



GOV. MSG. NO. 872

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 1, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 1, 2007, the following bill was signed into law:

SB1665 HD1 CD1

A BILL FOR AN ACT RELATING TO ANIMALS.
(ACT 114)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO ANIMALS.

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

1 SECTION 1. The purpose of this Act is to strengthen
2 Hawaii's animal cruelty laws.

3 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 §711-A Cruelty to animals in the first degree. (1) A
7 person commits the offense of cruelty to animals in the first
8 degree if the person intentionally or knowingly tortures,
9 mutilates, or poisons or causes the torture, mutilation, or
10 poisoning of any pet animal resulting in serious bodily injury
11 or death of the pet animal.

12 (2) subsection (1) shall not apply to:

13 (a) Accepted veterinary practices;

14 (b) Activities carried on for scientific research
15 governed by standards of accepted educational or
16 medicinal practices; or

17 (c) Cropping or docking as customarily practiced.



1 (3) Whenever any pet animal is so severely injured that
2 there is no reasonable probability that its life can
3 be saved, the pet animal may be immediately destroyed
4 without creating any offense under this section.

5 (4) Cruelty to animals in the first degree is a class C
6 felony.

7 SECTION 3. Section 711-1100, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§711-1100 Definitions.** In this chapter, unless a
10 different meaning is plainly required, or the definition is
11 otherwise limited by this section:

12 "Animal" includes every living creature, except a human
13 being.

14 [~~"Cruelty", "torture" or "torment" includes every act,~~
15 ~~omission, or neglect whereby unjustifiable physical pain,~~
16 ~~suffering, or death is caused or permitted.]~~

17 "Facsimile" means a document produced by a receiver of
18 signals transmitted over telecommunication lines, after
19 translating the signals, to produce a duplicate of an original
20 document.

21 "Necessary sustenance" means care sufficient to preserve
22 the health and well-being of a pet animal, except for



1 emergencies or circumstances beyond the reasonable control of
2 the owner or caretaker of the pet animal, and includes but is
3 not limited to the following requirements:

4 (1) Food of sufficient quantity and quality to allow for
5 normal growth or maintenance of body weight;

6 (2) Open or adequate access to water in sufficient
7 quantity and quality to satisfy the animal's needs;

8 (3) Access to protection from wind, rain, or sun; and

9 (4) An area of confinement that has adequate space
10 necessary for the health of the animal and is kept
11 reasonably clean and free from excess waste or other
12 contaminants that could affect the animal's health.

13 "Obstructs" means renders impassable without unreasonable
14 inconvenience or hazard.

15 "Pet animal" means a dog, cat, domesticated rabbit, guinea
16 pig, [~~domestic rat or mouse,~~] domesticated pig, or caged birds
17 (passeriformes, piciformes, and psittaciformes only) [-] so long
18 as not bred for consumption.

19 "Private place" means a place where one may reasonably
20 expect to be safe from casual or hostile intrusion or
21 surveillance, but does not include a place to which the public
22 or a substantial group thereof has access.



1 "Public" means affecting or likely to affect a substantial
2 number of persons.

3 "Public place" means a place to which the public or a
4 substantial group of persons has access and includes highways,
5 transportation facilities, schools, places of amusement or
6 business, parks, playgrounds, prisons, and hallways, lobbies,
7 and other portions of apartment houses and hotels not
8 constituting rooms or apartments designed for actual residence.

9 "Record", for the purposes of sections 711-1110.9 and 711-
10 1111, means to videotape, film, photograph, or archive
11 electronically or digitally.

12 "Torment" means fail to attempt to mitigate substantial
13 bodily injury with respect to a person who has a duty of care to
14 the animal.

15 "Torture" includes every act, omission, or neglect whereby
16 unjustifiable physical pain, suffering, or death is caused or
17 permitted.

18 SECTION 4. Section 711-1109, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§711-1109 Cruelty to animals[-] in the second degree.



1 (1) A person commits the offense of cruelty to animals in
2 the second degree if the person intentionally, knowingly, or
3 recklessly:

4 (a) Overdrives, overloads, tortures, torments, [~~cruelly~~]
5 beats, causes substantial bodily injury, or starves
6 any animal, or causes [~~or procures~~] the overdriving,
7 overloading, torture, torment, [~~cruel~~] beating, or
8 starving of any animal, or deprives a pet animal of
9 necessary sustenance or causes such deprivation;

10 (b) Mutilates, poisons, or kills without need any animal
11 other than insects, vermin, or other pests;

12 (c) Keeps, uses, or in any way is connected with or
13 interested in the management of, or receives money for
14 the admission of any person to, any place kept or used
15 for the purpose of fighting or baiting any bull, bear,
16 [~~dog,~~] cock, or other animal, and every person who
17 encourages, aids, or assists therein, or who permits
18 or suffers any place to be so kept or used;

19 (d) Carries or causes to be carried, in or upon any
20 vehicle or other conveyance, any animal in a cruel or
21 inhumane manner; or



1 (e) Assists another in the commission of any act~~of~~
2 ~~cruelty to any animal.~~ specified in subsections (1)(a)
3 through (1)(d).

