

1 breeding female dogs in any one-year period and is
2 engaged in the business of breeding intact female
3 dogs;

4 (2) Owns or harbors twenty or more intact female dogs over
5 six months of age that are intended for breeding; or

6 (3) Owns or harbors a total of thirty intact dogs over the
7 age of six months that are intended for breeding on
8 the premises.

9 "License" means a dog breeder license issued under this
10 chapter.

11 "Licensee" means a person licensed under this chapter.

12 "Person" means an individual, firm, partnership, joint
13 venture, association, limited liability company, corporation,
14 estate, trust, receiver, or syndicate, or any other legal
15 entity.

16 **§ -2 License required.** No person shall operate as a dog
17 breeder unless the person obtains a valid license as a dog
18 breeder.

19 **§ -3 License requirements; fees; renewal; premises**
20 **available for inspection.** (a) An applicant for a dog breeder
21 license shall submit an application to the department on a form



1 prescribed by the department, together with the annual license
2 fee as established by a fee schedule adopted by the department
3 pursuant to chapter 91. Upon receipt of the application and
4 annual license fee and upon satisfactory completion of a
5 license-qualifying inspection under section -4, the department
6 shall issue a license. A license shall not be transferable to
7 another person or location.

8 (b) An application for license renewal shall be submitted
9 on or before December 31 of each year on a form prescribed by
10 the department, together with the annual license renewal fee, as
11 established by a fee schedule adopted by the department pursuant
12 to chapter 91.

13 (c) A licensee shall make its premises available for
14 unannounced inspection by the director or the director's
15 designee during regular business hours.

16 **§ -4 Inspections; investigations; access.** (a) The
17 director may undertake any investigation necessary to ensure
18 compliance with this chapter, including a license-qualifying
19 inspection. At any time during regular business hours, the
20 director or any enforcement officer employed by the department
21 shall have free and unimpeded access for the purpose of carrying



H.B. NO. 185

1 out any provision of this chapter or any rule adopted pursuant
2 to this chapter to those portions of all buildings, yards, pens,
3 and other areas in which any dogs are kept, handled, or
4 transported.

5 (b) After the denial, suspension, or revocation of a
6 license, the director shall have free and unimpeded access to
7 the premises and other areas in which dogs are suspected of
8 being kept, handled, or transported without the valid license
9 and to all records that are reasonably necessary to verify that
10 the operation of a dog breeding operation has ceased.

11 (c) The director shall have authority to administer oaths
12 and take statements, issue subpoenas requiring the attendance of
13 witnesses, and require the production of all books, memoranda,
14 papers, and other documents, articles, or instruments, and to
15 compel the disclosure by a witness of all facts known to the
16 witness relative to any matters under investigation. Upon the
17 failure or refusal of any witness to obey a subpoena issued by
18 the director, the attorney general may petition the district
19 court and, upon a proper showing, the court may enter an order
20 compelling the witness to appear and testify or produce



H.B. NO. 185

1 documentary evidence. Failure to obey an order of the court
2 shall be punishable as contempt of court.

3 **§ -5 Enforcement.** (a) The director or the director's
4 designee shall enforce the provisions of this chapter. Whenever
5 the director has reasonable cause to believe that a violation of
6 any provision of this chapter or any rule adopted pursuant to
7 this chapter has occurred and immediate enforcement is deemed
8 necessary, the director may issue a cease-and-desist order,
9 requiring any person to cease violating any provision of this
10 chapter or any rule adopted pursuant to this chapter. A
11 cease-and-desist order issued pursuant to this subsection shall
12 set forth the provisions alleged to have been violated, the
13 facts alleged to have constituted the violation, and the
14 requirement that all unlawful actions cease. At any time after
15 service of the order to cease and desist, the person subject to
16 the order may request a prompt hearing to determine whether or
17 not a violation has occurred.

18 (b) If any person fails to comply with a cease-and-desist
19 order within twenty-four hours, the director may bring a suit
20 for a temporary restraining order and for injunctive relief to
21 prevent any further or continued violation of this chapter.



H.B. NO. 185

1 (c) No stay of a cease-and-desist order shall be issued
2 without a hearing on the order involving both parties.

