
A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

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

1 SECTION 1. Section 711-1109.1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§711-1109.1 Authority to enter premises; notice of**
4 **impoundment of animal; damage resulting from entry. (1) If**
5 **there is probable cause to believe that a pet animal or equine**
6 **animal is being subjected to treatment in violation of section**
7 **711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35[7]**
8 **a law enforcement officer, after obtaining a search warrant, or**
9 **in any other manner authorized by law, may enter the premises**
10 **where the pet animal or equine animal is located to provide the**
11 **pet animal or equine animal with food, water, and emergency**
12 **medical treatment or to impound the pet animal or equine animal.**
13 **If after reasonable effort, the owner or person having custody**
14 **of the pet animal or equine animal cannot be found and notified**
15 **of the impoundment, an impoundment notice shall be conspicuously**
16 **posted on the premises and within seventy-two hours after**
17 **posting, the notice shall be sent by certified mail to the**



1 address, if any, from which the pet animal or equine animal was
2 removed.

3 (2) A law enforcement officer is not liable for any damage
4 resulting from an entry under subsection (1), unless the damage
5 resulted from intentional or reckless behavior on behalf of the
6 law enforcement officer.

7 (3) A court may order a pet animal or equine animal
8 impounded under subsection (1) to be held at a duly incorporated
9 humane society or duly incorporated society for the prevention
10 of cruelty to animals. A facility receiving the pet animal or
11 equine animal shall provide adequate food and water and may
12 provide veterinary care.

13 (4) For the purposes of this section, "law enforcement
14 officer" shall have the same meaning as [+]in[+] section 710-
15 1000."

16 SECTION 2. Section 711-1109.2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§711-1109.2 Forfeiture of animal prior to disposition of**
19 **criminal charges.** (1) If any pet animal or equine animal is
20 impounded pursuant to section 711-1109.1, prior to final
21 disposition of [~~the~~] a criminal charge under section 711-1108.5,
22 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35[~~7~~] against the



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

11 (2) Upon receipt of a petition pursuant to subsection (1),
12 the court shall set a hearing on the petition. The hearing
13 shall be conducted within fourteen days after the filing of the
14 petition, or as soon as practicable.

15 (3) At a hearing conducted pursuant to subsection (2), the
16 petitioner shall have the burden of establishing probable cause
17 that the pet animal or equine animal was subjected to a
18 violation of section 711-1108.5, 711-1109, 711-1109.3, 711-
19 1109.6, or 711-1109.35. If the court finds that probable cause
20 exists, the court shall order immediate forfeiture of the pet
21 animal or equine animal to the petitioner, unless the defendant,
22 within seventy-two hours of the hearing:



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

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

13 (4) If a security deposit or bond has been posted in
14 accordance with subsection (3)(a), the petitioner may draw from
15 the security deposit or bond the actual reasonable costs
16 incurred by the petitioner in caring for the pet animal or
17 equine animal until the date of final disposition of the
18 criminal action. If the trial is continued to a later date, any
19 order of continuance shall require the defendant to post an
20 additional security deposit or bond in an amount determined by
21 the court that shall be sufficient to repay all additional
22 reasonable costs anticipated to be incurred by the petitioner in



1 caring for the pet animal or equine animal until the date of
2 final disposition of the criminal action, and the petitioner may
3 draw from the additional security deposit or bond as necessary.

4 (5) No pet animal or equine animal may be destroyed by a
5 petitioner under this section prior to final disposition of
6 ~~[the]~~ a criminal charge under section 711-1108.5, 711-1109, 711-
7 1109.3, 711-1109.6, or 711-1109.35~~[7]~~ against the pet animal's
8 or equine animal's owner, except in the event that the pet
9 animal or equine animal is so severely injured that there is no
10 reasonable probability that its life can be saved.

11 (6) Forfeiture of a pet animal or equine animal under this
12 section shall not be subject to the provisions of chapter 712A.

13 (7) In addition to the reimbursement of any reasonable
14 costs incurred by the petitioner in the caring for a pet animal
15 or equine animal, a petitioner may be entitled to an award of
16 attorney's fees and court costs incurred by the petitioner in
17 the filing of the petition for the forfeiture of the pet animal
18 or equine animal and the award is made as restitution following
19 conviction of the defendant.

20 (8) As used in this section, "pet animal or equine animal"
21 includes any offspring from a pet animal or equine animal that
22 was born during the impoundment of the pet animal or equine



1 animal; provided that the pet animal or equine animal was
2 pregnant with that offspring at the time of the rescue."

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

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

8 SECTION 5. This Act shall take effect on January 7, 2059;
9 provided that the amendments made to sections 711-1109.1 and
10 711-1109.2, Hawaii Revised Statutes, by sections 1 and 2 of this
11 Act, shall not be repealed when section 711-1109.1(1) and
12 sections 711-1109.2(1), (3), and (5), Hawaii Revised Statutes,
13 are reenacted on July 1, 2015, pursuant to Act 149, Session Laws
14 of Hawaii 2011.



Report Title:

Cruelty to Animals; Equine Animals

Description:

Extends procedures for impoundment and forfeiture for cruelty to animal offense to equine animals to the same extent as pet animals. Effective January 7, 2059. (HB2679 HD1)

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

