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# A BILL FOR AN ACT

RELATING TO CRUELTY TO ANIMALS.

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

1 **PART I**

2 SECTION 1. The legislature finds that an estimated forty-  
3 three per cent of households in Hawaii include a dog. Profit-  
4 driven breeding is prevalent in Hawaii and recent research by  
5 the Hawaiian Humane Society reveals that on Oahu, during a two-  
6 week period in November, over three hundred sixty puppies were  
7 available for sale. When projected over a one-year period,  
8 revenues from sales of dogs may be equal to or exceed  
9 \$9,400,000.

10 The legislature further finds that a law is needed to  
11 ensure that dogs at large-scale breeding facilities receive  
12 sanitary living conditions, proper and timely medical care, the  
13 ability to move freely at least once per day, and adequate  
14 shelter from the elements. Existing state and federal laws  
15 regarding the care and husbandry of dogs inadequately regulate  
16 large-scale breeding facilities in Hawaii. Inadequate  
17 regulation places an unfair fiscal burden on the county and  
18 state taxpayers, government agencies, and nongovernmental



1 organizations, whose resources contribute to the care of dogs  
2 discarded or abused by large-scale breeding facilities.

3 The purpose of this part is to:

4 (1) Require owners of ten or more dogs over the age of  
5 four months with intact sexual organs to meet minimum  
6 standards of care to ensure the proper treatment and  
7 care of the dogs and the dogs' offspring;

8 (2) Prohibit the ownership or custody of more than thirty  
9 dogs over the age of one year with intact sexual  
10 organs; and

11 (3) Require owners of ten or more dogs over the age of  
12 four months with intact sexual organs to maintain  
13 specific written records of each dog for a specified  
14 period.

15 SECTION 2. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 as follows:

18 **"CHAPTER**

19 **PREVENTION OF CRUELTY TO DOGS**

20 **§ -1 Definitions.** As used in this chapter:

21 "Dog" means any animal that is wholly or in part of the  
22 subspecies *Canis lupus familiaris*.



1 "Litter" means one or more dogs that are born to the same  
2 mother at the same time.

3 "Person" means any individual, firm, partnership, joint  
4 venture, association, limited liability company, corporation,  
5 estate, trust, receiver, or syndicate; provided that the term  
6 shall not include:

7 (1) An animal control or welfare agency tax exempt under  
8 title 26 United States Code section 501(c)(3);

9 (2) A person who provides care for dogs at the request of  
10 a government agency; or

11 (3) A veterinary clinic.

12 "Regular exercise" means providing the dog with constant  
13 and unfettered access to an outdoor or indoor exercise area that  
14 provides at least four times the square footage of indoor floor  
15 space required for each dog pursuant to paragraph (3) of the  
16 definition of "sufficient space for movement".

17 "Sufficient food and clean water" means access to adequate  
18 amounts of appropriately nutritious food to maintain good  
19 health; and continuous access to potable water that is  
20 substantially free from debris, feces, algae, and other  
21 contaminants.



1 "Sufficient housing or shelter" means constant and  
2 unfettered access to an indoor enclosure that:

- 3 (1) Is sufficiently ventilated at all times to minimize  
4 odors, drafts, and ammonia levels, and to prevent  
5 moisture condensation;
- 6 (2) Has a means of fire suppression, such as functioning  
7 fire extinguishers, located within forty feet of the  
8 cage or enclosure;
- 9 (3) Has sufficient lighting to allow for observation of  
10 the dogs at any time of day or night;
- 11 (4) Is not placed more than forty-two inches above the  
12 floor;
- 13 (5) Is not stacked or otherwise placed on top of or below  
14 another animal's cage or primary enclosure; and
- 15 (6) Is cleaned at least once a day of feces, hair, dirt,  
16 debris, and food waste.

17 "Sufficient space for movement" means the following:

- 18 (1) Sufficient indoor space for each dog to lie down and  
19 fully extend limbs and stretch freely without touching  
20 the sides of the enclosure or another dog, and to turn  
21 in a complete circle without any impediments,  
22 including a tether;



1 (2) At least twelve inches of headroom above the head of  
2 the tallest dog in the enclosure when it is in a  
3 normal standing position; and

4 (3) A square footage that includes at least:

5 (A) Twelve square feet of indoor floor space for each  
6 dog that is no more than twenty-five inches in  
7 length;

8 (B) Twenty square feet of indoor floor space for each  
9 dog that is no less than twenty-five inches and  
10 no more than thirty-five inches in length; and

11 (C) Thirty square feet of indoor floor space for each  
12 dog that is more than thirty-five inches in  
13 length;

14 provided that the length of the dog shall be measured  
15 from the tip of the nose to the base of the tail.

