



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016

ON THE FOLLOWING MEASURE:

H.B. NO. 2245, H.D. 1, RELATING TO ANIMALS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Monday, March 21, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Michelle M. Puu, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General (“Department”) appreciates the intent of this bill and submits the following proposed amendments to improve its enforceability.

The purpose of this bill is to increase the penalties for the offense of animal desertion, in order to more adequately deter the conduct prohibited by section 143-2.6, Hawaii Revised Statutes (HRS). The bill essentially establishes two offenses under the general label “animal desertion”; one petty misdemeanor offense and one misdemeanor offense. In the bill, petty misdemeanor animal desertion does not represent any change from the current statute. Misdemeanor animal desertion occurs if, as a result of committing petty misdemeanor animal desertion, the animal (1) suffers death or substantial bodily injury, or (2) causes the death or injury of livestock.

With respect to the enforceability of the bill, the Department has two main areas of concern. First, there appears to be a disconnect between the wording in subsection (a), which remains unchanged from the current statute, and the amendments to subsection (b) which establish the misdemeanor animal desertion offense. Subsection (a) makes it unlawful for the owner or possessor of an animal to “leave the animal without the intention of returning to it.” The beginning of subsection (b) makes a violation of subsection (a) a petty misdemeanor. Subsection (b) goes on, however, to establish that “provided that if, as a result of the desertion, the animal: (1) suffers death or substantial bodily injury; or (2) causes the death or injury of livestock.” While it appears that the “desertion” referred to in subsection (b) is the conduct

described in subsection (a), the wording could be amended to eliminate this disconnect and avoid any confusion.

Second, the phrase “as a result of the desertion” itself creates a proof problem. In order to prevail on the misdemeanor animal desertion the State would essentially have to prove beyond a reasonable doubt that the “desertion” caused the death or substantial bodily injury of the animal or the death or injury of the livestock. It is unclear as to under what circumstances desertion, by itself, could be said to result in or “cause” the death or substantial bodily injury of an animal or cause the death or injury of livestock. There could be any number of intervening acts or circumstances that would cause either result. While the death or substantial bodily injury of the animal deserted could be causally linked to the desertion, the death or injury of any livestock is likely to be more attenuated and insufficient to establish criminal liability.

For the purposes of enforceability, the Department recommends the following changes be made to the bill, consistent with the drafter’s intent to establish both a petty misdemeanor and misdemeanor offense of animal desertion:

The Department recommends subsection (a) should be amended to read: “It shall be unlawful for the owner of any animal or any person in possession of an animal ~~[that belongs to another person to leave the animal without the intention of returning to it.]~~ to desert the pet animal.” A definition for “desert” should then be inserted this section to mean: “to leave without intending to return.” Subsection (b) should be amended to read: “Any person who violates ~~[this section]~~ subsection (a) shall be guilty of a petty misdemeanor~~[-]~~ and subject to a fine of not less than \$1,000 in addition to any other penalties.” A new subsection (c) should be inserted to read: “Any person who violates subsection (a) and (1) recklessly causes the death or substantial bodily injury of the animal; or (2) the animal thereafter causes the death or injury of livestock, shall be guilty of a misdemeanor and subject to a fine of not less than \$2,000 in addition to any other penalties.” A new subsection (d) should be inserted to read: “Each animal deserted and each pet animal that suffers death or substantial bodily injury shall constitute a separate offense.”

Finally, we recommend that the current subsection (c) in the bill be redesignated subsection (e) and, to address situations where a pet animal may be legitimately surrendered to the Hawaiian Humane Society, the Department recommends amending the wording as follows:

“This section shall not apply to the release of an animal as part of a population management program or the surrender of a pet animal to the Hawaiian Humane Society.”

The Department recommends that the above matters be considered and that the suggested changes be made in order to better promote the intent of this bill. Thank you for the opportunity to testify.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

March 21, 2016
9:00 A.M.
CONFERENCE ROOM 016

HOUSE BILL 2245 HD1
RELATING TO ANIMALS

Chairperson Keith-Agaran and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2245 HD1. The bill establishes penalties should a person be found guilty of deserting an animal in their possession and as a result of that desertion, the animal suffers death or substantial bodily injury. The Hawaii Department of Agriculture supports this bill.

