
3. That such conduct recklessly placed another person in
danger of death or bodily injury.

Notes

H.R.S. §§ 708-820(1)(a), 702-206(1), (2), and (3).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

6.03--"recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instruction:

10.00--"property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00--"bodily injury"

10.05B CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
DANGER OF DEATH OR BODILY INJURY:

H.R.S. § 708-820(1)(a)

(Applicable to offenses that occurred on or before June 8, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if he/she intentionally or knowingly damages
property and thereby recklessly places another person in danger
of death or bodily injury.

There are three material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property; and
2. That the Defendant did so intentionally or knowingly;
and
3. That such conduct recklessly placed another person in
danger of death or bodily injury.

Notes

H.R.S. §§ 708-820(1)(a), 702-206(1), (2), and (3).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

6.03--"recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instruction:

10.00--"property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00--"bodily injury"

10.05C CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --

DAMAGE EXCEEDS \$20,000:

H.R.S. § 708-820(1)(b)

(Applicable to offenses occurring on or after June 17, 1996, up to and including June 8, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in the First Degree if he/she intentionally or knowingly damages the property of another, without the other's consent, in an amount exceeding \$20,000.

There are five material elements of the offense of Criminal Property Damage in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally or knowingly;
and
4. That the Defendant was aware or believed the damage to the property exceeded \$20,000; and
5. That the damage to the property exceeded \$20,000.

Notes

H.R.S. §§ 708-820(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the amount of damage done by the offender, not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App: 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.05AC CRIMINAL PROPERTY DAMAGE IN THE FIRST DEGREE --
DAMAGE EXCEEDS \$20,000:

H.R.S. § 708-820(1)(b)

(Applicable to offenses occurring on or after June 17, 1996, up
to and including June 8, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the First Degree.

A person commits the offense of Criminal Property Damage in
the First Degree if he/she intentionally or knowingly damages the
property of another, without the other's consent, in an amount
exceeding \$20,000.

There are five material elements of the offense of Criminal
Property Damage in the First Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so intentionally or knowingly;
and

4. That the Defendant was aware or believed the damage to
the property exceeded \$20,000; and

5. That the damage to the property exceeded \$20,000.

Notes

H.R.S. §§708-820(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the *amount of damage* done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.06 CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE
WIDELY DANGEROUS MEANS:
H.R.S. § 708-821(1)(a)
(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if by means other than fire, he/she
intentionally or knowingly damages the property of another,
without the other's consent, by the use of widely dangerous
means.

There are four material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so by the use of widely
dangerous means; and

4. That the Defendant did so intentionally or knowingly.

Notes

H.R.S. §§ 708-821(1)(a), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

10.00--"widely dangerous means"

10.06 CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE
WIDELY DANGEROUS MEANS:

H.R.S. § 708-821(1)(a)

(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if by means other than fire, he/she
intentionally or knowingly damages the property of another,
without the other's consent, by the use of widely dangerous
means.

There are four material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so by the use of widely
dangerous means; and

4. That the Defendant did so intentionally or knowingly.

Notes

H.R.S. §§ 708-821(1)(a), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

10.00--"widely dangerous means"

10.06A CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE
WIDELY DANGEROUS MEANS:

H.R.S. § 708-821(1)(a)

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if he/she intentionally or knowingly damages
the property of another, without the other's consent, by the use
of widely dangerous means.

There are four material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so by the use of widely
dangerous means; and

4. That the Defendant did so intentionally or knowingly.

Notes

H.R.S. §§ 708-821(1)(a), 702-206(1).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

10.00--"widely dangerous means"

10.06A CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE
WIDELY DANGEROUS MEANS:

H.R.S. § 708-821(1)(a)

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if he/she intentionally or knowingly damages
the property of another, without the other's consent, by the use
of widely dangerous means.

There are four material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so by the use of widely
dangerous means; and

4. That the Defendant did so intentionally or knowingly.

Notes

H.R.S. §§ 708-821(1)(a), 702-206(1).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"property"

10.00--"property of another"

10.00--"widely dangerous means"

10.07 CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE:

H.R.S. § 708-821(1)(b)

(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in the Second Degree if by means other than fire, he/she intentionally or knowingly damages the property of another, without the other's consent, in an amount exceeding \$1,500.