3 (d) Whenever the director possesses sufficient evidence to
4 indicate that a person has engaged in or is about to engage in
5 any act or practice constituting a violation of any provision of
6 this chapter or any rule adopted pursuant to this chapter, the
7 director may apply to any court of competent jurisdiction to
8 temporarily or permanently restrain or enjoin the act or
9 practice in question and to enforce compliance with this chapter
10 or any rule or order issued pursuant to this chapter. In an
11 action pursuant to this subsection, the director shall not be
12 required to plead or prove irreparable injury or the inadequacy
13 of the remedy at law. Under no circumstances shall the court
14 require the director to post a bond.

15 **§ -6 Rules.** The director shall adopt rules pursuant to
16 chapter 91 necessary for the purposes of this chapter.

17 **§ -7 Civil penalties.** (a) Any person who operates as a
18 dog breeder without a license shall be subject to a civil
19 penalty of up to \$1,000; provided that each day of a violation
20 shall be considered a separate offense.



H.B. NO. 185

1 (b) No civil penalty shall be imposed unless the person
2 charged is given notice and an opportunity for a hearing.

3 (c) If the director is unable to collect a civil penalty
4 or if any person fails to pay all or a set portion of the civil
5 penalty imposed by the director, the director may:

6 (1) Bring suit to recover the amount of the civil penalty
7 plus costs and attorney fees by action in any court of
8 competent jurisdiction; and

9 (2) Refuse to renew the person's license.

10 **§ -8 Criminal penalties.** In addition to the civil
11 penalties provided under section -7, any person who operates
12 as a dog breeder without a license shall be guilty of a
13 misdemeanor.

14 **§ -9 Prohibited acts.** (a) Unless otherwise authorized
15 by law, it shall be a violation of this chapter for any person
16 or entity:

17 (1) To perform any of the acts of a dog breeder for which
18 licensure is required without possessing a valid
19 license;



H.B. NO. 185

- 1 (2) To solicit, advertise, or offer to perform any of the
2 acts for which licensure as a dog breeder is required
3 without possessing a valid license;
- 4 (3) To refuse to comply with a cease-and-desist order
5 issued pursuant to section -5;
- 6 (4) To refuse or fail to comply with the provisions of
7 this chapter;
- 8 (5) To make a material misstatement in a license
9 application, a license renewal application, or to the
10 department during an official investigation;
- 11 (6) To impersonate any state or county official or
12 inspector;
- 13 (7) To refuse or fail to comply with any rules adopted by
14 the department pursuant to this chapter or any lawful
15 order issued by the director;
- 16 (8) To aid or abet another in any violation of this
17 chapter or any rule adopted by the director pursuant
18 to this chapter; or
- 19 (9) To alter or falsify a certificate of veterinary
20 inspection or any other certificate of veterinary
21 health.



H.B. NO. 185

1 (b) It shall be a violation of this chapter for any dog
2 breeder:

3 (1) To refuse to permit entry or inspection in accordance
4 with section -4;

5 (2) To allow a license issued pursuant to this chapter to
6 be used by an unlicensed person;

7 (3) To make any misrepresentation or false promise through
8 advertisements, employees, agents, or otherwise in
9 connection with the business operations licensed
10 pursuant to this chapter or for which an application
11 for a license is pending;

12 (4) To fail to take reasonable care to release for sale,
13 trade, or adoption only those dogs that are free of
14 undisclosed disease, injury, or abnormality; or

15 (5) To own or harbor more than fifty intact dogs on a
16 premises subject to this chapter.

17 (c) Any person who violates this section shall be subject
18 to a fine of \$2,000 per dog."

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



H.B. NO. 185

1 "§711- Penalties. (1) In addition to any other penalty
2 imposed by law, a person convicted of a misdemeanor offense as
3 described in sections 711-1109, 711-1109.37, 711-1109.5, 711-
4 1109.6, or -8, shall not own, possess, reside with, have
5 custody of, or contact with any animal for a period of five
6 years for a first offense; and for a period of fifteen years for
7 a second or subsequent conviction of a misdemeanor offense
8 related to animal welfare.

9 (2) In addition to any other penalty imposed by law, a
10 person convicted of a felony offense as described in sections
11 711-1109(4), 711-1109.3, 711-1109.35, or 711-1109.4, shall not
12 own, possess, reside with, have custody of, or contact with any
13 animal for a period of fifteen years for a first offense, and
14 for the lifetime of the offender for the second offense.