Stronger penalties will deter animal abandonment and the potential impact of that action on the health of the animal and the cost to the community. Abandonment of dogs can lead to feral pack formation that cause significant harm to livestock and wildlife.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY AND LABOR**

**Monday, March 21, 2016
9:00 AM
State Capitol, Conference Room 016**

**In consideration of
HOUSE BILL 2245, HOUSE DRAFT 1
RELATING TO ANIMALS**

House Bill 2245, House Draft 1 proposes to increase penalties for animal desertion. **The Department of Land and Natural Resources (Department) offers the following comments.**

Hawaii's native species evolved over millions of years in an environment devoid of human-introduced animals such as cats and dogs. The release of such animals when no longer wanted as pets, presents a clear threat to Hawaii's native wildlife. Today, 28% of all threatened and endangered species in the United States are located in Hawaii, and 78% of all United States species extinctions have occurred in Hawaii. Discouraging the release of non-native animals into the environment is a necessary component of wildlife conservation in Hawaii.

The Department supported the initial draft of this measure, but notes that House Draft 1 amends the measure to exempt animals (referred to in Section 1 as being "primarily dogs and cats") that are "released as part of a population management program." The Department notes that it is already illegal to release "wildlife" under Chapter 183D, Hawaii Revised Statutes. Similarly, domesticated animals such as cats and dogs should not be released, but rather remain in the care of owners within their homes or on their private property. The Department requests clarity on what constitutes a "population management program." If this language is intended to refer to the practice of using "Trap, Neuter, Release" (TNR, also known as "Trap, Neuter, Release, and Manage", or TNRM) to manage feral cat colonies, the Department notes that scientific studies in peer-reviewed journals have demonstrated that this practice is not effective at reducing populations of feral cats, and should not be considered as "population management." Instead, the presence of feral cat colonies provides owners of unwanted pets with an expectation that their abandoned pet will be cared for by someone else, increasing the likelihood of abandonment. The

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Department suggests that this practice should not be exempted from laws regarding animal desertion and that subsection (c) on page two, line seventeen of this measure be removed.

The Department appreciates the opportunity to provide these comments.



**THE HUMANE SOCIETY
OF THE UNITED STATES**

**TO: Honorable Chair Keith-Agaran, Vice-Chair Shimabukuro and
Senate Judiciary Committees
March 21, 2016 9am**

**FROM: Inga Gibson, Hawaii Senior State Director, The Humane Society of the
United States, igibson@humanesociety.org, 808.354.3211**

RE: SUPPORT HB2245; Relating to animals, pet abandonment

On behalf of The Humane Society of the United States members and supporters across Hawaii we urge your support of HB2245, which would increase the penalties for the intentional abandonment of a pet animal.

Pets depend on people for care and compassion. Abandoned pets can become the victim of starvation, disease, injury, death or human cruelty. Abandoned pets who are unsterilized may also reproduce and contribute to pet overpopulation, which increases the financial burden on animal care and control agencies and taxpayers. Abandoned pets have also been known to harm native wildlife. Further, in looking at abandonment laws across the nation, Hawaii's law is one of the weakest in the nation, only a petty misdemeanor with a fine of \$50. Other states classify abandonment as a misdemeanor or even a felony.

The purpose of this measure is to encourage pet owners who must find a home for their pet to work with local shelters and rescue groups on rehoming options, and not to simply abandon or desert their pets. Pets are family members and there are resources to help keep pets in their home and strengthen the human-animal bond.

We understand that the Department of Agriculture suggested the addition of a penalty for the death or injury of livestock caused by an abandoned animal, however, we believe that is already adequately covered under HRS 142-0074; Liability of dog owner, that also includes court costs and other expenses related to a dog injuring or killing livestock (http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0142/HRS_0142-0074.htm).

While there have been a number of abandonment prosecutions under existing statute, we appreciate the clarifying amendments proposed by the Attorney General to clarify animal to mean any "pet animal" as that term is defined in HRS 711-1100.