There are five material elements of the offense of Criminal Property Damage in the Second Degree, each of which the prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of (name of county), by means other than fire, the Defendant damaged the property of another;

and

2. That the Defendant did so without the other's consent;

and

3. That the Defendant did so intentionally or knowingly;

and

4. That the Defendant was aware or believed the damage to

the property exceeded \$1,500; and

5. That the damage to the property exceeded \$1,500.

Notes

H.R.S. §§ 708-821(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"owner"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the *amount of damage* done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.07 CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE:

H.R.S. § 708-821(1) (b)

(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in the Second Degree if by means other than fire, he/she intentionally or knowingly damages the property of another, without the other's consent, in an amount exceeding \$1,500.

There are five material elements of the offense of Criminal Property Damage in the Second Degree, each of which the prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of (name of county), by means other than fire, the Defendant damaged the property of another;

and

2. That the Defendant did so without the other's consent;

and

3. That the Defendant did so intentionally or knowingly;

and

4. That the Defendant was aware or believed the damage to

the property exceeded \$1,500; and

5. That the damage to the property exceeded \$1,500.

Notes

H.R.S. §§ 708-821(1)(b), 702-206(1) and (2).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"owner"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the *amount of damage* done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.07A CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE:

H.R.S. § 708-821(1)(b)

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if he/she intentionally or knowingly damages
the property of another, without the other's consent, in an
amount exceeding [\$1,500*] [\$500].

There are five material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;

and

2. That the Defendant did so without the other's consent;

and

3. That the Defendant did so intentionally or knowingly;

and

4. That the Defendant was aware or believed the damage to to
the property exceeded [\$1,500*] [\$500]; and

5. That the damage to the property exceeded [\$1,500*]
[\$500].

Notes

H.R.S. §§ 708-821(1)(b), 702-206(1).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"owner"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

*The \$1,500 amount is applicable to offenses that occur on or after June 17, 1996.

10.07A CRIMINAL PROPERTY DAMAGE IN THE SECOND DEGREE:

H.R.S. § 708-821(1) (b)

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Second Degree.

A person commits the offense of Criminal Property Damage in
the Second Degree if he/she intentionally or knowingly damages
the property of another, without the other's consent, in an
amount exceeding [\$1,500*] [\$500].

There are five material elements of the offense of Criminal
Property Damage in the Second Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally or knowingly;
and
4. That the Defendant was aware or believed the damage to to

the property exceeded [\$1,500*] [\$500]; and

5. That the damage to the property exceeded [\$1,500*]
[\$500].

Notes

H.R.S. §§ 708-821(1)(b), 702-206(1).

For definition of states of mind, see instructions:

6.02--"intentionally"

6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00--"owner"

10.00--"property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. §708-801 (valuation of property). However, "H.R.S. §708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense'... H.R.S. §708-822 does not, on its face, require a determination of the value of property; H.R.S. §708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. §708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

*The \$1,500 amount is applicable to offenses that occur on or after June 17, 1996.

10.07A (proposed 09/03/08)

10.08 CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE --
WIDELY DANGEROUS MEANS:
H.R.S. § 708-822(1)(a)
(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in
the Third Degree if by means other than fire, he/she recklessly
damages the property of another, without the other's consent, by
the use of widely dangerous means.

There are four material elements of the offense of Criminal
Property Damage in the Third Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so by the use of widely
dangerous means; and

4. That the Defendant did so recklessly.

Notes

H.R.S. §§ 708-822(1)(a), 702-206(3).

For definition of states of mind, see instruction:

6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

10.00 - "widely dangerous means"

10.08 CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE --
WIDELY DANGEROUS MEANS:
H.R.S. § 708-822(1)(a)
(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in
the Third Degree if by means other than fire, he/she recklessly
damages the property of another, without the other's consent, by
the use of widely dangerous means.

There are four material elements of the offense of Criminal
Property Damage in the Third Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so by the use of widely
dangerous means; and
4. That the Defendant did so recklessly.

Notes

H.R.S. §§ 708-822(1)(a), 702-206(3).

