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# A BILL FOR AN ACT

RELATING TO DANGEROUS DOGS.

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

1           SECTION 1. The legislature finds that Hawaii struggles  
2 with the problem of loose dogs that behave aggressively. Some  
3 of these dogs are feral; other dogs have owners who have failed  
4 to control or train their dogs; and yet other dogs have been  
5 abandoned. The legislature further finds that for dogs with  
6 owners, these owners should clearly be held responsible for the  
7 aggressive actions of their dogs that harm persons or other  
8 animals.

9           Therefore, the purpose of this Act is to:

- 10           (1) Define what constitutes a dangerous dog; and  
11           (2) Establish requirements and penalties for owners of  
12           dangerous dogs.

13           SECTION 2. Chapter 142, Hawaii Revised Statutes, is  
14 amended by adding a new part to be appropriately designated and  
15 to read as follows:

16                                   **"PART . DANGEROUS DOGS**



1           **§142-A Definitions.** As used in this part, unless the  
2 context clearly indicates or requires a different meaning:

3           "Animal control authority" means a county agency that  
4 enforces animal control laws or a private contractor retained by  
5 a county to enforce animal control laws.

6           "Bite injury" means any contact between an animal's mouth  
7 and teeth and the skin of a bite victim that causes visible  
8 trauma, such as a puncture wound, laceration, or other piercing  
9 of the skin.

10          "Dangerous dog" means any dog that, without provocation,  
11 causes a bite injury to a person or another animal. A dog's  
12 breed shall not be considered in determining whether it is  
13 dangerous.

14          "Escape-proof kennel" means a kennel:

15          (1) That allows a dog to stand normally and without  
16               restriction, is at least two and one-half times the  
17               length of the dog, and protects the dog from the  
18               elements;

19          (2) Whose fencing or wall materials have no openings or  
20               gaps that exceed two inches; and



1 (3) Whose gates, if any, are lockable and of such design  
2 as to prevent the entry of children or the escape of  
3 the dog.

4 "Microchip" has the same meaning as in section 143-1.

5 "Negligently" has the same meaning as set forth in section  
6 702-206(4).

7 "Officer" has the same meaning as in section 143-1.

8 "Owner" means any person owning, harboring, or keeping a  
9 dog; provided that, if the owner is a minor under the age of  
10 eighteen years, the parents, guardian, or another person having  
11 the care, custody, or control of the minor shall be rebuttably  
12 presumed to be the owner.

13 The person whose current contact information is registered  
14 with a microchip registration company shall be rebuttably  
15 presumed to be the owner of the dog for purposes of this part.

16 "Provocation" means behavior that precipitates a bite  
17 injury caused by a dog under the following circumstances:

18 (1) The dog was protecting or defending its owner or a  
19 member of its owner's household from an attack or  
20 assault;



1 (2) The person bitten was committing a crime or offense  
2 while on the property of the owner of the dog;

3 (3) The person bitten was teasing, tormenting, abusing, or  
4 assaulting the dog or at any time in the past had  
5 teased, tormented, abused, or assaulted the dog, or  
6 the dog was otherwise responding to pain or injury  
7 inflicted by the bitten person;

8 (4) The dog was attacked or menaced by an animal, or the  
9 animal was on the property of the owner of the dog, or  
10 the dog was otherwise responding to pain or injury  
11 inflicted by an animal;

12 (5) The dog was protecting itself, its kennel, or its  
13 offspring from the bitten person or animal; or

14 (6) The bitten person or animal was disturbing the dog's  
15 natural functions, such as sleeping or eating, while  
16 the dog was on its owner's property.

17 "Serious injury to any animal" means physical injury to a  
18 domestic animal involving a broken bone, concussion, laceration  
19 requiring multiple stitches, or tearing or rupture of an organ.

20 **§142-B Designation as dangerous dog; basis.** (a) An  
21 officer may find and declare a dog to be a dangerous dog if the



1 officer has probable cause to believe that the dog falls within  
2 the definition of "dangerous dog". The declaration shall be  
3 based upon:

4 (1) The written complaint of a person who is willing to  
5 testify that the dog has acted in a manner that causes  
6 it to fall within the definition of "dangerous dog";

7 (2) Actions of the dog witnessed by an officer; or

8 (3) Other substantial evidence admissible in court.

9 (b) The declaration in subsection (a) shall be in writing  
10 and shall be served by the officer upon the owner of the  
11 dangerous dog, if known, using one of the following methods:

12 (1) Certified mail to the owner's last known address; or

13 (2) Personally.