Thank you for your consideration of this testimony.



improving the quality of lives of pets and their people.

Testimony by Alicia Maluafiti, President, Poi Dogs & Popoki
In strong support of HB 2245 HD1 Relating to Animals
Senate Committee on Judiciary and Labor
Monday, March 21, 9 am, Room 016

Aloha Chair Keith Agaran and members of the committee,

My name is Alicia Maluafiti, President of Poi Dogs & Popoki (PDP), and I am testifying in strong support of HB 2245 HD 1 which increases penalties for animal abandonment. I have been involved in animal rescue for almost 20 years. I was a Director at Hawaiian Humane Society and a founder and president of Oahu Society for the Prevention of Cruelty to Animals before I started PDP.



Proposed Amendment: Increase the Penalty

The Honolulu City Council is currently considering a bill to increase the fine for illegal dumping of trash from \$250 to \$2,500. Ghandi said “The greatness of a nation and its moral progress can be judged by the way its animals are treated.” How can we justify fining people MORE for dumping trash than for dumping animals? I would ask the committee to increase the fine from \$1,000 to \$2,500 so that we are at least valuing the life of an animal as much as we value a clean street.

Why We Need this Bill

For those of us doing rescue, animal abandonment is a regular part of our lives. On an evening in Ewa Beach when we were trapping cats to be sterilized at a local beach part, a truck pulled up and the driver got out with a basket and dumped a cat into the parking lot. The cat had a collar but no microchip. We confronted the man and he admitted it was his neighbor’s cat. Two years ago, I got a call that 2 mastiff-mix dogs were sitting on the side of the road in Barber’s Point – at the same spot every day. They had been there for 3 months and people were feeding them. Typical of dumped dogs – they were waiting for their owner to return. Lucy and Linus now weigh over 100 pounds each and are still with me. Just recently, we picked up a very emaciated pit bull at the golf course. Although microchipped, his owners’ contact information was not current. Ozzie is currently living with me and recovering from his ordeal.



And in January, a woman dumped a mommy dog and her puppy on Paakea Rd. in Nanakuli – tying the mommy to the fence but allowing the puppy to roam on a busy road where many animals are often hit. The owner of the property (a PDP board member) had surveillance cameras and was able to get the make of the car and license plate number). Within hours after posting photos of the car and the dogs all over social, we had the name and address of the owner of the car and found out she DID own these dogs and DID dump them in Nanakuli. Hawaiian Humane Society was called and the woman was cited. We are supporting the prosecution of this woman to deter other people from dumping animals but we need greater penalties as well along with a mandate for microchip identification to track down irresponsible owners.

PDP covers the health care expenses of all these animals that we rescue which has a financial impact on our organization. While the toll on their lives has been an emotional one, we will continue to care for them because the alternative is likely euthanasia. And while some may be sick or face serious health challenges, we believe they deserve better. At a minimum – they deserve shelter from the elements, fresh water and food, and a little TLC after struggling to survive.

Please help us hold these people accountable for their lack of compassion and caring. Mahalo for your consideration.

From: [Joel Fischer](#)
To: [JDL Testimony](#)
Subject: HB2245 HD1
Date: Friday, March 18, 2016 1:31:00 PM

HB2245, HD1, Relating to Animal Desertion

PLEASE PASS THIS BILL!

Animal desertion is perhaps the most awful thing a person can do to a pet. That pet may be condemned to a short and brutal life on the streets...OR WORSE! Ironically, my dog Ipo was deserted in Wahiawa, and - thank God- picked up by the Humane Society where I was able to adopt her. But I am still amazed that someone would just desert a wonderful dog like Ipo. So, I completely support penalties for these cowardly deserters. After all, there are so many facilities where unwanted pets can be dropped off and subsequently adopted. Desertion is truly the cowardly way out.

Thank you for supporting this bill.

Aloha, joel

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From: [Kim Murphy](#)
To: [JDLTestimony](#)
Subject: HB2245
Date: Saturday, March 19, 2016 11:13:37 AM

Aloha. I am submitting testimony in regards to HB 2245. I support the passage of this bill.