4 (2) Subsection (1)(a), (b), (d), and (e), ~~and the~~
5 ~~following subsection (3) are~~ shall not ~~[applicable]~~ apply to
6 [accepted]:

7 (a) Accepted veterinary practices ~~[and to activities];~~

8 (b) Activities carried on for scientific research governed
9 by standards of accepted educational or medicinal
10 practices~~-~~; or

11 (c) Pest control operations conducted pursuant to chapter
12 149A by a pest control operator licensed pursuant to
13 chapter 460J, if the pest control is performed under a
14 written contract.

15 (3) Whenever any ~~domestic~~ animal is so severely injured
16 that there is no reasonable probability that its life
17 or usefulness can be saved, the animal may be
18 immediately destroyed~~-~~ without creating any offense
19 under this section.

20 (4) Cruelty to animals in the second degree is a
21 misdemeanor.

22



1 SECTION 5. Section 711-1109.1, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) If there is probable cause to believe that a pet
4 animal is being subjected to treatment in violation of section
5 711-1109, 711-_____, or 711-1109.3, a law enforcement officer,
6 after obtaining a search warrant or in any other manner
7 authorized by law, may enter the premises where the pet animal
8 is located to provide the pet animal with food, water, and
9 emergency medical treatment or to impound the pet animal. If
10 after reasonable effort, the owner or person having custody of
11 the pet animal cannot be found and notified of the impoundment,
12 an impoundment notice shall be conspicuously posted on the
13 premises and within seventy-two hours after posting, the notice
14 shall be sent by certified mail to the address, if any, from
15 which the pet animal was removed."

16 SECTION 6. Section 711-1109.2 is amended as follows:

17 1. By amending subsection (1) to read:

18 "(1) If any pet animal is impounded pursuant to section
19 711-1109.1, prior to final disposition of the criminal charge
20 under section 711-1109, 711-_____, or 711-1109.3 against the pet
21 animal's owner, any duly incorporated humane society or duly
22 incorporated society for the prevention of cruelty to animals



1 that is holding the pet animal may file a petition in the
2 criminal action requesting that the court issue an order for
3 forfeiture of the pet animal to the county or to the duly
4 incorporated humane society or duly incorporated society for the
5 prevention of cruelty to animals prior to final disposition of
6 the criminal charge. The petitioner shall serve a true copy of
7 the petition upon the defendant and the prosecuting attorney."

8 2. By amending subsection (3) to read:

9 "(3) At a hearing conducted pursuant to subsection (2), the
10 petitioner shall have the burden of establishing probable cause
11 that the pet animal was subjected to a violation of section
12 711-1109, 711-_____, or 711-1109.3. If the court finds that
13 probable cause exists, the court shall order immediate
14 forfeiture of the pet animal to the petitioner, unless the
15 defendant, within seventy-two hours of the hearing:

16 (a) Posts a security deposit or bond with the court clerk
17 in an amount determined by the court to be sufficient
18 to repay all reasonable costs incurred, and
19 anticipated to be incurred, by the petitioner in
20 caring for the pet animal from the date of initial
21 impoundment to the date of trial; or



1 (b) Demonstrates to the court that proper alternative care
2 has been arranged for the pet animal.

3 Notwithstanding subsection (3)(a), a court may waive, for good
4 cause shown, the requirement that the defendant post a security
5 deposit or bond."

6 3. By amending subsection (5) to read:

7 "(5) No pet animal may be destroyed by a petitioner under
8 this section prior to final disposition of the criminal charge
9 under section 711-1109, 711-_____, or 711-1109.3 against the pet
10 animal's owner, except in the event that the pet animal is so
11 severely injured that there is no reasonable probability that
12 its life can be saved."

13 SECTION 7. Section 711-1110.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 " **§711-1110.5 Surrender or forfeiture of animals.** Upon
16 conviction, guilty plea, or plea of nolo contendere for any
17 violation of section 711-1109, 711-_____, or 711-1109.3:

18 (1) The court may order the defendant to surrender or
19 forfeit the animal whose treatment was the basis of
20 the conviction or plea to the custody of a duly
21 incorporated humane society or duly incorporated
22 society for the prevention of cruelty to animals for



1 the time and under the conditions as the court shall
2 order; and

3 (2) The court also may order the defendant to surrender or
4 forfeit any other animals under the possession,
5 custody, or control of the defendant to the custody of
6 a duly incorporated humane society or duly
7 incorporated society for the prevention of cruelty to
8 animals for the time and under the conditions as the
9 court shall order, if there is substantial evidence
10 that the animals are being abused or neglected.

11 The court shall order the defendant to reimburse the duly
12 incorporated humane society or duly incorporated society for the
13 prevention of cruelty to animals for reasonable costs incurred
14 to care, feed, and house any animal that is surrendered or
15 forfeited pursuant to this section."

16 SECTION 8. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

19 SECTION 9. In codifying the new section added by section 2
20 of this Act, the revisor of statutes shall substitute an
21 appropriate section number for the letter used in designating
22 the new section in this Act.



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval.
4



GOVERNOR OF THE STATE OF HAWAII

Approved this day: JUN 1 2007

