

JAN 26 2011

A BILL FOR AN ACT

RELATING TO DOGS.

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

1 SECTION 1. The legislature finds that Hawaii does not
2 currently regulate the large-scale breeding of dogs. This lack
3 of regulation often results in the breeding of dogs in a cruel
4 and inhumane manner. The large-scale breeding of dogs is often
5 conducted under conditions that can inflict long-term suffering
6 on dogs and may also lead to the sale of unhealthy dogs to
7 unsuspecting consumers.

8 The legislature further finds that there is a need to
9 regulate large-scale dog breeding operations and facilities in
10 order to protect the public as well as prevent any cruel
11 treatment of the dogs. The purpose of regulation is to ensure
12 that:

13 (1) All dogs that are handled by large-scale breeders are
14 provided with humane care and treatment in their
15 transportation, sale, purchase, housing, care,
16 handling, and treatment by persons or organizations
17 engaged in breeding dogs;



1 (2) The public is protected from purchasing dogs that have
2 been raised in an inhumane manner and may be
3 unhealthy; and

4 (3) Each dog bred commercially is provided with basic food
5 and water, adequate shelter from the elements,
6 necessary veterinary care, adequate space, and regular
7 exercise.

8 The purpose of this Act is to require the licensing of
9 large-scale breeders to provide every dog under their care with
10 basic food and water, adequate shelter from the elements,
11 necessary veterinarian care, adequate space, and regular
12 exercise.

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

16 "CHAPTER

17 LARGE-SCALE DOG BREEDER REGULATION

18 § -A Definitions. As used in this chapter:

19 "Department" means the department of commerce and consumer
20 affairs.

21 "Director" means the director of commerce and consumer
22 affairs.



1 "Dog" means any animal that is wholly or in part of the
2 species canis familiaris.

3 "Large-scale dog breeder" means a person who, for
4 compensation or profit, sells or offers for sale, exchange, or
5 lease, via any means of conveyance, including the Internet,
6 newspaper, or telephone, twenty-five or more of the offspring of
7 breeding female dogs in any one-year period and is engaged in
8 the business of breeding intact female dogs; owns or harbors
9 twenty or more intact female dogs over six months of age that
10 are intended for breeding; or owns or harbors a total of thirty
11 intact dogs over the age of six months that are intended for
12 breeding on the premises.

13 "Licensee" means a person licensed under this chapter.

14 "Necessary veterinary care" means, as applicable, an
15 examination at least once yearly by a veterinarian licensed
16 under chapter 471; prompt treatment of any illness or injury by
17 a veterinarian licensed under chapter 471; or humane euthanasia
18 by a veterinarian licensed under chapter 471 using lawful
19 techniques deemed acceptable by the American Veterinary Medical
20 Association.

21 "Premises" means the property, whether private or public,
22 on which buildings, yards, kennels, pens, and cages are used by



1 the owner of a dog breeding operation in the usual course of
2 business.

3 "Regular exercise" means constant and unfettered access to
4 an outdoor exercise area that is composed of a solid, ground
5 level surface with adequate drainage; provides some protection
6 against sun, wind, and rain; and provides each dog with at least
7 twice the square footage of the indoor floor space provided to
8 that dog.

9 "Sufficient food and clean water" means access at least
10 once a day to appropriate nutritious food sufficient to maintain
11 good health and continuous access to potable water that is free
12 of debris, feces, algae, and other contaminants.

13 "Sufficient housing, including protection from the
14 elements" means a constant and unfettered access to an indoor
15 enclosure that has a solid floor that is not stacked or
16 otherwise placed on top of or below another animal's enclosure;
17 is cleaned of waste at least once a day while the dog is outside
18 the enclosure; and does not rise above eighty-five degrees
19 Fahrenheit indoors.

20 "Sufficient space to turn and stretch freely, lie down, and
21 fully extend the limbs" means having:



- 1 (1) Sufficient indoor space for each dog to turn in a
- 2 complete circle without any impediment, including a
- 3 tether;
- 4 (2) Enough indoor space for each dog to lie down and fully
- 5 extend the limbs and stretch freely without touching
- 6 the side of an enclosure or another dog;
- 7 (3) At least one foot of headroom above the head of the
- 8 tallest dog in the enclosure; and
- 9 (4) At least:
 - 10 (A) Twelve square feet of indoor floor space per dog
 - 11 up to twenty-five inches long;
 - 12 (B) Twenty square feet of indoor floor space per dog
 - 13 between twenty-five and thirty-five inches long;
 - 14 and
 - 15 (C) Thirty square feet of indoor floor space per dog
 - 16 for dogs thirty-five inches and longer, with the
 - 17 length of the dog measured from the tip of the
 - 18 nose to the base of the tail.