16 "Sufficient veterinary care" means, at minimum:

17 (1) An examination performed at least once a year by a  
18 veterinarian licensed under chapter 471;

19 (2) Prompt treatment of any illness or injury by a  
20 veterinarian licensed under chapter 471; and

21 (3) Humane euthanasia, when needed, by a veterinarian  
22 licensed under chapter 471, using lawful techniques



1           deemed acceptable by the American Veterinary Medical  
2           Association.

3           **§ -2 Limit on number of dogs.** No person shall own,  
4 possess, control, or otherwise have charge or custody of more  
5 than thirty dogs, with intact sexual organs and over the age of  
6 one year, at any time.

7           **§ -3 Standard of care; recordkeeping.** (a) Any person  
8 who owns, possesses, controls, or otherwise has charge or  
9 custody of more than ten dogs over the age of four months with  
10 intact sexual organs shall provide the following for each dog:

- 11           (1) Regular exercise;  
12           (2) Sufficient food and clean water;  
13           (3) Sufficient housing or shelter;  
14           (4) Sufficient space for movement;  
15           (5) Sufficient veterinary care; and  
16           (6) A microchip implanted under the skin;

17 provided that no microchip shall be implanted in any dog aged  
18 less than four months.

19           (b) No person who owns, possesses, controls, or otherwise  
20 has charge or custody of more than ten dogs over the age of four  
21 months with intact sexual organs shall breed any dog unless the  
22 dog is between the ages of twelve months and eight years of age.



1 No dog shall be bred to produce more than two litters in any  
2 eighteen month period. No person who owns, possesses, controls,  
3 or otherwise has charge or custody of more than ten dogs over  
4 the age of four months with intact sexual organs shall breed any  
5 dog determined by a veterinarian to be unfit for breeding  
6 purposes.

7 (c) Any person who owns, possesses, controls, or otherwise  
8 has charge or custody of more than ten dogs over the age of four  
9 months with intact sexual organs shall maintain a record for  
10 each dog and the dog's offspring including the following  
11 information:

12 (1) Each breeding dog shall be identified by the  
13 implantation of a microchip, and each dog's health  
14 records shall accurately record the appropriate  
15 identification;

16 (2) All veterinary treatment, including the following:

17 (A) A record of each inoculation and de-worming  
18 treatment, if any, including the dates and types  
19 of treatments administered; and

20 (B) A record of any veterinary treatments or  
21 medications received;



1 (3) The date of birth of the dog or, if the date of birth  
2 is unknown, the date the person acquired possession,  
3 control, or charge of the dog and the source of the  
4 dog;

5 (4) The dates on which the dog has been bred;

6 (5) For a female, the number of dogs in each litter  
7 produced; and

8 (6) The disposition the person makes of each dog possessed  
9 by, controlled by, or in the charge of the person,  
10 including the date of disposition, manner of  
11 disposition, and the name and address information for  
12 any person taking possession, control, or charge of a  
13 dog.

14 Records shall be retained for at least three years  
15 following the death of the dog or a date on which the person  
16 permanently ceased to have possession or control of the dog.

17 **§ -4 Prohibitions on certain types of dogs in the same**  
18 **enclosure.** No person who owns, possesses, controls, or  
19 otherwise has charge or custody of more than ten dogs over the  
20 age of four months with intact sexual organs shall place:





1 (1) A dog with a vicious or aggressive disposition in an  
2 enclosure with another dog, except for breeding  
3 purposes;

4 (2) Breeding females in heat in the same enclosure at the  
5 same time with sexually mature males, except for  
6 breeding purposes;

7 (3) Breeding females and their litters in the same  
8 enclosure at the same time with other adult dogs; and

9 (4) Puppies aged twelve weeks or younger in the same  
10 enclosure at the same time with other adult dogs,  
11 other than the dam or foster dam, unless under  
12 immediate and constant supervision.

13 § -5 **Penalty.** Any person who violates section -2,  
14 -3, or -4 shall be guilty of a misdemeanor. Each  
15 violation shall constitute a separate offense. If the  
16 circumstances warrant a charge of cruelty to animals in the  
17 second degree prescribed under section 711-1109, the defendant  
18 may be charged with violating that section instead.

