

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Judiciary**

February 4, 2010

H.B. No. 2724: RELATING TO OFFENSES AGAINST PUBLIC ORDER.

Chair Karamatsu and Members of the Committee:

H.B. 2724 proposes to amend HRS § 711-1109 by adding “cable trolley system” to the possible objects to which a dog could be attached and by adding new language prohibiting attaching a dog to any of the defined objects, except under very stringent conditions.

For example, attaching a dog to any doghouse, tree, fence, stationary object or cable trolley system by a “tether or chain” that is less than ten feet in length would be constitute Cruelty to Animals in the Second Degree, a misdemeanor, punishable by one year in jail or one year probation and/or a \$2000. fine. Using a “tether or chain” that weighs more than ten percent of the weight of the dog would likewise be a misdemeanor. Using a “tether or chain” that does not have a swivel on at least one end would be a misdemeanor. Securing a dog under the age of six months would be a misdemeanor. While the word “tether” is not defined, it appears that the intent of the proposed legislation would be to treat leashes as tethers.

The exception to these prohibitions would be if the dog was being walked with a hand-held leash or engaged in “supervised activity”.

If a person uses a leash less than ten feet in length to secure a dog outside so that the dog does not run out of a fenced yard while the person does work in another area of the yard (bringing in building supplies, groceries, doing yard maintenance, washing the car, etc.) that requires the gate to be open, will it be considered “supervised activity”, even if the person is not actually supervising the dog at all times?

If a person uses a tether that is weighs more than 15 percent of the dog’s weight, how will the person prove it wasn’t “reckless” to do so?

What may seem like silly questions will be less so when it is clear that such behavior could be criminal under this proposed legislation. It is not a good idea to draft legislation so specifically that it can entrap those not intended to be caught by the language. For example, the prohibition against tethering any dog under the age of six months ignores the fact that some large breeds of dogs may be amenable to such restraint at less than six months of age. Assuming all the other requirements of this legislation were met, it would somehow be acceptable to tether a 6 ½ month old toy poodle but not a 5 ½ month old german shephard, great dane, golden retriever, etc.

We also oppose the other proposed change in this bill to mandate a \$50. fine for a first offense and \$200. fines for subsequent offenses. While the first amount may seem nominal, we note that the court already has the ability to fine a person convicted of 2nd

degree Cruelty to Animals up to \$2000. It is not necessary to mandate any amount. Whether a fine should be imposed and the amount of said fine, if any, should be left to the sound discretion of the judge who will be familiar with the circumstances of each case.

We do not believe the changes proposed in this bill are necessary. They will create more problems than they are designed to solve and will, in actuality, add no further protection than is already found in our current law.

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



**PET INDUSTRY JOINT
ADVISORY COUNCIL**

1220 19th Street, N.W., Suite 400
Washington, DC 20036
(202) 452-1525 - Telephone
(202) 293-4377 - Facsimile

FAX TRANSMITTAL

COMMITTEE: House Judiciary Committee
Chairman Rep. Jon Riki Karamatsu
Hawaii State Capitol, Room 302
415 South Beretania Street
Honolulu, HI 96813
Fax: (808) 586-8494

FROM: Bambi Nicole Osborne, Director of Government Affairs
DATE: 2/3/2010
PAGES: 3 (INCLUDES COVER SHEET)

MESSAGE: Please find attached a letter conveying PIJAC's position on House Bill 2724. Please let me know if you have any questions for us.

Thanks!

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TESTIMONY OF PET INDUSTRY JOINT ADVISORY COUNCIL

BEFORE THE HOUSE JUDICIARY COMMITTEE

HOUSE BILL 2724

February 3, 2010

As the world's largest pet trade association, the Pet Industry Joint Advisory Council (PIJAC) appreciates the opportunity to offer this esteemed committee our views on House Bill 2724. Representing the interests of all segments of the pet industry throughout the United States, PIJAC counts among its thousands of members various associations, organizations, corporations and individuals involved in the commercial pet trade. More specifically, we represent pet owners, breeders, pet groomers, pet product manufacturers, distributors and retailers throughout Hawaii who would be significantly impacted by the legislation before you today.