Cats have been living outdoors in close proximity to humans for over 10,000 years. An animal that has been living outdoors for that long cannot be redesigned to be "Indoors only". The number of cats living outside is exacerbated by:

- a) Abandonment of pets
- b) Failure to sterilize pets and
- c) Allowing unsterilized animals to roam free

Living outdoors is a difficult life. Adoption of feral cats is not usually effective because cats that do not interact with humans in the first 12 weeks of life prefer minimal interactions with humans. Relocation is rarely effective because cats form a strong attachment/bond to where they live. Feral cats are rarely aggressive and avoid contact with humans. Many people and other animals have had toxoplasmosis and the danger of toxoplasmosis transmission by cats is overstated. Conservation conflicts can occur in some areas..... but overall cats control the rodent population which keeps salmonella, leptospirosis and E. Coli transmission reduced. Cats sleep during the day when birds are awake. Human impacts on the environment, such as loss of habitat and use of pesticides, have a much greater impact on endangered species than cats. People may complain about cat feces but this is an issue presented by all animals in our community – dogs, rats, geckos, birds, mongoose, etc. There are non-harmful ways to deter cats from coming onto your property.

Trap Neuter Release Manage (TNRM) is in use across the United States. The sterilization piece reduces cat reproduction/ends the breeding cycle. Cats are scanned for microchips at the time of sterilization and are sometimes reunited with their owners. Kittens and adoptable cats are removed. Old and sick cats are removed for treatment or euthanasia. TNRM reduces nuisance behavior (spraying, fighting, foraging in trash cans). Sterilized well fed cats are less visible to the community at large. Feeding the cats reduces predation by the cats. TNRM establishes a point of contact for resolving concerns about the cats and community concerns. And it keeps these cats out of the already overburdened animal shelter system.

Catch and Kill is inefficient, hugely time consuming, an expensive waste of taxpayers \$and does not work. As soon as cats are removed for euthanization new cats move into their territory. All habitats will support a population of a certain size. No matter how many animals are removed, if the resources remain, the population will eventually recover. This is called the "vacuum effect". Banning feeding effectively bans TNRM and will result in an increase in the feral cat population. No-one will be monitoring the colony especially in regards to newly abandoned and unsterilized cats. And enforcing a feeding ban is almost impossible. Resources to address this issue should be directed at requiring sterilization, providing more low cost sterilization, increasing cat owner awareness and making cat owners accountable for abandonment.

People engaging in TNRM are addressing a community problem/issue on their own time and with their own money. The TNRM community is organized via social media and collaborates with many non-profits. We are committed to our goal of reducing the population of and improving the lives of feral cats. This should be appreciated not criminalized. More and more communities across the United States (San Francisco, Washington DC, Chicago, Disney land) are embracing TNRM as a humane and effective way to address the feral cat issue.

If Hawaii had laws in place

- a) Permitting ONLY the sale of rescue animals
 - b) Requiring sterilization and
 - c) Increasing the legal consequences for abandonment
- the number of free roaming/community/feral cats could be reduced. Thank you.

Sincerely, Kim Murphy



From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: [REDACTED]
Subject: Submitted testimony for HB2245 on Mar 21, 2016 09:00AM
Date: Saturday, March 19, 2016 12:13:10 PM

HB2245

Submitted on: 3/19/2016

Testimony for JDL on Mar 21, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Individual	Support	No

Comments: Aloha JDL Chair & committee. Please support this bill. I now care for 2 dogs who were dumped on the road. I saw one in person & told them it was illegal. They said call the dog police. If the "dog police" could put them in jail, they would not do this. Mahalo, Mike Moran Kihei

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: [REDACTED]
Subject: Submitted testimony for HB2245 on Mar 21, 2016 09:00AM
Date: Friday, March 18, 2016 7:21:19 PM

HB2245

Submitted on: 3/18/2016

Testimony for JDL on Mar 21, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Support	No

Comments: I support this measure. If anything, I would recommend that the fines imposed be higher. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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