19 § -6 **Severability.** Any violation of section -2,  
20 -3, or -4 shall be in addition to and not in lieu of any  
21 other state and federal laws protecting animal welfare.

22 Sections -2, -3, and -4 shall not be construed to limit



1 any state law, rule, or regulation protecting the welfare of  
2 animals, nor shall anything in these sections prevent a local  
3 governing body from adopting and enforcing its own animal  
4 welfare laws and regulations in addition to these sections."

5 **PART II**

6 SECTION 3. The legislature finds that Hawaii does not  
7 currently regulate the breeding of dogs. However, in early  
8 2011, the discovery of a puppy mill in Waimanalo focused  
9 attention on dog breeders and the potential for cruel and  
10 inhumane conditions.

11 The legislature further finds the Animal Welfare Act was  
12 first enacted by Congress in 1966. This federal law requires  
13 licensure and regulation of certain types of businesses that  
14 fall under the category of animal dealers. However, the law  
15 exempts businesses, such as the Waimanalo puppy mill, that fall  
16 under certain categories, including retail pet stores, retail  
17 chain stores, hobby breeders, and direct sales.

18 During the regular session of 2011, S.B. No. 1522, S.D. 2,  
19 H.D. 1, was introduced and heard throughout the legislative  
20 process. This measure proposed that the department of commerce  
21 and consumer affairs issue licenses to large-scale dog breeders  
22 after the breeders meet certain licensure requirements, and



1 authorized the department's director to enforce the new law.  
2 S.C.R. No. 111, S.D. 1, was also adopted during the regular  
3 session of 2011. This resolution directed the auditor to  
4 conduct a sunrise review of the regulation of large-scale dog  
5 breeders and dog breeding facilities, as proposed under S.B. No.  
6 1522, S.D. 2, H.D. 1.

7 In October 2011, the office of the auditor issued its  
8 corresponding report. According to the auditor's report, S.B.  
9 No. 1522, S.D. 2, H.D. 1, did not meet the criteria for  
10 regulation of large-scale dog breeders through the State's  
11 regulatory agency. However, the report did cite other  
12 alternatives that could be used to protect dogs, including laws  
13 in other states, the American Veterinary Medical Association's  
14 model law, a county-based regulatory model, and puppy lemon  
15 laws.

16 In considering the strengths of various states' laws and  
17 the most appropriate structure for regulating dog breeders, the  
18 legislature finds merit in authorizing counties to conduct or  
19 contract for inspections and to implement minimum requirements  
20 for the housing and treatment of breeding dogs. The counties  
21 are presently charged with issuing dog licenses and regulating  
22 animals pursuant to chapter 143, Hawaii Revised Statutes.



1           The legislature also finds that the local humane societies  
2 designated by the counties currently have in place the  
3 structure, personnel, and contracts with humane organizations to  
4 handle animal control. In contrast, the legislature understands  
5 that the department of commerce and consumer affairs is not  
6 equipped to administer regulation of animal breeders and  
7 recognizes that the department of agriculture's resources are  
8 also strained by its existing duties.

9           The legislature additionally finds that there is not  
10 reliable information on the number and size of large-scale dog  
11 breeders in the State. While it is believed that Oahu has  
12 approximately twenty large-scale dog breeders and the island of  
13 Hawaii has approximately ten, it is also believed that Maui and  
14 Kauai do not have any.

15           The legislature finds that regulation at the county level  
16 is the most reasonable approach in addressing dog breeders. The  
17 legislature understands that county officials may have concerns  
18 associated with the costs and responsibility of regulating dog  
19 breeders. However, the legislature notes that the Hawaiian  
20 Humane Society on Oahu has indicated a willingness to assist  
21 with this responsibility at no extra cost to the State. The  
22 legislature hopes that the Hawaiian Humane Society will be



1 equally supportive of dog breeder regulations if handled on a  
2 county level.

3 The purpose of this part is to:

4 (1) Require the licensing of dog breeders to ensure that  
5 every dog under their care is provided with sufficient  
6 food and clean water, sufficient shelter from the  
7 elements, necessary veterinary care, sufficient space,  
8 and regular exercise, among other things;

9 (2) Allow each county or its contracted local humane  
10 society the flexibility to assess the county's own  
11 situation, determine whether the need for regulation  
12 exists, and develop appropriate rules for housing and  
13 treatment of dogs by dog breeders, if necessary; and

14 (3) Require each county or its contracted local humane  
15 society to assess appropriate license fees for dog  
16 breeders and to pursue civil penalties for  
17 noncompliant dog breeders.