For definition of states of mind, see instruction:

6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

10.00 - "widely dangerous means"

10.08A CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE --
WIDELY DANGEROUS MEANS:
H.R.S. § 708-822(1)(a)
(Applicable to offenses occurring on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in
the Third Degree if he/she recklessly damages the property of
another, without the other's consent, by the use of widely
dangerous means.

There are four material elements of the offense of Criminal
Property Damage in the Third Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so by the use of widely
dangerous means; and
4. That the Defendant did so recklessly.

Notes

H.R.S. §§ 708-822(1)(a), 702-206(3).

For definition of states of mind, see instruction:

6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

10.00 - "widely dangerous means"

10.08A CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE --

WIDELY DANGEROUS MEANS:

H.R.S. § 708-822(1)(a)

(Applicable to offenses occurring on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in the Third Degree if he/she recklessly damages the property of another, without the other's consent, by the use of widely dangerous means.

There are four material elements of the offense of Criminal Property Damage in the Third Degree, each of which the prosecution must prove beyond a reasonable doubt.

These four elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant damaged the property of another;

and

2. That the Defendant did so without the other's consent;

and

3. That the Defendant did so by the use of widely dangerous means; and

4. That the Defendant did so recklessly.

10.08A (proposed 09/03/08)

Notes

H.R.S. §§ 708-822(1)(a), 702-206(3).

For definition of states of mind, see instruction:
6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

10.00 - "widely dangerous means"

10.09 CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE:
H.R.S. § 708-822(1)(b)
(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in the Third Degree if by means other than fire, he/she intentionally damages the property of another, without the other's consent, in an amount exceeding \$500.

There are five material elements of the offense of Criminal Property Damage in the Third Degree, each of which the prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of (name of county), by means other than fire, the Defendant damaged the property of another; and
2. That the Defendant did so without the other's consent; and
3. That the Defendant did so intentionally; and
4. That the Defendant was aware or believed the damage to the property exceeded \$500; and
5. That the damage to the property exceeded \$500.

Notes

H.R.S. §§ 708-822(1)(b), 702-206(1), (2).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by HRS Chapter 708, see instructions:

- 10.00 - "property"
- 10.00 - "property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. § 708-801 (valuation of property). However, "H.R.S. § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . H.R.S. § 708-822 does not, on its face, require a determination of the value of property; H.R.S. § 708-822 refers to the *amount of damage* done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

10.09 CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE:
H.R.S. § 708-822(1)(b)
(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in the Third Degree if by means other than fire, he/she intentionally damages the property of another, without the other's consent, in an amount exceeding ~~+\$500*~~ ~~-\$100~~.

There are five material elements of the offense of Criminal Property Damage in the Third Degree, each of which the prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of (name of county), by means other than fire, the Defendant damaged the property of another; and
2. That the Defendant did so without the other's consent; and
3. That the Defendant did so intentionally; and
4. That the Defendant was aware or believed the damage to the property exceeded ~~+\$500*~~ ~~-\$100~~; and
5. That the damage to the property exceeded ~~+\$500*~~

~~[\$100].~~

Notes

H.R.S. §§ 708-822(1)(b), 702-206(1), (2).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "property"
- 10.00 - "property of another"

For prima facie inference and defense regarding defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. § 708-801 (valuation of property). However, "H.R.S. § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . H.R.S. § 708-822 does not, on its face, require a determination of the value of property; H.R.S. § 708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

~~*The \$500 amount is applicable to offenses that occur on or after June 17, 1996.~~

10.09A CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE:
H.R.S. § 708-822(1)(b)
(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in
the Third Degree if he/she intentionally damages the property of
another, without the other's consent, in an amount exceeding
[\$500*] [\$100].

There are five material elements of the offense of Criminal
Property Damage in the Third Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally; and
4. That the Defendant was aware or believed the damage to
the property exceeded [\$500*] [\$100]; and
5. That the damage to the property exceeded [\$500*]

[\$100].

Notes

H.R.S. §§ 708-822(1)(b), 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"
10.00 - "property of another"

For prima facie inference and defense regarding Defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. § 708-801 (valuation of property). However, "H.R.S. § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . H.R.S. § 708-822 does not, on its face, require a determination of the value of property; H.R.S. § 708-822 refers to the *amount of damage* done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

*The \$500 amount is applicable to offenses that occur on or after June 17, 1996.