While PIJAC is aware of issues associated with tethering an animal in a reckless manner, we question the advisability of adopting language that requires a person to make a series of calculations (i.e., five times the length of the animal from tip of the nose to the base of the tail, not more than 10% of the dog's weight, not coming within five feet of the property line and the tether may not be less than 10 feet in length) as a condition precedent to using a tether. Most tethers come in standard lengths and customizing a tether after purchase might result in a less than desirable unit. Also, we do not understand why a tether may not be used on a dog under the age of six months, especially for larger breeds.

As worded, House Bill 2724 could be interpreted as banning groomers from using a tether connected to a grooming table (a "stationary object") during the grooming process. PIJAC recommends that an exception be made for groomers using a tether as part of the grooming process provided that the animal is not left unattended. Current Hawaii Code, §711-1109(1)(g), states that this does not apply to a person walking a dog with a hand-held leash or while a dog is engaged in a supervised activity. It is still not clear if grooming is considered a "supervised activity". Therefore, we urge inclusion of specific language regarding grooming activities.

**PET INDUSTRY JOINT
ADVISORY COUNCIL**

1220 19th Street, N.W., Suite 400
Washington, DC 20036
Tel: 202-452-1525
Fax: 202-293-4377

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PIJAC further recommends that these standards be simplified to provide for a minimum length for a tether as well as a provision be included that a tether should be so situated as to prevent the dog from reaching within five feet of the property line. That way a pet owner does not need to engage in the mathematical computations proposed in these bills. Requiring individual dog owners to determine tethering lengths is a set up for systematic failure through subjective interpretations and disputes over technicalities.

Thank you greatly for your consideration of our concerns. We look forward to working with you to clarify some of the areas of concern in this legislation.

Respectfully submitted,



Pet Industry Joint Advisory Council

By: Bambi Nicole Osborne, Esq.



THE HUMANE SOCIETY
OF THE UNITED STATES

Testimony in SUPPORT
HB 2724; Relating to Offenses Against Public Order
HB 2725; Relating to Animals
House Judiciary Committee
February 4, 2010, 220pm

Submitted by: Inga Gibson
Hawaii State Director
The Humane Society of the United States

Dear Honorable Chair Karamatsu Vice-Chair Ito and Committee Members:

On behalf of our 49,315 members and supporters of the Humane Society of the United States in Hawaii, I would like to thank you for this opportunity to speak in **strong support of HB 2724**; permitting dog tethering if only meeting certain specifications, and **in strong support of HB 2725**; amending the definition of necessary sustenance. We also thank Chair Karamatsu for introducing these important and most modest measures to improve the quality of life for thousands of animals across Hawaii.

HB 2724; Tethering

The introduction of this measure could not be more timely. More than 100 ordinances across 30 states have recently been enacted to prohibit certain types of chaining. In addition, local media has recently reported a number of dog bites and a proposal to prohibit certain breeds of dog. The most effective, efficient and affordable way to reduce dog bites is to prohibit the inhumane practice of chaining, coupled with strong dangerous dog and anti-dogfighting laws.

Tethering Causes Aggression - a Threat to Public Safety

The practice of chaining or tethering leads to aggression in dogs—even in dogs who start out friendly and docile. Continuously tethered dogs become lonely, bored, territorial, and aggressive. Like many animals, dogs react to perceived threats with a “fight or flight” response. Because tethered dogs do not have a “flight” option, they are more likely to respond aggressively to perceived threats—whether it’s another animal or an unlucky child who happens to enter their territory.

Chaining is a known risk factor for dog bites. Health and Public Safety professionals have long recognized a connection between chained dogs and dog bites. For example, in a 1994 edition of the journal *Pediatrics*, researchers found that chained dogs are nearly three (2.8) times more likely to bite than unchained dogs and over five (5.4) times more likely to bite children than unchained dogs.¹

Numerous attacks on people by tethered dogs have been documented. For example, a study published in 1985 in *Public Health Reports* showed that half of the dogs involved in severe attacks on humans were chained during the attack or broke free from their chains to attack.² Tragically, the victims of such attacks are often children.

¹ K.A. Gershman, Jeffrey J. Sacks, and J.C. Wright, “Which dogs bite? A case-control study of risk factors,” *Pediatrics* 93 (1994), 913-917.

