
A BILL FOR AN ACT

RELATING TO THE REGULATION OF COMMERCIAL DOG BREEDERS.

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

1 SECTION 1. The legislature finds that Hawaii currently
2 does not regulate the commercial breeding of dogs, but the
3 discovery in early 2011 of a puppy mill in Waimanalo focused
4 attention upon dog breeders and the potential for cruel and
5 inhumane conditions. Congress enacted the Animal Welfare Act in
6 1966, requiring licensure of commercial dog breeders and brokers
7 that sell more than twenty-five dogs a year, gross more than
8 \$500 per year, or own more than four breeding females. The
9 federal law, however, exempts breeders, such as the Waimanalo
10 puppy mill, who sell directly to the public or are retailers.

11 In response to S.C.R. No. 111, S.D. 1, 2011, the office of
12 the auditor, in October 2011, issued its report, Sunrise
13 Analysis: Regulation of Large-Scale Dog Breeders and Facilities,
14 Report No. 11-02 ("auditor's report"), analyzing S.B. No. 1522,
15 S.D. 2, H.D. 1, 2011, relating to dogs. The bill proposed that
16 the department of commerce and consumer affairs issue licenses
17 to large-scale dog breeders, after the breeders met certain
18 licensure requirements, and authorized the department's director



1 to enforce the new law. After researching data on complaints
2 regarding dog sales, the auditor found "little more than
3 anecdotal evidence for a need to protect the public's health,
4 safety, and welfare from abusive activities of large-scale dog
5 breeders." Auditor's report, page 25.

6 Nonetheless, the auditor referred to laws in other states
7 (specifically Oklahoma and Pennsylvania) as well as the American
8 Veterinary Medical Association's model law to improve S.B. No.
9 1522, S.D. 2, H.D. 1, which was modeled after the law in
10 Missouri. The auditor pointed out some of the weaknesses of
11 S.B. No. 1522, S.D. 2, H.D. 1, and noted that the law in
12 Missouri has already been amended. Finally, the auditor
13 discussed other concepts such as a county-based regulatory model
14 and puppy lemon laws.

15 In considering the strengths of various states' laws and
16 the most appropriate structure for regulating dog breeders, the
17 legislature finds merit to authorizing counties to conduct, or
18 contract for, inspections and to implement minimum requirements
19 for the housing and treatment of dogs bred for commercial
20 purposes. The counties presently are charged with issuing dog
21 licenses and regulating animals pursuant to chapter 143, Hawaii
22 Revised Statutes. Section 143-7, Hawaii Revised Statutes,



1 already provides for the appointment and compensation of animal
2 control officers who have all the powers of a sheriff or police
3 officer in enforcing chapter 143.

4 Thus, counties currently have in place the structure,
5 personnel, and contracts with humane organizations to handle
6 animal control. In contrast, the auditor found the department
7 of commerce and consumer affairs "ill-equipped to administer
8 regulation of animal breeders." Auditor's report, page 25. In
9 addition, the legislature recognizes that the department of
10 agriculture's resources are already severely strained by its
11 existing duties. The legislature finds that amending chapter
12 143, Hawaii Revised Statutes, to include the regulation of
13 commercial dog breeders to be the most efficient, logical, and
14 reasonable approach to addressing commercial dog breeders.

15 In addition, each county differs as to the number of large-
16 scale dog breeders on each island: Oahu has approximately
17 twenty, the island of Hawaii has perhaps ten, and Maui and Kauai
18 are believed to have none. Auditor's report, page 15. Thus,
19 the counties of Maui and Kauai may opt not to implement
20 regulation of commercial dog breeders pursuant to this Act at
21 this time but would have the authority to do so in the future
22 should the need arise.



1 On the other hand, the city and county of Honolulu and the
2 county of Hawaii, where large-scale dog breeders appear to be
3 more prevalent, may choose to adopt administrative rules
4 regarding the housing and treatment of dogs bred commercially.
5 As the auditor commented in the auditor's report, detailed
6 provisions regarding operational standards are more suited to
7 administrative rules, which have the same force and effect as
8 statutes, because they can "more easily be corrected if found
9 ineffective, unclear, difficult to enforce, or unreasonably
10 burdensome." Auditor's report, page 23.

11 Rather than impose statewide statutes regarding commercial
12 dog breeders and their facilities, the legislature finds the
13 most efficient, logical, and reasonable approach is to allow
14 each county the flexibility to assess its own situation,
15 determine whether the need for regulation exists, and develop
16 appropriate rules for the housing and treatment of dogs by
17 commercial dog breeders if regulation is indeed warranted.

18 Although county officials may object to the responsibility
19 of regulating commercial dog breeders, possibly due to the
20 anticipated additional costs without adequate funding, the
21 auditor's report stated that "the Hawaiian Humane Society on
22 O'ahu has indicated its willingness to perform this function at



1 no extra cost to the State". Auditor's report, page 15. There
2 appears to be no logical reason why the Hawaiian Humane Society
3 would not be equally supportive of commercial dog breeder
4 regulation if handled on a county level.

