

amended or recodified; or according to the laws applicable on board United States vessels on the high seas. [The Act of June 15, 1950 (ch. 253, 64 Stat. 217).]

§ 762.16 Adoption of certain criminal provisions of the Hawaii Revised Statutes.

(a) *Offenses adopted.* Whoever on the Midway Islands is guilty of any act or omission, which, although not made punishable by an enactment of Congress or under §§ 762.20 through 762.39, would be punishable if committed within the State of Hawaii by the laws thereof at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b) *Jurisdiction over such offenses.* The United States District Court for the District of Hawaii shall have jurisdiction to try all such offenses except those which are subject, under title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than \$500 or both. Those offenses falling within the above-stated exception shall be tried in the Midway Islands Court.

§ 762.17 Conflicts of laws.

In no event shall the provisions of this part supersede the Uniform Code of Military Justice when the latter is applicable. Any adopted provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, which duplicate or conflict with any other provisions of this part shall be of no effect.

§ 762.18 Time limitations.

(a) A prosecution for any petty offense under this part must be commenced within two years after it is committed.

(b) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(c) A prosecution is commenced either when an information is filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.

(d) The period of limitation does not run:

(1) During any time when the accused is absent from the Midway Islands or has no reasonably ascertainable place of abode or work within the Midway Islands, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when a prosecution against the accused for the same conduct is pending in the Midway Islands Court.

(e) Except those offenses which are subject, under title 37 of the "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than \$500, or both, offenses charged and treated under § 762.16 (a) and (b), shall be subject to the appropriate time-limitation rules set forth in section 108, title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified.

§ 762.19 Petty offenses; general.

All offenses contained in §§ 762.20 through 762.39 and those offenses adopted under § 762.16(a), as they now appear or as they may be amended or recodified, which are subject, under title 37, "Hawaii Revised Statutes," to a penalty of imprisonment for six months or less or a fine of not more than \$500, or both, shall be termed "Petty Offenses" and subject to the penalties set forth in §§ 762.40 through 762.49.

§ 762.20 Breach of the peace offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) With intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, to engage in fighting, threatening, or other violent or tumultuous behavior; or to make unreasonable noise or offensively coarse utterances, gestures, or displays, or address abusive language to

any person present; or to create a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit;

(b) Having no legal privilege to do so, knowingly or recklessly to obstruct any roadway, alley, runway, private driveway, or public passage, or interfere with or unreasonably delay any emergency vehicle or equipment or authorized vehicle, boat, vessel, or plane, or any peace officer, fireman, or other public official engaged in or attempting to discharge any lawful duty or office, whether alone or with others. "Obstruction" as used in this paragraph means rendering impassable without unreasonable inconvenience or hazard;

(c) When in a gathering, to refuse to obey a reasonable request or order by a peace officer, fireman, or other public official to move;

(1) To prevent an obstruction of any public road or passage;

(2) To maintain public safety by dispersing those gathered in dangerous proximity to a public hazard. An order to move under this paragraph addressed to a person whose speech or other lawful behavior attracts an obstructing audience, is not reasonable if the obstruction can be readily remedied by police control;

(d) To be substantially intoxicated on any street, road, beach, theater, club, or other public place from the voluntary use of intoxicating liquor, drugs, or other substance. As used in this paragraph, "substantially intoxicated" is defined as an actual and considerable disturbance of mental or physical capacities;

(e) With intent to arouse or gratify sexual desire of any other person, to expose one's genitals to a person to whom one is not married under circumstances in which one's conduct is likely to cause affront or alarm; or

(f) Who is a minor under the age of 18 years, except a person in the military, to loiter about or otherwise be on any street, road, beach or other public place or in any theater, club, or other facility between the hours of 12:00 midnight and 5:30 a.m. unless accompanied by an adult over the age of 21 years and with the express permission of such minor's parent or legal guardian; and for

any parent, guardian, or other person having the legal care, custody, or control of any minor under the age of 18 years, except a person in the military, to allow or permit such minor to violate this ordinance.

§ 762.22 Offenses against property.

It shall be unlawful for any person, while on the Midway Islands:

(a) To loiter, prowl, or wander upon or near the assigned living quarters and adjacent property of another without lawful purpose, or, while being upon or near the assigned living quarters and adjacent property of another, to peek in any door or window of any inhabited building or structure located thereon without lawful purpose;

(b) To enter upon any assigned residential quarter or areas immediately adjacent thereto, without permission of the assigned occupant;

(c) Who is a male to enter any area, building, or quarter reserved for women, except in accordance with established visiting procedures;

(d) Who is a female to enter any area, building, or quarter reserved for men, except in accordance with established visiting procedures;

(e) To enter or remain in, without lawful purpose, any office building, warehouse, plant, theater, club, school, or other building after normal operating hours for that building;

(f) To enter or remain in any area or building designated and posted as "restricted" unless authorized by proper authority to be there; or

(g) To steal any services or property of a value of less than \$50 belonging to or property of another.

§ 762.24 Moral offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) To engage in prostitution. "Prostitution" means the giving or receiving of the body for sexual intercourse for hire or for indiscriminate sexual intercourse with or without hire; or

(b) To do any lewd act in a public place which is likely to be observed by others who would be affronted or alarmed. "Lewd Act" includes any indecent or obscene act.