10.09A CRIMINAL PROPERTY DAMAGE IN THE THIRD DEGREE:

H.R.S. § 708-822(1) (b)

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Third Degree.

A person commits the offense of Criminal Property Damage in
the Third Degree if he/she intentionally damages the property of
another, without the other's consent, in an amount exceeding
[\$500*] [\$100].

There are five material elements of the offense of Criminal
Property Damage in the Third Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These five elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so intentionally; and

4. That the Defendant was aware or believed the damage to
the property exceeded [\$500*] [\$100]; and

5. That the damage to the property exceeded [\$500*]

[\$100].

Notes

H.R.S. §§ 708-822(1)(b), 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

For prima facie inference and defense regarding Defendant's state of mind as to the value of the property, see instruction 10.00A(2) which embodies the statutory language of H.R.S. § 708-801 (valuation of property). However, "H.R.S. § 708-801, by its clear terms, applies only when 'the value of property or services is determinative of the class or grade of an offense.' . . . H.R.S. § 708-822 does not, on its face, require a determination of the value of property; H.R.S. § 708-822 refers to the amount of damage done by the offender not the value of the property damaged." *State v. Pardee*, 86 Hawai'i 165, 168, 948 P.2d 586, 589 (App. 1997) (emphasis added). The Intermediate Court also found that even if H.R.S. § 708-801 was applicable to criminal property damage offenses, the value of the damaged items had been sufficiently proved.

*The \$500 amount is applicable to offenses that occur on or after June 17, 1996.

10.10 CRIMINAL PROPERTY DAMAGE IN THE FOURTH DEGREE:

H.R.S. § 708-823

(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Criminal Property Damage in the Fourth Degree.

A person commits the offense of Criminal Property Damage in the Fourth Degree if by means other than fire, he/she intentionally damages the property of another without the other's consent.

There are three material elements of the offense of Criminal Property Damage in the Fourth Degree, each of which the prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of (name of county), by means other than fire, the Defendant damaged the property of another; and

2. That the Defendant did so without the other's consent; and

3. That the Defendant did so intentionally.

Notes

H.R.S. §§ 708-823, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"

10.10 CRIMINAL PROPERTY DAMAGE IN THE FOURTH DEGREE:

H.R.S. § 708-823

(Applicable to offenses occurring on or after June 6, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Fourth Degree.

A person commits the offense of Criminal Property Damage in
the Fourth Degree if by means other than fire, he/she
intentionally damages the property of another without the other's
consent.

There are three material elements of the offense of Criminal
Property Damage in the Fourth Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), by means other than fire, the Defendant damaged
the property of another; and

2. That the Defendant did so without the other's consent;
and

3. That the Defendant did so intentionally.

Notes

H.R.S. §§ 708-823, 702-206(1).

10.10 (proposed 09/03/08)

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see
instructions:

10.00 - "property"

10.00 - "property of another"

10.10A CRIMINAL PROPERTY DAMAGE IN THE FOURTH DEGREE:
H.R.S. § 708-823
(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Fourth Degree.

A person commits the offense of Criminal Property Damage in
the Fourth Degree if he/she intentionally damages the property of
another without the other's consent.

There are three material elements of the offense of Criminal
Property Damage in the Fourth Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally.

Notes

H.R.S. §§ 708-823, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see
instructions:

- 10.00 - "property"
- 10.00 - "property of another"

10.10A CRIMINAL PROPERTY DAMAGE IN THE FOURTH DEGREE:

H.R.S. § 708-823

(Applicable to offenses that occurred on or before June 5, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Criminal Property Damage in the Fourth Degree.

A person commits the offense of Criminal Property Damage in
the Fourth Degree if he/she intentionally damages the property of
another without the other's consent.

There are three material elements of the offense of Criminal
Property Damage in the Fourth Degree, each of which the
prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant damaged the property of another;
and
2. That the Defendant did so without the other's consent;
and
3. That the Defendant did so intentionally.

Notes

H.R.S. §§ 708-823, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "property"

10.00 - "property of another"