² John C. Wright, PhD, “Severe Attacks by Dogs: Characteristics of the Dogs, the Victims, and the Attack Settings,” *Public Health Reports* Vol. 100, No. 1 (January-February 1985), <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1424716>.

The United States Department of Agriculture and American Veterinary Medical Association also note the negative effects of chained dogs:

USDA – United States Department of Agriculture

From the Federal Register Vol. 1, No. 68 (July 2, 1996): “Our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. A tether significantly restricts the dog’s movement. A tether can also become tangled around or hooked on the dog’s shelter structure or other objects, further restricting the dog’s movement and potentially causing injury.”

AVMA – American Veterinary Medical Association

From press releases dated May 17, 2002 and May 5, 2003 for National Dog Bite Prevention Week: “Never tether or chain your dog because this can contribute to aggressive behavior.”

Scientific study

From the study *Which Dogs Bite? A Case Control Study of Risk Factors*: “Our finding that being chained in the yard may be a risk factor for biting is in agreement with prior studies which have demonstrated that chained dogs account for a substantial portion of serious and fatal bites.”

Constant Tethering is Inhumane

Dogs are pack animals and are naturally social. Chained dogs live an isolated existence that is contrary to their own instincts. This lack of socialization is part of what makes chained dogs more dangerous.

Chained dogs are at risk of getting hurt. Aside from the psychological harm endured by chained dogs, they are at risk from a number of other dangers. Weather conditions such as extreme heat or flooding can adversely affect a chained dog’s health. Plus, chained dogs cannot escape attacks from people or other animals. Also, it is not uncommon for chained dogs to strangle themselves if their tether gets tangled or caught on another object. In many cases, the necks of chained dogs become rubbed raw and covered with sores, the result of poorly fitted collars and the dogs’ constant yanking and straining in desperate attempts to escape confinement. Dogs have been found with collars embedded in their necks, the result of years of neglect at the end of a chain.

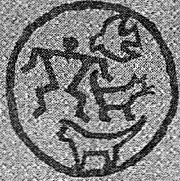
HB 2725; Necessary Sustenance

This bill would help to improve the health, well-being and overall welfare of thousands of pet animals across Hawaii that spend considerable time in kennels or cages by providing the most basic housing, sustenance, care and keeping standards. This is also a first step in preventing “puppy mills” or mass breeding operations where dogs are often kept in cramped, dirty cages, unable to engage in the most basic body movements.

This bill also provides a necessary requirement that owners provide veterinary care to pet animals to prevent suffering. Hawaii is but one of only a few states without this provision, making this an extremely important measure to reduce unnecessary animal suffering and improve pet owner responsibility for the care of their pets.

For these reasons, we respectfully request your passage of both HB 2724 and HB 2725.

Please contact me at (808)922-9910 or igibson@humanesociety.org if I may provide additional information.



HAWAIIAN HUMANE SOCIETY

2700 Waiālae Avenue
Honolulu, Hawaii 96826
Telephone: 946-2187
Fax: 955-6034
www.hawaiianhumane.org

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

February 3, 2010

John Riki Karamatsu, Chair
Ken Ito, Vice Chair
Committee on Judiciary

Re: Testimony on HB 2724

Chair Karamatsu, Vice Chair Ito and Members of the Committee on Judiciary:

On behalf of our more than 26,000 supporters in Hawaii, the Hawaiian Humane Society greatly appreciates the opportunity to comment on HB 2724 Relating to Offenses Against Public Order.

We strongly support the passage of HB 2724, which would expand the definition of tethering and establish key requirements by which a person would be held accountable for cruelty to animals if found in violation such as length and weight of the tether, and prohibiting the tethering of dogs under six months old. In response to various bills submitted to last year's legislature on pet confinement and tethering, the Hawaiian Humane Society, Maui Humane Society, Kauai Humane Society and the Hawaii Island Humane Society requested more time to discuss this complex issue and build consensus in our community. A task force was convened with key stakeholders in the animal welfare, veterinary and advocacy community and over the course of six meetings the language of HB 2724 was developed to address our core concerns. This bill represents that collaborative effort, which aims to effectively address this important issue of pet tethering.