14 (c) The owner of a dog declared to be a dangerous dog may  
15 initiate a contested case with the declarant officer's  
16 department or agency within thirty days following the service  
17 date of the declaration.

18 **§142-C Legal requirements of owner.** (a) The owner of a  
19 dog declared to be a dangerous dog shall:

20 (1) Provide the owner's name, address, and telephone

21 number to the animal control authority;



- 1           (2) Provide the location at which the dangerous dog is
- 2                   currently kept, if the location is not the owner's
- 3                   address, to the animal control authority;
- 4           (3) Promptly notify the animal control authority of:
- 5                   (A) Any changes in the ownership of the dangerous dog
- 6                           or the location of the dangerous dog, along with
- 7                           the names, addresses, and telephone numbers of
- 8                           the new owners or the new address at which the
- 9                           dangerous dog is located;
- 10                   (B) Any further instances of an attack by the
- 11                           dangerous dog upon a person or an animal;
- 12                   (C) Any current or future claims made or legal
- 13                           actions brought as a result of an attack by the
- 14                           dangerous dog upon a person or an animal; or
- 15                   (D) The death of the dangerous dog;
- 16           (4) Microchip the dangerous dog and register the owner's
- 17                   microchip information pursuant to section 143-2.2;
- 18                   provided that the microchip identification number of
- 19                   the dangerous dog shall be provided to the animal
- 20                   control authority;



- 1 (5) Ensure that the dangerous dog is under the control of  
2 a person who is at least eighteen years of age, when  
3 the dangerous dog is indoors at the owner's premises;
- 4 (6) Ensure that when the dangerous dog is outdoors on the  
5 owner's premises and unattended, the dangerous dog is  
6 confined to an escape-proof kennel and that the locks  
7 of the kennel remain locked;
- 8 (7) Ensure that when the dangerous dog is outside on the  
9 owner's premises and attended, the dangerous dog is  
10 kept on a fixed and secure leash no longer than four  
11 feet in length, under the control of a person at least  
12 eighteen years of age, and kept within a fenced or  
13 walled area from which it cannot escape;
- 14 (8) Ensure that when the dangerous dog is outdoors outside  
15 the owner's premises, the dangerous dog is kept on a  
16 fixed and secure leash no longer than four feet in  
17 length, under the control of a person who is at least  
18 eighteen years of age, and muzzled with a properly  
19 fitted, basket muzzle that prevents the dangerous dog  
20 from biting any person or animal but does not cause



1 injury to the dangerous dog or interfere with its  
2 vision or respiration;

3 (9) Place a sign or signs provided by the animal control  
4 authority on the owner's premises informing the public  
5 of the presence and dangerousness of the dangerous  
6 dog; and

7 (10) Neuter or spay the dangerous dog at the owner's  
8 expense, unless the neutering or spaying of the  
9 dangerous dog is medically contraindicated.

10 (b) The owner of a dangerous dog who keeps the dangerous  
11 dog in a manner found to be in violation of this section commits  
12 the offense of negligent failure to control a dangerous dog and  
13 the dangerous dog shall be subject to seizure and impoundment  
14 pursuant to this part if the owner is unable to immediately  
15 secure the dangerous dog.

16 **§142-D Rescission of declaration.** (a) The owner of a  
17 dangerous dog may apply to the animal control authority to have  
18 the declaration rescinded after three years if all of the  
19 following requirements have been met:

20 (1) The owner and dangerous dog have no subsequent  
21 violations of this part;



1           (2) The owner has complied with all the provisions of this  
2           part for a period of three years; and

3           (3) The owner provides proof to the animal control  
4           authority of the dangerous dog's successful completion  
5           of a behavior modification or management program  
6           administered by an animal trainer or behaviorist  
7           certified by a nationally recognized organization.

8           (b) If the animal control authority finds that the owner  
9           and dangerous dog have complied with all of the requirements of  
10          this section and the owner has provided sufficient evidence that  
11          the dangerous dog's behavior has changed, the animal control  
12          authority shall rescind the declaration.

13           **§142-E Negligent failure to control a dangerous dog;**  
14 **penalties.** (a) An owner of a dangerous dog commits the offense  
15 of negligent failure to control a dangerous dog if:

16           (1) A bite injury occurs due to the failure of an owner of  
17           a dangerous dog to comply with the requirements of  
18           this part; or

19           (2) An owner of a dangerous dog negligently fails to take  
20           reasonable measures to prevent the dangerous dog from



1 causing a bite injury, without provocation, to a  
2 person or another animal and the attack results in:  
3 (A) The maiming or causing of serious injury to any  
4 animal or the death of another animal;  
5 (B) Bodily injury to a person other than the owner;  
6 or  
7 (C) Serious bodily injury to or the death of a person  
8 other than the owner.

9 (b) An offense under subsection (a) (1) or (a) (2) (A) or (B)  
10 shall be a misdemeanor and shall subject the owner of the  
11 dangerous dog, without the possibility of suspension of the  
12 sentence, to:

- 13 (1) A fine of no less than \$1,000 and no more than \$2,000;
- 14 (2) A term of imprisonment of up to six months, or in lieu  
15 of imprisonment, a period of probation of no more than  
16 one year;
- 17 (3) Restitution to any individual who has suffered bodily  
18 injury or property damage as a result of an attack by  
19 the dangerous dog if the individual suffers financial  
20 losses or medical expenses due to the attack. As used  
21 in this paragraph, "medical expenses" may include the



1 costs of necessary counseling or rehabilitative  
2 services; and

3 (4) Payment of all expenses for the boarding and retention  
4 of the dangerous dog if it is seized and impounded  
5 pursuant to this part.

6 (c) Unless the dangerous dog has been or is ordered to be  
7 humanely destroyed, the owner of the dangerous dog shall also be  
8 required to:

9 (1) Meet all of the conditions imposed on an owner of a  
10 dangerous dog pursuant to this part;

11 (2) Obtain liability insurance or post bond of no less  
12 than \$50,000, or in a higher amount, if the court  
13 finds that a higher amount is appropriate to cover  
14 medical or veterinary costs, or both, resulting from  
15 potential future actions of the dangerous dog; and

16 (3) Follow any other condition that the court deems  
17 necessary to restrain or control the dangerous dog.

18 (d) An offense under subsection (a) (2) (C) shall be a class  
19 C felony and shall subject the owner of a dangerous dog, without  
20 the possibility of suspension of the sentence, to:



- 1 (1) A fine of no less than \$1,000 and no more than  
2 \$10,000;
- 3 (2) A term of imprisonment of no less than one year and no  
4 more than five years, pursuant to chapter 706; and
- 5 (3) Euthanasia of the dangerous dog.

6 (e) As used in this section:

7 "Bodily injury" has the same meaning as in section 707-700.

8 "Serious bodily injury" means a serious physical injury to  
9 a person involving a broken bone, concussion, laceration that  
10 extends down to the level of muscle or bone, or tearing or  
11 rupture of an organ.

12 **§142-F Impoundment of a dangerous dog.** (a) If there is  
13 probable cause to believe that the dangerous dog poses an  
14 imminent threat to a person or another animal, or if there is  
15 probable cause to believe that there is a violation of section  
16 142-C, 142-E, or 143-2.6 or as applicable, a law enforcement  
17 officer, after obtaining a search warrant, or in any other  
18 manner authorized by law, may enter the premises where the  
19 dangerous dog is located to seize and impound the dog. If after  
20 reasonable effort, the owner or person having custody of the  
21 dangerous dog cannot be found and notified of the impoundment,



1 an impoundment notice shall be conspicuously posted on the  
2 premises and within seventy-two hours after posting, the notice  
3 shall be sent by certified mail to the address, if any, from  
4 which the dangerous dog was removed.

5 A law enforcement officer shall not be liable for any  
6 damage resulting from an entry under subsection (a), unless the  
7 damage resulted from intentional or reckless behavior on behalf  
8 of the law enforcement officer.

9 (b) The owner of a dangerous dog that has been impounded  
10 under this section may decline to surrender ownership of the  
11 dangerous dog to the animal control authority by paying for  
12 impoundment, care, and provision costs with the animal control  
13 authority in an amount, determined by the animal control  
14 authority, to be sufficient to provide for the dangerous dog's  
15 care by the animal control authority for at least thirty days,  
16 including the day on which the animal was taken into custody.

17 (c) If the owner of a dangerous dog that has been  
18 impounded under this section cannot be located within five days  
19 after the dangerous dog is impounded, ownership of the dangerous  
20 dog shall be deemed relinquished.



1 (d) At the dangerous dog owner's request, impoundment  
2 under this section may occur at the premises of a licensed  
3 veterinarian or a commercial kennel of the dangerous dog owner's  
4 choosing; provided that:

5 (1) The owner shall secure the private boarding placement  
6 for the dangerous dog within five days after the  
7 dangerous dog has been impounded by the animal control  
8 authority; and

9 (2) All expenses for the boarding and care of the  
10 dangerous dog shall be borne by the owner of the  
11 dangerous dog.

12 (e) If the owner of the dangerous dog does not arrange for  
13 private boarding placement, the following requirements shall  
14 apply:

15 (1) The owner of the dangerous dog shall pay the animal  
16 control authority within five days after the dangerous  
17 dog is impounded the amount specified in subsection  
18 (b);

19 (2) At the end of the time for which expenses are covered  
20 by an initial or any subsequent impoundment, care, and  
21 provision payment:



1           (A) If the owner of the dangerous dog declines to  
2           surrender ownership of the dangerous dog to the  
3           animal control authority, the owner shall make an  
4           additional payment to the animal control  
5           authority at least five days before the  
6           expiration of the previous payment; or

7           (B) If the owner of the dangerous dog has not made an  
8           additional payment in a timely manner to the  
9           animal control authority for impoundment, care,  
10          and provision costs for the dangerous dog,  
11          ownership of the dangerous dog shall be deemed  
12          relinquished.

13          (f) A dangerous dog owner's failure to pay impoundment,  
14          care, and provision costs for the dangerous dog pursuant to this  
15          section may result in forfeiture of any ownership rights to the  
16          dangerous dog, after proper notice is given.

17          (g) Any dangerous dog that is unclaimed by its owner  
18          within five days after the owner has been notified that the  
19          dangerous dog is eligible for release from impoundment shall be  
20          deemed abandoned, and ownership of the dangerous dog shall be  
21          deemed relinquished.



1 (h) If an animal control authority that is in possession  
2 of a dangerous dog pursuant to this section determines that the  
3 dangerous dog is too dangerous for its staff to safely provide  
4 basic care, the dangerous dog may be euthanized by the animal  
5 control authority.

6 (i) If a licensed veterinarian determines that an  
7 impounded dangerous dog is:

8 (1) Experiencing extreme pain or suffering;

9 (2) Severely injured past recovery;

10 (3) Severely disabled past recovery; or

11 (4) Severely diseased past recovery,

12 the dangerous dog may be euthanized by the animal control  
13 authority.

14 (j) An owner of a dangerous dog shall not sell or transfer  
15 the ownership or physical custody of the dangerous dog before  
16 the time period stated in the court summons, and the citation  
17 shall notify the owner of this prohibition; provided that this  
18 prohibition shall not apply when an owner transfers ownership of  
19 the dangerous dog to an animal control authority.

20 (k) If the owner of a dangerous dog seized and impounded  
21 pursuant to this section fails to appear in court as required,



1 ownership of the dangerous dog shall be deemed relinquished, and  
2 the court may order disposition of the dangerous dog as it deems  
3 appropriate.

4 Any person who refuses to surrender a dangerous dog that is  
5 subject to relinquishment pursuant to this section shall be  
6 guilty of a petty misdemeanor.

7 (1) Notwithstanding any relinquishment of ownership of the  
8 dangerous dog, the owner shall remain responsible for all  
9 expenses incurred in boarding, caring for, and providing for the  
10 dangerous dog and any fees and penalties that may be imposed by  
11 the court, before relinquishment of any ownership rights.

12 **§142-G Inspection.** Upon presentation of proper  
13 credentials, any officer may enter at reasonable times any  
14 building, structure, or premises in the State for the purpose of  
15 determining and enforcing compliance with this part or of any  
16 court order issued under this part; provided that such entry  
17 shall be made in a manner that causes the least possible  
18 inconvenience to the person in possession or occupying the  
19 building, structure, or premises; provided further that a court  
20 order authorizing such entry shall be obtained if entry is  
21 denied or resisted.



1           **§142-H Exemption.** This part shall not apply to dogs owned  
2 by any law enforcement agency and used in the performance of law  
3 enforcement work.

4           **§142-I Civil action not precluded.** Nothing in this part  
5 shall preclude any person injured by a dangerous dog from  
6 bringing a civil action against the owner of the dangerous dog  
7 pursuant to law."

8           SECTION 3. In codifying the new sections added by section  
9 2 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

12           SECTION 4. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15           SECTION 5. This Act shall take effect on January 1, 3000.



**Report Title:**

Owners of Dangerous Dogs; Requirements and Penalties

**Description:**

Establishes requirements and penalties for owners of dangerous dogs. Allows for impounding of dangerous dogs under certain conditions. Effective 1/1/3000. (HD1)

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

