



TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 730, H.D. 1, RELATING TO CRUELTY TO ANIMALS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Friday, March 20, 2009 TIME: 9:30 AM

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Lance M. Goto, Deputy Attorney General

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

The purpose of the bill is to clarify and expand the scope of the law prohibiting dog fighting.

On page 1, line 5, the bill adds the phrase "for entertainment or financial gain." This amendment creates an additional element of proof applicable to all of the proposed subsections that follow, which are intended to define the offense of Cruelty to Animals by Fighting Dogs. We believe it does not make sense to apply this phrase to the proposed subsections (b), (d) and (f) on page 2.

As applied to the proposed subsection (b), a person would commit the offense if the person, for entertainment or financial gain, knowingly owns, trains, transports, possesses, breeds, sells, transfers, or equips any dog with the intent that such dog shall be engaged in a dogfight. It is difficult to conceive how this could be proven.

As applied to the proposed subsection (d), a person would commit the offense if the person, for entertainment or financial gain, knowingly allows any dog intended by the person to be used for a dogfight to be kept, boarded, housed, trained on, or transported in,

any property owned or controlled by the person. Again, it is difficult to conceive how this could be proven.

As applied to the proposed subsection (f), a person would commit the offense if the person, for entertainment or financial gain, possesses any device intended to enhance the dog's fighting ability with the intent that the device be used to train or prepare the dog for a dogfight. It would be difficult to prove that at the time a person was found in possession of a device, the person was using it for entertainment or financial gain. It also seems unnecessary to add this element.

Additionally, the wording of subsection (d) appears to be incorrect. As written, subsection (d) prohibits a person from allowing a dog intended by him to be used for a dogfight, to be kept on his property. However, it appears that the actual intent of that subsection may be to prohibit a third party from allowing a person to keep a dog intended to be used for a dogfight on that third party's property.

The proposed subsection (e) makes it an offense to knowingly "wager or pay admission on a dogfight." The term "wager" is not defined, and is not a term used in the gambling statutes under chapter 712, Hawaii Revised Statutes. It is unclear whether illegal gambling activity must be proven, or whether a wager may be proven simply by showing that a person bet on the outcome of a dogfight. The term "admission" is also undefined. As written, the bill could allow individuals to evade the prohibition on paying "admission" to a dogfight through schemes like collecting donations, food charges, or parking fees.

On page 3, lines 1-3, the bill establishes violations of the section as class C felonies, yet also classifies violations of subsections (e) and (f) as misdemeanors. (The violation of subsection (e) or (f) is addressed in the form of a proviso, but the classification of the violation is actually an exception to the class C felony classification for this section.) If this bill is passed, we

recommend that the two grades of the offense be established in two separate sections, as two different degrees. This is consistent with the form of other statutes in the penal code.

From: Stephanie Ryan [adoptions@hawaiidogfoundation.org]
Sent: Friday, March 20, 2009 10:02 AM
To: JGO Testimony
Subject: H.B. 730 HD 1, H.B. 1512 HD 1

LATE

H.B. 730 HD 1; Related to Dogfighting;

Hawaii ranked 50th in part because it is one of only two states with no penalties for paying admission or wagering on an organized dogfight or for breeding, selling or possessing dogs with the intent to fight. Stray or stolen pets are used as "bait" to train dogs to fight. Recent studies have shown many dogs especially larger breeds have the mental and emotional capacity of a five year old child. Please support HB 730 to fight this cruelty, crime and protect our dogs in this beautiful state.

H.B. 1512 HD 1; Pet Protective Orders: Recent studies have shown many dogs especially larger breeds have the mental and emotional capacity of a five year old child. Dogs are our Ohana and feel the same physical and spiritual pain that humans do. They are pack animals and must live amongst the family group. Tethering and caging a dog alone is unnatural and inhumane. You would not tie up your five year old child away from the family because you did not have time to teach or care for them. Please let us grow into the future with the spirit of Aloha.

Stephanie Ryan
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Save A Life! Spay and Neuter All Your Pets!