18 SECTION 4. Chapter 143, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

21 **"§143- Dog breeders; license required; fees; minimum**  
22 **requirements; premises available for inspection; civil**



1 penalties. (a) It shall be unlawful for any person to own or  
2 operate as a dog breeder unless the person obtains a valid  
3 license as a dog breeder pursuant to this chapter.

4 (b) Each county council shall have the power to fix  
5 license fees for dog breeders on a biennial basis. Until and  
6 unless otherwise provided by ordinance, the biennial license fee  
7 for each dog breeder shall be \$500. Any person operating as a  
8 dog breeder shall pay the license fee to the director of finance  
9 of the county in which the breeder operation is located. The  
10 license fee shall be due and payable on January 2 of every  
11 second year and shall be paid before March 11 of every second  
12 year, or within thirty days after becoming subject to this  
13 chapter. The full amount of the fee shall be paid for any  
14 fraction of the license period for which a license is issued.  
15 All moneys received by the director of finance under this  
16 chapter shall be paid into the general fund of each county.

17 (c) The minimum standards regarding the care, treatment,  
18 and proper recordkeeping requirements in dog breeding operations  
19 shall be the same as prescribed under section -3.

20 (d) A dog breeder licensee shall make its premises  
21 available for unannounced inspection by the county or the



1 county's contracted designee, pursuant to sections 143-15 and  
2 143-16, during regular business hours.

3 (e) Any person who operates as a dog breeder without a  
4 license shall be subject to a civil penalty of up to \$1,000;  
5 provided that each day of a violation shall be considered a  
6 separate offense. Any failure to comply with the standards and  
7 recordkeeping requirements prescribed under section -3 shall  
8 be subject to a civil penalty of up to \$1,000 for each  
9 violation."

10 SECTION 5. Section 143-1, Hawaii Revised Statutes, is  
11 amended by adding three new definitions to be appropriately  
12 inserted and to read as follows:

13 "Dog breeder" means any person who owns, possesses,  
14 controls, or otherwise has charge or custody of more than ten  
15 dogs over the age of four months with intact sexual organs.

16 "Person" means any individual, firm, partnership, joint  
17 venture, association, limited liability company, corporation,  
18 estate, trust, receiver, or syndicate; provided that the term  
19 shall not include:

20 (1) An animal control or welfare agency tax exempt under  
21 title 26 United States Code section 501(c)(3);



1       (2) A person who provides care for dogs at the request of  
2             a government agency; or

3       (3) A veterinary clinic.

4       "Premises" means the location of property, whether private  
5 or public, upon which buildings, yards, kennels, pens, and cages  
6 are used by a dog breeder in the usual course of business."

7       SECTION 6. Section 143-15, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§143-15 Contracts for seizing and impounding dogs.** Any  
10 county may contract with any society or organization formed for  
11 the prevention of cruelty to animals, or similar dog protective  
12 organization, for [~~the~~]:

13       (1) The seizure and impounding of all unlicensed dogs,  
14             ~~[and for the]~~ dogs owned by a dog breeder not in  
15             compliance with this chapter and any rules adopted  
16             pursuant to this chapter, and dogs owned by a person  
17             acting in the capacity of or engaged in the business  
18             of a dog breeder within the county without a dog  
19             breeder license obtained under and in compliance with  
20             this chapter and any rules adopted pursuant to this  
21             chapter;







1 organizations exempt under title 26 United States Code section  
2 501(c)(3).

3 "Public place" means a place to which the public or a  
4 substantial group of persons has access and includes public  
5 roads, parking lots, sidewalks, highways, transportation  
6 facilities, schools, places of amusement or business, parks,  
7 playgrounds, prisons, and hallways, lobbies, and other portions  
8 of apartment houses and hotels not constituting rooms or  
9 apartments designed for actual residence.

10 "Retail pet store" means a retail establishment engaged in  
11 the business of buying, selling, exchanging, or offering pets to  
12 the public; provided that a "retail pet store" shall not apply  
13 to humane societies; animal control, rescue, or care  
14 organizations exempt under title 26 United States Code section  
15 501(c)(3); or retail pet stores solely offering dogs or cats for  
16 adoption in cooperation with a humane society or animal control,  
17 rescue, or care organizations exempt under title 26 United  
18 States Code section 501(c)(3).

