



GOV. MSG. NO. 1252

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 21, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

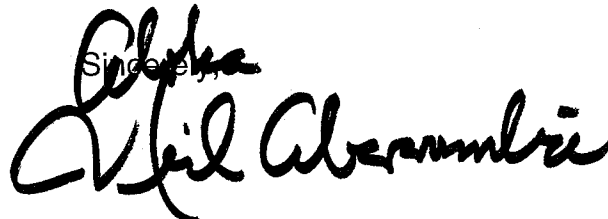
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 21, 2011, the following bill was signed into law:

SB1069 SD1 HD1

RELATING TO CRUELTY TO ANIMALS.
Act 149 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 21 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 149
S.B. NO. 1069
S.D. 1
H.D. 1

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
5 second degree. (1) A person commits the offense of cruelty to
6 animals by fighting dogs in the second degree if the person
7 knowingly:

8 (a) Wagers on a dogfight;

9 (b) Attends or pays to attend a dogfight; or

10 (c) Possesses any device intended to enhance the dog's
11 fighting ability with the intent that the device be
12 used to train or prepare the dog for a dogfight.

13 (2) As used in this section:

14 "Bait dog" means a live animal used to train or prepare
15 dogs for a dogfight.

16 "Device" means both animate and inanimate objects and
17 includes live animals used as bait dogs.



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

4 "Wager" means staking or risking something of value on the
5 outcome of a dogfight.

6 (3) Cruelty to animals by fighting dogs in the second
7 degree is a class C felony."

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

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



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

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

4 "(1) If any pet animal is impounded pursuant to section
5 711-1109.1, prior to final disposition of the criminal charge
6 under section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6,
7 or 711-, against the pet animal's owner, any duly incorporated
8 humane society or duly incorporated society for the prevention
9 of cruelty to animals that is holding the pet animal may file a
10 petition in the criminal action requesting that the court issue
11 an order for forfeiture of the pet animal to the county or to
12 the duly incorporated humane society or duly incorporated
13 society for the prevention of cruelty to animals prior to final
14 disposition of the criminal charge. The petitioner shall serve
15 a true copy of the petition upon the defendant and the
16 prosecuting attorney."

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

18 "(3) At a hearing conducted pursuant to subsection (2),
19 the petitioner shall have the burden of establishing probable
20 cause that the pet animal was subjected to a violation of
21 section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6[-], or
22 711-. If the court finds that probable cause exists, the



1 court shall order immediate forfeiture of the pet animal to the
2 petitioner, unless the defendant, within seventy-two hours of
3 the hearing:

4 (a) Posts a security deposit or bond with the court clerk
5 in an amount determined by the court to be sufficient
6 to repay all reasonable costs incurred, and
7 anticipated to be incurred, by the petitioner in
8 caring for the pet animal from the date of initial
9 impoundment to the date of trial; or

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

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

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

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



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

3 "~~§711-1109.3~~ Cruelty to animals[+] by fighting dogs[-] in
4 the first degree. (1) A person commits the offense of cruelty
5 to animals by fighting dogs in the first degree if the person:

6 [~~(a) Owns or trains any dog with the intent that such dog~~
7 ~~shall be engaged in an exhibition of fighting with~~
8 ~~another dog;~~

9 ~~(b) For amusement or gain, intentionally causes any dog to~~
10 ~~fight with another dog, or causes any dog to injure~~
11 ~~another dog; or~~

12 ~~(c) Knowingly or recklessly permits any act in violation~~
13 ~~of paragraph (a) or (b) to be done on the premises~~
14 ~~under the person's charge or control, or aids or abets~~
15 ~~any such act.]~~

16 (a) Knowingly:

17 (i) Causes, sponsors, arranges, or holds a dogfight
18 for entertainment or financial gain; or

19 (ii) Owns, trains, transports, possesses, sells,
20 transfers, or equips any dog with the intent that
21 the dog shall be engaged in a dogfight; or

22 (b) Recklessly:



1 SECTION 5. Section 711-1110.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§711-1110.5 Surrender or forfeiture of animals.** Upon
4 conviction, guilty plea, or plea of nolo contendere for any
5 violation of section 711-1108.5, 711-1109, 711-1109.3, [~~æ~~]
6 711-1109.6[+], or 711- :

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

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



1 The court shall order the defendant to reimburse the duly
2 incorporated humane society or duly incorporated society for the
3 prevention of cruelty to animals for reasonable costs incurred
4 to care, feed, and house any animal that is surrendered or
5 forfeited pursuant to this section."

6 SECTION 6. Act 128, Session Laws of Hawaii 2008, as
7 amended by Act 160, Session Laws of Hawaii 2009, is amended by
8 amending section 7 to read as follows:

9 "SECTION 7. This Act shall take effect upon its approval
10 and shall be repealed on July 1, 2015[-]; provided that sections
11 711-1109.1(1), 711-1109.2(1), (3), and (5), and 711-1110.5,
12 Hawaii Revised Statutes, shall be reenacted in the form in which
13 they read on the day before the effective date of this Act."

14 SECTION 7. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

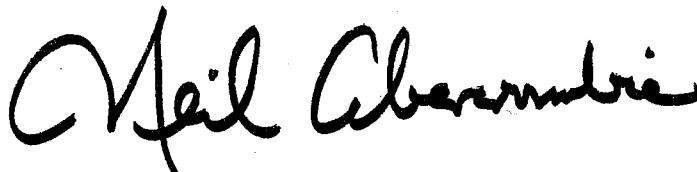
17 SECTION 8. If any provision of this Act, or the
18 application thereof to any person or circumstance is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act, which can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.



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 on July 1, 2011;
4 provided that the amendments made to section 711-1109.1, Hawaii
5 Revised Statutes, in section 2 of this Act, to section
6 711-1109.2, Hawaii Revised Statutes, in section 3 of this Act,
7 and to section 711-1110.5, Hawaii Revised Statutes, in section 5
8 of this Act, shall not be repealed when those sections are
9 reenacted on July 1, 2015, by section 6 of this Act.

APPROVED this 21 day of JUN, 2011


GOVERNOR OF THE STATE OF HAWAII