

HB2725,
HD1

**Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary
and Government Operations**

March 12, 2010

H.B. No. 2725 HD1: RELATING TO ANIMALS.

Chair Taniguchi and Members of the Committee:

H.B. No. 2725 HD1 proposes to change the definitions in HRS § 711-1100 by adding a new definition for “primary pet enclosure” and amending the definition of “necessary sustenance”.

These proposed changes are intended to impact the offense of Cruelty to animals in the second degree, HRS § 711-1109 (1) (a) which states in relevant part:

**A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly or recklessly:
... deprives a pet animal of necessary sustenance or causes such deprivation.**

Currently, the law requires that a person provide “necessary sustenance” which includes, but is not limited to, providing:

- (1) sufficient quality and quantity of food,
- (2) adequate access to water,
- (3) access to protection from wind, rain or sun, and
- (4) an area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health.

The change proposed in this bill would delete (4) above and replace it with a requirement that a person provide an area of confinement in a “primary pet enclosure” (defined as a kennel, cage, or structure which restricts an animal’s space) that, among other requirements:

...
(B) is constructed of safe materials to protect an animal from injury

...
(D) provides an animal with a solid surface or resting platform that is large enough for the animal to lie down in a normal manner, and

(E) provides enough space for an animal to “easily stand, sit, lie, turn around, make all other normal body movements in a comfortable normal position for the animal without making physical contact with any other animal enclosure” and “to interact safely with other animals within the enclosure”.

We believe these proposed changes are ill-advised and will lead to a great deal of confusion in applying our Second Degree Cruelty to Animals statute.

First of all, it is unclear what is meant by "safe materials". Pet product stores sell soft-sided carrying bags for cats, for example, which would not necessarily "protect an animal from injury". A pet owner who handled the carrier responsibly to assure that no harm came to their pet would still risk technical violation of this law. Such a carrier does not necessarily provide a "solid surface" or resting "platform", also undefined terms. Finally, there are carriers used for transporting pets which do not necessarily provide room for an animal to "easily" "turn around" or "make other normal bodily movements in a comfortable position", another term that is not defined.

The changes proposed in this bill are unnecessary. H.R.S. § 711-1109, Cruelty to Animals 2°, already contains a provision which outlaws "confining, in a kennel or cage, any pet animal in a cruel or inhumane manner." This provision sufficiently regulates the conduct which the amendment proposed in this bill seeks to address.

Moreover, the provisions of the bill would be largely unenforceable because animal care officials would not have access to pet owner's properties to assess the safety of the enclosures. These provisions are mostly likely to be used by feuding neighbors who will enlist the help of the vague guidelines to file complaints against their adversaries. They are also likely to create appellate litigation challenging the vagueness of the terms.

For these reasons, we oppose this proposed legislation. Thank you for the opportunity to comment on this bill.



HAWAIIAN HUMANE SOCIETY

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*The Hawaiian Humane
Society is dedicated to
promoting the human-
animal bond and
the humane treatment of
all animals.*

March 10, 2010

Brian T. Taniguchi, Chair
Dwight Y. Takamine, Vice Chair
Senate Committee on Judiciary and
Government Operations

Re: Testimony on HB 2725 HD1

Chair Taniguchi, Vice Chair Takamine and Members of the Senate
Committee on Judiciary and Government Operations:

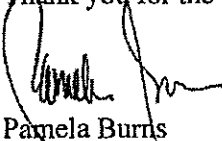
On behalf of our more than 26,000 supporters in Hawaii, the
Hawaiian Humane Society greatly appreciates the opportunity to
comment on HB 2725 HD1 Relating to Animals.

We strongly support HB 2725 HD1, which expands the definition of a
primary pet enclosure and also amends the definition of necessary
sustenance to include a broader range of care needed to sufficiently
preserve the health and well-being of a pet animal. The language also
includes important changes that provide the animal with a solid
surface or resting platform, provide sufficient space to allow the
animal normal body movements in a comfortable way and require the
provision of veterinary care when needed to prevent suffering.

However, we respectfully request that the exemption for providing a
resting platform for rabbits and guinea pigs be deleted. They too need
a solid platform to rest upon to avoid hock sores from continuously
being on a wire bottom. In addition, we ask that "domesticated pig"
be reinstated into the definition of "Pet Animal".

The Hawaiian Humane Society strongly supports HB 2725 HD1 with
the recommended changes and urge your support.

Thank you for the opportunity to testify.


Pamela Burns
President & CEO



Hawaii Cattlemen's Council, Inc.

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SENATE COMMITTEE ON JUDICIARY

Friday March 12, 2010 9:30 am Room 016

HB 2725 HD1R ELATING TO ANIMALS

Chairman Taniguchi and Members of the Committee:

My name is Alan G. Ottlieb, and I am the President of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council would like to offer comments on H B 2725 HD1.

While the original bill language may be appropriate for certain pet animals, HCC is extremely concerned that this proposal may be an effort by mainland animal rights activists to extend strict habitat requirements to farmers' and ranchers' livestock rearing practices. Similar efforts have been made throughout the country by activists who are working to abolish animal agriculture. For that reason, we suggested certain language to the House which would alleviate our concerns, and they have inserted that language in HD 1. If that new language is removed, we would strongly oppose this bill.

We in the Livestock industry are very sensitive to Animal Cruelty Issues. We are also very sensitive about groups of people who do not believe anyone should be allowed to eat food derived from animals, or own pets or ride horses. Many times, these groups get their foot in the door with legislation by grossly exaggerating an issue or using an example of one bad actor that all would agree should be stopped. Some of these radical animal activists do not want people to eat meat or poultry. We believe that people should have the right to *not* be vegetarians. The Hawaii Cattlemen's Council has developed and our members have adopted standards for Ethical Practices and the safe and humane treatment of animals. We work with veterinarians and leading animal welfare experts, constantly improving what we do and how we do it. Livestock producers would not benefit from mistreating their animals.

Thank you for giving us the opportunity to testify on this important matter.

From: MMMMahalo2000@aol.com
Sent: Tuesday, March 09, 2010 12:46 PM
To: JGO Testimony
Subject: HB2725 3/12/10

Bill: HB 2725

Date 3/12/10

Time 9:30 AM

Room 016

Support

Will not be present

Mike Moran

Kihei, Hi

mmmmahalo2000@aol.com

Please support this reasonable measure for animal welfare for Hawaii's dogs. Providing at least a rudimentary shelter for a canine is a minimal requirement. Mahalo.

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Tuesday, March 09, 2010 1:17 PM
To: JGO Testimony
Subject: HB2725; JGO; 3/12; 9:30AM; Rm 016

Importance: High

HB2725, Relating to Animals
JGO; Chair, Sen Taniguchi

PLEASE PASS THIS BILL!

Thank you so much for hearing this bill. Its passage will do wonders by amending our laws to make animal enclosures more humane. In essence, we all love animals but often fall short by housing them in ways that cause incredible, long-term suffering. How hypocritical!

This bill will move Hawai'i to the forefront nationally of states that care enough to make animals lives better than lives of constant abuse and discomfort. I know some may oppose this bill because it will cost them a little money to make their animals more comfortable, but like all issues, there has to be a prioritization of values. In this case, most of the community would agree that ending the suffering of animals is a higher priority than saving a few bucks.

Thanks you so much for passing this bill.

Aloha, joel

Dr. Joel Fischer, ACSW
Professor (Ret.)
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill