
A BILL FOR AN ACT

RELATING TO CRUELTY TO ANIMALS.

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

1 SECTION 1. Chapter 711, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§711- Cruelty to animals by fighting dogs in the second
5 degree. (1) A person commits the offense of cruelty to animals
6 by fighting dogs in the second degree if the person:

7 (a) Knowingly wagers or pays to attend a dogfight; or

8 (b) Knowingly possesses any device intended to enhance the
9 dog's fighting ability with the intent that the device
10 be used to train or prepare the dog for a dogfight.

11 As used in this section:

12 "Device" means both animate and inanimate objects and
13 includes live animals used as bait animals.

14 "Dogfight" means a dog or dogs pitted against another dog
15 or dogs with the intent that the encounter will result in injury
16 to one or more of the dogs.

17 "Wager" means staking or risking something of value on the
18 outcome of a dogfight.

1 (2) Violation of this section shall be a misdemeanor."

2 SECTION 2. Section 711-1109.1, Hawaii Revised Statutes, is
3 amended by amending subsection (1) to read as follows:

4 "(1) If there is probable cause to believe that a pet
5 animal is being subjected to treatment in violation of section
6 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6, or
7 711- , a law enforcement officer, after obtaining a search
8 warrant or in any other manner authorized by law, may enter the
9 premises where the pet animal is located to provide the pet
10 animal with food, water, and emergency medical treatment or to
11 impound the pet animal. If after reasonable effort, the owner
12 or person having custody of the pet animal cannot be found and
13 notified of the impoundment, an impoundment notice shall be
14 conspicuously posted on the premises and within seventy-two
15 hours after posting, the notice shall be sent by certified mail
16 to the address, if any, from which the pet animal was removed."

17 SECTION 3. Section 711-1109.2, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (1) to read:

20 "(1) If any pet animal is impounded pursuant to section
21 711-1109.1, prior to final disposition of the criminal charge
22 under section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6,

1 or 711-___, against the pet animal's owner, any duly
2 incorporated humane society or duly incorporated society for the
3 prevention of cruelty to animals that is holding the pet animal
4 may file a petition in the criminal action requesting that the
5 court issue an order for forfeiture of the pet animal to the
6 county or to the duly incorporated humane society or duly
7 incorporated society for the prevention of cruelty to animals
8 prior to final disposition of the criminal charge. The
9 petitioner shall serve a true copy of the petition upon the
10 defendant and the prosecuting attorney."

11 2. By amending subsection (3) to read:

12 "(3) At a hearing conducted pursuant to subsection (2),
13 the petitioner shall have the burden of establishing probable
14 cause that the pet animal was subjected to a violation of
15 section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6[~~;~~], or
16 711-___. If the court finds that probable cause exists, the
17 court shall order immediate forfeiture of the pet animal to the
18 petitioner, unless the defendant, within seventy-two hours of
19 the hearing:

20 (a) Posts a security deposit or bond with the court clerk
21 in an amount determined by the court to be sufficient
22 to repay all reasonable costs incurred, and

1 anticipated to be incurred, by the petitioner in
2 caring for the pet animal from the date of initial
3 impoundment to the date of trial; or

4 (b) Demonstrates to the court that proper alternative care
5 has been arranged for the pet animal.

6 Notwithstanding subsection (3) (a), a court may waive, for good
7 cause shown, the requirement that the defendant post a security
8 deposit or bond."

9 3. By amending subsection (5) to read:

10 "(5) No pet animal may be destroyed by a petitioner under
11 this section prior to final disposition of the criminal charge
12 under section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6,
13 or 711-_____, against the pet animal's owner, except in the event
14 that the pet animal is so severely injured that there is no
15 reasonable probability that its life can be saved."

16 SECTION 4. Section 711-1109.3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§711-1109.3 Cruelty to animals[+] by fighting dogs in the**
19 **first degree.** (1) A person commits the offense of cruelty to
20 animals by fighting dogs in the first degree if the person:

- 1 ~~[(a) Owns or trains any dog with the intent that such dog~~
2 ~~shall be engaged in an exhibition of fighting with~~
3 ~~another dog;~~
- 4 ~~(b) For amusement or gain, intentionally causes any dog to~~
5 ~~fight with another dog, or causes any dog to injure~~
6 ~~another dog; or~~
- 7 ~~(c) Knowingly or recklessly permits any act in violation~~
8 ~~of paragraph (a) or (b) to be done on the premises~~
9 ~~under the person's charge or control, or aids or abets~~
10 ~~any such act.]~~
- 11 (a) For entertainment or financial gain knowingly causes,
12 sponsors, arranges, or holds a dogfight;
- 13 (b) Knowingly owns, trains, transports, possesses,
14 breeds, sells, transfers, or equips any dog with the
15 intent that the dog shall be engaged in a dogfight;
- 16 (c) Knowingly or recklessly allows a dogfight to occur on
17 any property owned or controlled by the person; or
- 18 (d) Knowingly or recklessly allows any dog intended to be
19 used for a dogfight to be kept, trained on, or
20 transported in, any property owned or controlled by
21 the person.

1 (2) Nothing in this section shall prohibit any of the
2 following:

3 (a) The use of dogs in the management of livestock by the
4 owner of the livestock or the owner's employees or
5 agents or other persons in lawful custody thereof;

6 (b) The use of dogs in hunting wildlife including game; or

7 (c) The training of dogs or the use of equipment in the
8 training of dogs for any purpose not prohibited by
9 law.

10 (3) As used in this section, "dogfight" means a dog or
11 dogs pitted against another dog or dogs with the intent that the
12 encounter will result in injury to one or more of the dogs.

13 ~~[(3)]~~ (4) Violation of this section shall be a class C
14 felony.

15 ~~[(4)]~~ (5) If there is any conflict between this section
16 and section 711-1109, or any other provision of law, this
17 section shall apply."

18 SECTION 5. Section 711-1110.5, Hawaii Revised Statutes, is
19 amended as follows:

20 "**§711-1110.5 Surrender or forfeiture of animals.** Upon
21 conviction, guilty plea, or plea of nolo contendere for any

1 violation of section 711-1108.5, 711-1109, 711-1109.3, [~~or~~]
2 711-1109.6[~~+~~], or 711-_____ :

3 (1) The court may order the defendant to surrender or
4 forfeit the animal whose treatment was the basis of
5 the conviction or plea to the custody of a duly
6 incorporated humane society or duly incorporated
7 society for the prevention of cruelty to animals for
8 the time and under the conditions as the court shall
9 order; and

10 (2) The court also may order the defendant to surrender or
11 forfeit any other animals under the possession,
12 custody, or control of the defendant to the custody of
13 a duly incorporated humane society or duly
14 incorporated society for the prevention of cruelty to
15 animals for the time and under the conditions as the
16 court shall order, if there is substantial evidence
17 that the animals are being abused or neglected.

18 The court shall order the defendant to reimburse the duly
19 incorporated humane society or duly incorporated society for the
20 prevention of cruelty to animals for reasonable costs incurred
21 to care, feed, and house any animal that is surrendered or
22 forfeited pursuant to this section."

1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval;
7 provided that the amendments made to section 711-1109.1, Hawaii
8 Revised Statutes, in section 2 of this Act, and to section
9 711-1109.2, Hawaii Revised Statutes, in section 3 of this Act
10 shall not be repealed when those sections are reenacted on
11 July 1, 2011 pursuant to Act 128, Session Laws of Hawaii 2008.

Report Title:

Crimes; Dog Fighting; Animal Cruelty

Description:

Clarifies dog fighting and animal cruelty laws. Effective upon approval. (SD1)