5 Finally, this Act authorizes each county to assess
6 appropriate license fees for commercial dog breeders and to
7 pursue civil penalties for noncompliant dog breeders, providing
8 a viable revenue source. Because of the potential variation by
9 county of the impact of dog breeding operations, this Act
10 addresses commercial, rather than "large-scale", dog breeders
11 and allows each county to define the types of dog breeding
12 operations it deems appropriate to regulate; accordingly, the
13 number of dogs may be the only criterion, or may in fact be one
14 of many criteria, used by a county in making this determination.

15 This Act provides each county the flexibility to assess the
16 dog breeder situation on each island and to fashion, if
17 appropriate, a multi-tiered regulatory structure to generate
18 sufficient revenues to support the regulatory costs. For
19 example, Pennsylvania has over a dozen licensure categories,
20 depending upon the number of dogs kept and the nature of the
21 kennel, with fees ranging from \$75 to \$750 per year. Wisconsin



1 charges \$1,000 for operations of two hundred fifty dogs or more.
2 Auditor's report, page 15.

3 The purpose of this Act is to require the licensing of
4 commercial dog breeders and to provide the counties with the
5 authority necessary to ensure that every dog under a commercial
6 dog breeder's care is provided with sufficient food and clean
7 water, sufficient shelter from the elements, necessary
8 veterinary care, sufficient space, and regular exercise, among
9 other things.

10 SECTION 2. Chapter 143, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§143- Commercial dog breeders; license required; fees;
14 minimum requirements; premises available for inspection; civil
15 penalties. (a) It shall be unlawful for any person to operate
16 as a commercial dog breeder unless the person obtains a valid
17 license as a commercial dog breeder pursuant to this chapter,
18 provided that the legislative bodies of the several counties, by
19 ordinance, may dispense with or modify the licensing
20 requirements of this chapter.

21 (b) Except where licenses are dispensed with pursuant to
22 subsection (a), each county council shall have the power to



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

15 (c) Except where licenses are dispensed with pursuant to
16 subsection (a), each county council shall have the power to
17 establish minimum standards regarding the housing and treatment
18 of dogs in commercial dog breeding operations. The standards
19 shall include:

20 (1) Provision of proper care, including necessary
21 veterinary care;

22 (2) Provision of sufficient food and clean water;



- 1 (3) Provision of sufficient shelter from the elements;
- 2 (4) Provision of sufficient space in confinement;
- 3 (5) Requirements for daily cleaning;
- 4 (6) Provision of reasonable temperature, lighting, and
- 5 ventilation;
- 6 (7) Provision of regular exercise in an exercise area,
- 7 unless contrary to the dog's health and safety;
- 8 (8) Record-keeping requirements regarding each dog's
- 9 health and disposition;
- 10 (9) Requirements for disclosure by the commercial dog
- 11 breeder to the dog's purchaser of information
- 12 regarding the dog's health, parentage, and veterinary
- 13 medical records; and
- 14 (10) Any other requirements deemed appropriate by the
- 15 county.

16 (d) A commercial dog breeder licensee shall make its
17 premises available for unannounced inspection by the county or
18 the county's designee during regular business hours.

19 (e) Any person who operates as a commercial dog breeder
20 without a license shall be subject to a civil penalty of up to
21 \$; provided that each day of a violation shall be
22 considered a separate offense. Any failure to comply with the



1 standards set by a county pursuant to subsection (c) shall be
2 subject to a civil penalty of up to \$ for each violation."

3 SECTION 3. Section 143-1, Hawaii Revised Statutes, is
4 amended by adding two new definitions to be appropriately
5 inserted and to read as follows:

6 "Commercial dog breeder" means any person who
7 possesses or more intact female dogs age six months or older
8 and is engaged in the business of breeding or dealing in dogs
9 for direct or indirect sale or for exchange in return for
10 consideration.

11 "Premises" means property, whether private or public, upon
12 which buildings, yards, kennels, pens, cages, or other
13 structures used by the owner of a dog breeding operation in the
14 usual course of business are located."

15 SECTION 4. Section 143-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§143-15 Contracts for seizing and impounding dogs.** Any
18 county may contract with any society or organization formed for
19 the prevention of cruelty to animals, or similar dog protective
20 organization, for [the]:

21 (1) The seizure and impounding of all unlicensed dogs,
22 [and for the] dogs owned by a commercial dog breeder



1 not in compliance with this chapter and the rules
 2 adopted thereunder; and dogs owned by a person acting
 3 in the capacity of or engaged in the business of a
 4 commercial dog breeder within the county without a
 5 commercial dog breeder license previously obtained
 6 under this chapter and the rules adopted thereunder;

7 (2) The maintenance of a shelter or pound for [unlicensed]
 8 seized dogs, and for lost, strayed, and homeless
 9 dogs [~~and for the~~]; and

10 (3) The destruction or other disposition of seized dogs
 11 not redeemed as provided in this chapter. The county
 12 may prescribe in the contract the manner in which the
 13 work is to be done by the society or organization, and
 14 it may also direct the disposition to be made of all
 15 dogs seized pursuant to this chapter."

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

19 INTRODUCED BY:

Calvin K. Ay
 BY REQUEST

JAN 25 2012



H.B. NO. 2750

Report Title:

Regulation of Commercial Dog Breeders

Description:

Authorizes counties to license commercial dog breeders and implement minimum standards of housing and treatment of dogs bred commercially.

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