15 (3) Periodic checks, during reasonable times and at
16 reasonable frequencies, on the person and property owned,
17 leased, rented, used, or possessed by the person, may be
18 executed by an agent of any duly authorized animal care
19 organization, police department, or other agency, without the
20 necessity of a search warrant or probable cause, to assure
21 compliance with this section.



1 (4) A violation of this section is a misdemeanor
2 punishable by a fine not exceeding \$ and forfeiture of
3 the offender's interest in the animal."

4 SECTION 3. Section 711-1100, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Person" means an individual, firm, partnership, joint
8 venture, association, limited liability company, corporation,
9 estate, trust, receiver, or syndicate, or any other legal
10 entity."

11 SECTION 4. Section 711-1108.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§711-1108.5 Cruelty to animals in the first degree. (1)**

14 A person commits the offense of cruelty to animals in the first
15 degree if the person intentionally or knowingly:

16 (a) Tortures, mutilates, or poisons or causes the torture,
17 mutilation, or poisoning of any pet animal [~~or~~],
18 equine animal, or federal or state threatened or
19 endangered animal [~~resulting in~~] thereby causing
20 serious bodily injury to or death of the pet animal,



H.B. NO. 185

- 1 ~~[e]~~ equine animal~~[r]~~, or federal or state threatened
2 or endangered animal; or
- 3 (b) Kills or attempts to kill any pet or equine animal
4 belonging to another person, without first obtaining
5 legal authority or the consent of the pet or equine
6 animal's owner.
- 7 (2) Subsection (1)(a) shall not apply to:
- 8 (a) Accepted veterinary practices;
- 9 (b) Activities carried on for scientific research governed
10 by standards of accepted educational or medicinal
11 practices; or
- 12 (c) Cropping or docking as customarily practiced.
- 13 (3) Subsection (1)(b) shall not apply to:
- 14 (a) Humane euthanasia of any animal by an animal control
15 officer, duly incorporated humane society, duly
16 incorporated society for the prevention of cruelty to
17 animals, or duly authorized governmental agency in
18 accordance with American Veterinary Medical
19 Association accepted standards; or
- 20 (b) Conduct which the actor believes to be necessary to
21 avoid an imminent harm or evil to the actor, another



1 person, or an animal; provided that the harm or evil
2 sought to be avoided by such conduct is greater than
3 that sought to be prevented by this section and is
4 justifiable as provided in section 703-302 for choice
5 of evils; provided further that, for purposes of this
6 paragraph, as the justification described in section
7 703-302 shall also apply to conduct which the actor
8 believes to be necessary to avoid an imminent harm or
9 evil to an animal.

10 (4) Whenever any animal, pet animal, or equine animal is
11 so severely injured that there is no reasonable probability that
12 its life can be saved, the animal may be immediately [~~destroyed~~
13 humanely euthanized without creating any offense under this
14 section.

15 (5) Cruelty to animals in the first degree is a class C
16 felony. In addition to any fines and imprisonment imposed under
17 this section, any person convicted under this section shall be
18 prohibited from possessing or owning any animal, pet animal, or
19 equine animal for a minimum of five years from the date of
20 conviction.



1 ~~[(6)] For the purposes of this section, "person" means~~
2 ~~any individual; any firm, partnership, joint venture,~~
3 ~~association, limited liability company, corporation, estate,~~
4 ~~trust, receiver, or syndicate; or any other legal entity.]"~~

5 SECTION 5. Section 711-1109, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§711-1109 Cruelty to animals in the second degree.** (1)

8 A person commits the offense of cruelty to animals in the second
9 degree if the person intentionally, knowingly, or recklessly:

- 10 (a) Overdrives, overloads, tortures, torments, beats,
11 causes substantial bodily injury to, or starves any
12 animal, or causes the overdriving, overloading,
13 torture, torment, beating, or starving of any animal;
- 14 (b) Deprives ~~[a pet]~~ an animal of necessary sustenance or
15 causes such deprivation;
- 16 (c) Mutilates, poisons, or kills without need any animal
17 other than insects, vermin, or other pests; provided
18 that the handling or extermination of any insect,
19 vermin, or other pest is conducted in accordance with
20 standard and acceptable pest control practices and all
21 applicable laws and regulations;



