

JAN 21 2011

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 As used in this section:

14 "Attends" means to be present within the immediate vicinity
15 of an exhibition of dog fighting or preparations thereto or to
16 incite, give patronage to, or encourage or urge others in the
17 commission thereof.



1 "Device" means both animate and inanimate objects and
2 includes live animals used as bait animals.

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

6 "Wager" means staking or risking something of value on the
7 outcome of a dogfight.

8 (2) Violation of this section shall be a class C felony."

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

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



1 notice shall be sent by certified mail to the address, if any,
2 from which the pet animal was removed."

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

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

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

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

20 "(3) At a hearing conducted pursuant to subsection (2),
21 the petitioner shall have the burden of establishing probable
22 cause that the pet animal was subjected to a violation of



1 section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6[~~-~~], or
2 711-_____. If the court finds that probable cause exists, the
3 court shall order immediate forfeiture of the pet animal to the
4 petitioner, unless the defendant, within seventy-two hours of
5 the hearing:

- 6 (a) Posts a security deposit or bond with the court clerk
7 in an amount determined by the court to be sufficient
8 to repay all reasonable costs incurred, and
9 anticipated to be incurred, by the petitioner in
10 caring for the pet animal from the date of initial
11 impoundment to the date of trial; or
12 (b) Demonstrates to the court that proper alternative care
13 has been arranged for the pet animal.

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

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

18 "(5) No pet animal may be destroyed by a petitioner under
19 this section prior to final disposition of the criminal charge
20 under section 711-1108.5, 711-1109, 711-1109.3, [~~or~~] 711-1109.6,
21 or 711-_____, against the pet animal's owner, except in the event



1 that the pet animal is so severely injured that there is no
2 reasonable probability that its life can be saved."

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

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

7 to animals by fighting dogs in the first degree if the person:

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

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

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

18 (a) Knowingly:

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

21 (ii) Owns, trains, transports, possesses, breeds,
22 sells, transfers, or equips any dog with the



1 intent that the dog shall be engaged in a
2 dogfight; or

3 (b) Recklessly:

4 (i) Allows a dogfight to occur on any property owned
5 or controlled by the person; or

6 (ii) Allows any dog intended to be used for a dogfight
7 to be kept, trained on, or transported in, any
8 property owned or controlled by the person.

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

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

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

15 (c) The training of dogs or the use of equipment in the
16 training of dogs for any purpose not prohibited by
17 law.

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

21 [~~3~~] (4) Violation of this section shall be a class [C] B
22 felony.



1 ~~[(4)]~~ (5) If there is any conflict between this section
2 and section 711-1109, or any other provision of law, this
3 section shall apply."

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

6 "**§711-1110.5 Surrender or forfeiture of animals.** Upon
7 conviction, guilty plea, or plea of nolo contendere for any
8 violation of section 711-1108.5, 711-1109, 711-1109.3, ~~[or]~~ 711-
9 1109.6~~[or]~~, or 711-_____ :

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

17 (2) The court also may order the defendant to surrender or
18 forfeit any other animals under the possession,
19 custody, or control of the defendant to the custody of
20 a duly incorporated humane society or duly
21 incorporated society for the prevention of cruelty to
22 animals for the time and under the conditions as the



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

8 SECTION 6. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval;
14 provided that the amendments made to section 711-1109.1, Hawaii
15 Revised Statutes, in section 2 of this Act, to section
16 711-1109.2, Hawaii Revised Statutes, in section 3 of this Act,
17 and to section 711-1110.5, Hawaii Revised Statutes, in section 5
18 of this Act, shall not be repealed when those sections are
19 reenacted on July 1, 2015, by section 15 of Act 11, Session Laws



1 of Hawaii 2009 and by section 3 of Act 160, Session Laws of
2 Hawaii 2009.

3

INTRODUCED BY:

Cyren Hill



Report Title:

Crimes; Dog Fighting; Animal Cruelty

Description:

Establishes the offense of cruelty to animals by fighting dogs in the second degree. Increases penalty for cruelty to animals by fighting dogs in the first degree. Clarifies dog fighting and animal cruelty laws.

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