19 **§ -2 Sale of dogs and cats.** (a) If a dog or cat has  
20 not been previously microchipped, a retail pet store shall:

21 (1) Implant an identification microchip in the dog or cat  
22 prior to the sale or exchange of the dog or cat;



1 provided that the retail store shall not implant an  
2 identification microchip in a dog or cat that is less  
3 than four months in age;

4 (2) Register that microchip with the appropriate microchip  
5 company; and

6 (3) Provide the microchip information to the purchaser.

7 (b) At the time of sale or exchange of a dog to a  
8 purchaser, a retail pet store shall have the purchaser complete  
9 the appropriate county dog licensing form, collect the  
10 appropriate fees, and submit the form and payment to the  
11 respective county agency who issues dog licenses.

12 (c) Upon sale or exchange of a dog or cat, pet sellers  
13 shall deliver the following information to the retail pet store,  
14 and retail pet stores shall deliver the following information to  
15 the purchaser:

16 (1) The breeder's name and address and license  
17 information, if licensed by the United States  
18 Department of Agriculture;

19 (2) The date of the dog or cat's birth, if known;

20 (3) The date the pet seller or retail pet store received  
21 the dog or cat, if applicable;



- 1 (4) The breed, sex, color, and identifying marks of the
- 2 dog or cat;
- 3 (5) The veterinarian information, including the following,
- 4 if applicable:
- 5 (A) A record of each inoculation and worming
- 6 treatment, if any, including the dates and types
- 7 of treatments administered;
- 8 (B) A record of any veterinarian treatments or
- 9 medications received while the dog or cat was in
- 10 the possession of the pet seller;
- 11 (C) A receipt or other documentation signed by a
- 12 veterinarian licensed under chapter 471,
- 13 indicating if the dog or cat was spayed or
- 14 neutered; and
- 15 (D) A document stating that the dog or cat has no
- 16 known diseases or illnesses or describing any
- 17 known diseases or illnesses of the dog or cat or
- 18 any known congenital or hereditary conditions
- 19 that may adversely affect the health of the dog
- 20 or cat at the time of sale or exchange or is
- 21 likely to adversely affect the health of the dog
- 22 or cat in the future; and



1 (6) Written information on the health and other benefits  
2 of spaying and neutering, to be delivered by pet  
3 stores to purchasers.

4 (d) A pet seller shall attest to the delivery of the  
5 documents by signing all applicable documents required under  
6 subsection (b) and retaining copies of all documents for a  
7 period of not less than two years after the sale or exchange of  
8 the dog or cat. A retail pet store shall make all completed and  
9 signed documents available for inspection and copying during  
10 normal business hours only upon request by a law enforcement  
11 officer after receipt of a violation complaint by the law  
12 enforcement agency.

13 **§ -3 Sale of dogs and cats in a public place prohibited.**

14 Notwithstanding any ordinance, law, or rule to the contrary, it  
15 shall be unlawful for any person to sell, exchange, give away,  
16 display for commercial purposes, or trade for monetary or other  
17 compensation any dog or cat in any public place; provided that  
18 this section shall not apply to humane societies, or animal  
19 control, rescue, or care organizations exempt under title 26  
20 United States Code section 501(c)(3) facilitating the adoption  
21 of animals.





**Report Title:**

Animal Cruelty; Dog Breeders; Licensing; Penalties; Counties;  
Sale of Dogs and Cats; Retail Pet Stores; Pet Sellers;  
Identification Microchip

**Description:**

Requires specified persons who own, control, or have custody or control of ten or more dogs over age four months with intact sexual organs to meet minimum standards of care to ensure the proper treatment and care of dogs and the dogs' offspring. Prohibits any person from owning or having custody of more than thirty dogs over one year of age with intact sexual organs. Requires specified persons to maintain specific records for each dog for at least three years following the death of the dog or a date on which the person permanently ceased to have possession or control of the dog. Prohibits certain types of dogs in the same enclosure. Requires the licensing of dog breeders. Authorizes each county to develop license requirements and fees. Establishes minimum standards of care. Authorizes each county to pursue civil penalties for noncompliant dog breeders. Requires retail pet stores to implant an identification microchip in a dog or cat prior to sale or exchange, collect appropriate dog licensing forms and fees from a purchaser, provide specific written documentation regarding each dog or cat sold, and provide written information about spaying and neutering. Prohibits the sale of dogs and cats in a public place, except for humane groups facilitating adoptions. Establishes penalties. (Proposed SD1)

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