H.B. NO. 185

- 1 (d) Keeps, uses, or in any way is connected with or
2 interested in the management of, or receives money for
3 the admission of any person to, any place kept or used
4 for the purpose of fighting or baiting any bull, bear,
5 cock, or other animal, and includes every person who
6 encourages, aids, or assists therein, or who permits
7 or suffers any place to be so kept or used;
- 8 (e) Carries or causes to be carried, in or upon any
9 vehicle or other conveyance, any animal in a cruel or
10 inhumane manner;
- 11 (f) Confines or causes to be confined, in a kennel or
12 cage, any pet animal in a cruel or inhumane manner;
- 13 (g) Tethers, fastens, ties, or restrains a dog to a
14 doghouse, tree, fence, or any other stationary object
15 by means of a choke collar, pinch collar, or prong
16 collar; provided that a person is not prohibited from
17 using such restraints when walking a dog with a hand-
18 held leash or while a dog is engaged in a supervised
19 activity; or
- 20 (h) Assists another in the commission of any act specified
21 in subsections (1)(a) through (1)(g).



H.B. NO. 185

1 (2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h)

2 shall not apply to:

3 (a) Accepted veterinary practices;

4 (b) Activities carried on for scientific research governed
5 by standards of accepted educational or medicinal
6 practices; or

7 (c) Pest control operations conducted pursuant to chapter
8 149A by a pest control operator licensed pursuant to
9 chapter 460J, if the pest control is performed under a
10 written contract.

11 (3) Whenever any animal is so severely injured that there
12 is no reasonable probability that its life or usefulness can be
13 saved, the animal may be immediately destroyed without creating
14 any offense under this section.

15 (4) Cruelty to animals in the second degree is a
16 misdemeanor, except it is a class C felony where [the]:

17 (a) The offense involves ten or more [pet] animals in any
18 one instance [which is a class C felony.]; or

19 (b) The offense is knowingly committed in the immediate
20 presence of a minor who is younger than fourteen years



H.B. NO. 185

1 of age and the minor can see or otherwise directly
2 perceive in any other manner the offense."

3 SECTION 6. Section 711-1109.7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§711-1109.7** [~~Pet animal or equine animal desertion.~~]

6 **Animal abandonment.** (a) It shall be unlawful for [~~the owner or~~
7 ~~any person in possession of any pet animal or equine animal to~~
8 ~~desert the pet animal or equine animal.~~] a person to
9 intentionally, knowingly, recklessly, or negligently leave an
10 animal at a location without providing for the animal's
11 continued care.

12 (b) Any person who violates subsection (a) shall be guilty
13 of a petty misdemeanor and subject to a fine not exceeding
14 \$1,000 in addition to any other penalties.

15 (c) Any person who violates subsection (a) and recklessly
16 causes the death of or substantial bodily injury to the [~~pet~~
17 ~~animal or equine~~] animal shall be guilty of a misdemeanor and
18 subject to a fine not exceeding \$2,000 in addition to any other
19 penalties.

20 (d) Each [~~pet animal or equine~~] animal that is [~~deserted~~]
21 abandoned in violation of subsection (a) or suffers death or



1 substantial bodily injury as a result of a violation of
2 subsection (a) shall constitute a separate offense.

3 (e) [~~For the purposes of this section, "desert" means to~~
4 ~~leave without the intent to return.~~] It is no defense to the
5 offense of animal abandonment that the person abandoned the
6 animal at or near an animal shelter, veterinary clinic, or other
7 place of shelter without an arrangement for the reasonable care
8 of the animal."

9 SECTION 7. Section 143-2.6, Hawaii Revised Statutes, is
10 repealed.

11 [~~"§143-2.6] Animal desertion. It shall be unlawful for~~
12 ~~the owner of any animal or any person in possession of an animal~~
13 ~~that belongs to another person to leave the animal without the~~
14 ~~intention of returning to it.~~

15 ~~Any person who violates this section shall be guilty of a~~
16 ~~petty misdemeanor."]~~

17 SECTION 8. Sections 2, 3, 4, 5, 6, and 7 of this Act do
18 not affect rights and duties that matured, penalties that were
19 incurred, and proceedings that were begun before its effective
20 date.



H.B. NO. 185

1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect upon its approval,
4 provided that licenses established by section 1 shall be issued
5 after December 31, 2017.

6

INTRODUCED BY: *Scott. Ann*

[Signature]

JAN 19 2017



H.B. NO. 185

Report Title:

Animal Welfare; Cruelty to Animals; Animal Abandonment

Description:

Establishes licensing requirement for dog breeders and clarifies and strengthens laws pertaining to abandonment of or cruelty to animals.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