To ensure its intent, we respectfully request that language be added to HB 2724 that is currently in SB 2877 regarding property lines. In SB 2877 (1d), there is important language that makes it illegal to use a tether or chain that allows the dog to reach within five feet of the property line. Research shows that tethering is both an animal welfare and public safety issue. This provision is particularly related to public safety and the language regarding the property line is critical. However, this language is omitted from the House version of the bill entirely. We request that the language from SB 2877 (1d) therefore be included in HB 2724.

The Hawaiian Humane Society strongly supports HB 2724 and we urge you to pass this important legislation.

Thank you for the opportunity to voice our strong support for this bill.

Pamela Burns
President & CEO
Hawaiian Humane Society



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2700 Waiālae Avenue
Honolulu, Hawaii 96826
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■
*The Hawaiian Humane
Society is dedicated to
promoting the human-
animal bond and
the humane treatment of
all animals.*
■

House Bill 2724 to be heard on Thursday,
February 4, 2010 at 2:20p.m. This is written
testimony, which will be accompanied by oral
testimony.



Maui Humane Society
P.O. Box 1947
Pu'unene, Hawaii 96784
PH: 808.877.3680 • FX: 808.877.5033
www.mauihumanesociety.org

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Jocelyn Bouchard, C.A.W.A.

February 3, 2010

Re: HB2724

Attn: Committee on Judiciary Chair Karamatsu and Vice-Chair Ito

Aloha;

Our agency strongly supports the passage of HB 2724 and its Senate companion bill SB 2877.

In response to various bills submitted to last year's legislature on pet confinement and tethering, the Hawaiian Humane Society, Maui Humane Society, Kauai Humane Society and the Hawaii Island Humane Society requested more time to discuss this complex issue and build consensus in our community. A task force was convened with key stakeholders in the animal welfare, veterinary and advocacy community and over the course of six meetings, the language in HB 2724 and SB 2877 was developed to address our core concerns. These bills are a representation of a collaborative effort that aims to effectively address this important issue.

The bill expands the definition of tethering and establishes key statutes by which a person will be held accountable for cruelty to animals if found in violation.

We would like language added to HB 2724 that is in SB 2877 regarding property lines. In SB 2877 (1d), there is important language that makes it illegal to use a tether or chain that allows the dog to reach within five feet of the property line. Research shows that tethering is both an animal welfare and public safety issue. As such, this provision is particularly related to public safety and the language regarding the property line is critical. However, this language is omitted from the House version of the bill entirely. We request that the language from SB 2877 (1d) therefore be included in HB 2724.

Mahalo for your time in hearing these bills. I can be reached for further comment and/or information at (808)877-3680 ext 36 or jbouchard@mauihumanesociety.org

Sincerely;

Jocelyn Bouchard, C.A.W.A.
Chief Executive Officer
Maui Humane Society

Providing Love. Preventing Cruelty.

karamatsu1-Kenji

From: Madelyn Barrea [madb1@hawaiiantel.net]
Sent: Wednesday, February 03, 2010 7:54 PM
To: JUDtestimony
Subject: SUPPORT FOR HB 2724: Related to Tethering and HB 2725 Related to Animals

To: Honorable Chair Karamatsu, Vice-Chair Ito and House Judiciary Committee Members

**West Hawaii Humane Society would like to go on record as being totally in favor of
HB 2724; RELATED TO TETHERING AND HB 2725 RELATED TO ANIMALS.**

Thank you,

Ginger Towle, President

Madelyn R. Barrea, Executive Director

West Hawaii Humane Society

karamatsu1-Kenji

From: Anjie Pham [potteringpuck@yahoo.com]
Sent: Wednesday, February 03, 2010 1:42 PM
To: JUDtestimony
Subject: HB 2724 (Dog Tethering): Support

Dear Representatives:

I support HB 2724 to amend and improve on the current definitions of dog tethering.

I also support the addition of a "cable or trolley system" if a dog has to be tethered. I hope you will make this a MANDATORY addition, however, and impose fines & penalties as suggested.

The truth is an extremely social & loyal animal such as the dog should NOT have to live out its entire life outside at the end of a chain. It is in many ways a form of animal abuse and cruelty but until the laws improve on its definition of animal cruelty, please let HB 2724 as a first step in that direction.

Mahalo nui,

**Anjie Pham
Honolulu, Hawai'i**

karamatsu1-Kenji

From: Spikecat1@aol.com
Sent: Wednesday, February 03, 2010 3:45 PM
To: JUDtestimony
Subject: Support of HB 2724 & HB 2725

To Committee on Judiciary
Chairperson Karamatsu and Vice-Chairperson Ito

Sirs:
We strongly support HB 2724 and HB 2725 and the companion Senate Bills. Please consider this as our testimony when considering these bills. Please vote for their passage. We also favor adding the language from SB 2877 (1d) to HB 2724.
Sincerely,
Drs. Judith and Ronald Aikawa
37 Apali Way
Kula, Hawaii 96790

karamatsu1-Kenji

From: DR. Miyo Kim [mkim@mauihumansociety.org]
Sent: Wednesday, February 03, 2010 4:24 PM
To: JUDtestimony
Subject: testimony

I would like to support passage of your HB 2725 on confinement and HB 2724 on Tethering. These are two very important bills to help protect the safety of our animals. We see the results of inappropriate confinement and tethering and it is heartbreaking. Please help us help the animals!!! Aloha, Dr. Miyo Miyasaki-Kim

karamatsu1-Kenji

From: Judy Mick [ppchawaii@yahoo.com]
Sent: Wednesday, February 03, 2010 7:22 PM
To: JUDtestimony
Subject: HB #2724 and #2725

Aloha-

Please support both HB 2724 and HB 2725. In such a beautiful and special place as these islands, we must extend our compassion and aloha to those that can not speak for themselves-the animals. To paraphrase Mark Twain, if we are intellectually superior and know what is the right thing to do, not doing it makes us morally inferior. Please support these wonderful creatures. Mahalo, Judith Mick

karamatsu1-Kenji

From: annmarie@hawaii.rr.com
Sent: Wednesday, February 03, 2010 10:35 PM
To: JUDtestimony
Subject: HB 2724 & 2725 - Testimony in Strong Support - Feb. 4, 2010 at 2:20pm

HB 2724; Related to Teethering AND HB 2725; Related to Animals HOUSE JUDICIARY COMMITTEE, Feb. 4th, 2010

Aloha Chair Karamatsu, Vice-Chair Ito and House Judiciary Committee members,

I am writing to ask you to support House Bills 2724 & 2725.

As a pet owner my whole life, and one who has been blessed with the special bond one develops with their dog, I believe dogs are more than simple pets, they are a part of the family. And like our family members, our dogs deserve the best life we can give to them. That life includes extended to them our aloha, our interaction and exercise with them, and to make sure their life is a happy, safe and healthy one.

A dog tethered for extended periods of time develops aggressive tendencies because it has not been given the opportunity to gain proper social skills with other dogs and humans. When the tethered dog is finally allowed to have time off of its restraints it is more apt to bite someone out of fear which reveals itself in an aggressive act toward another dog or a human. Extended tethering breeds aggressiveness, this creates issues of public safety. A dog which is allowed to walk, run, socialize with others, is a happy and well adjusted dog and will not create safety issues.

The same can be written of dogs who are held in kennels for extended periods of time. This practice of keeping dogs in kennels without adequate space, care or cleanliness is often seen in puppy mills where the business is to mass breed the dogs without proper veterinary care and where the dog experiences a horrible quality of the life. Quite simply, this is wrong and inhumane.

Hawai'i is one of but a few states that do not have a provision for owners to provide veterinary care to their pets to prevent suffering. This must change. We must take better care of our pets, our furry family members, and make sure they are taken care of and given the aloha, care and quality of life that they deserve.

I humbly ask you to support HB 2724 & 2725.

Mahalo,
Ann Marie Kirk

PO Box 25342
Honolulu, Hawai'i 96825

annmarie@hawaii.rr.com

karamatsu1-Kenji

From: K. Williams [kdw@hawaiiintel.net]
Sent: Thursday, February 04, 2010 12:14 AM
To: JUDtestimony
Subject: Support for HB 2724 AND HB 2725 Relating to Animals

Importance: High

Dear Sir/Ma'am,

Please know that I support HB 2724 and HB 2725.

Hawaii consistently ranks low among the 50 states for not acting strongly against animal abuse.

Please do your part to remove this stigma and show the world we DO CARE about animals!!

Sincerely,

**Kim Williams
99-1106 Halawa Heights Road
Aiea HI 96701**