19 § -B License required. No person shall operate as a
20 large-scale dog breeder unless the person obtains an appropriate
21 license as a large-scale dog breeder and with prior approval of
22 the appropriate county department of planning and permitting.



1 § -C License requirements; fees; renewal; premises
2 available for inspection. (a) An applicant for a large-scale
3 dog breeder license shall submit an application to the
4 department on a form prescribed by the department, together with
5 the annual license fee as established by a fee schedule adopted
6 by the department pursuant to rules under chapter 91. Upon
7 receipt of the application and annual license fee and upon
8 satisfactory completion of a license qualifying inspection under
9 section -D, the department shall issue the license. The
10 license shall not be transferable to another person or location.

11 (b) A license to operate as a large-scale dog breeder
12 shall be renewable by filing with the department on or before
13 December 31 of each year a renewal application on forms
14 prescribed by the department and submitting the annual license
15 fee.

16 (c) A licensee under this section shall make its premises
17 available for unannounced inspection by the director, or the
18 director's designee, during regular business hours.

19 § -D Inspections; investigations; access. (a) The
20 director may make any investigation necessary to ensure
21 compliance with this chapter, including a license qualifying
22 inspection. At any time during regular business hours, the



1 director or any enforcement officer employed by the department
2 shall have free and unimpeded access for the purpose of carrying
3 out any provision of this chapter or any rule adopted pursuant
4 to this chapter:

5 (1) To those portions of all buildings, yards, pens, and
6 other areas in which any dogs are kept, handled, or
7 transported; and

8 (2) To all records required to be kept, including copies
9 of records.

10 (b) After the denial, suspension, or revocation of a
11 license for a large-scale dog breeder, the director shall have
12 free and unimpeded access to the premises and records that are
13 reasonably necessary to verify that the operation of a large-
14 scale dog breeding operation has ceased. The director shall
15 have such access to those premises or portion of premises and
16 other areas in which dogs are suspected of being kept, handled,
17 or transported without the appropriate license.

18 (c) The director shall have authority to administer oaths
19 and take statements, issue subpoenas requiring the attendance of
20 witnesses, and require the production of all books, memoranda,
21 papers, and other documents, articles, or instruments, and to
22 compel the disclosure by a witness of all facts known to the



1 witness relative to the matters under investigation. Upon the
2 failure or refusal of any witness to obey any subpoena, the
3 attorney general may petition the district court and, upon a
4 proper showing, the court may enter an order compelling the
5 witness to appear and testify or produce documentary evidence.
6 Failure to obey such an order of the court shall be punishable
7 as contempt of court.

8 **§ -E Requirements for humane breeding.** (a) A licensee
9 shall ensure that every dog under the licensee's care is
10 provided with:

- 11 (1) Necessary veterinary care;
- 12 (2) Regular exercise;
- 13 (3) Sufficient food and clean water;
- 14 (4) Sufficient housing, including protection from the
15 elements; and
- 16 (5) Sufficient space to turn and stretch freely, lie down,
17 and fully extend the limbs,
18 as defined in section -A.

19 (b) A licensee shall be subject to a citation issued by
20 the director for a violation of this section for each dog.

21 **§ -F Enforcement.** (a) The director, or the director's
22 designee shall enforce the provisions of this chapter. Whenever



1 the director has reasonable cause to believe that a violation of
2 any provision of this chapter or any rule adopted pursuant to
3 this chapter has occurred and immediate enforcement is deemed
4 necessary, the director may issue a cease-and-desist order,
5 which may require any person to cease violating any provision of
6 this chapter or any rule adopted pursuant to this chapter. The
7 cease-and-desist order shall set forth the provisions alleged to
8 have been violated, the facts alleged to have constituted the
9 violation, and the requirement that all unlawful actions cease.
10 At any time after service of the order to cease and desist, the
11 person may request, at such person's discretion, a prompt
12 hearing to determine whether or not a violation has occurred.

13 (b) If any person fails to comply with a cease-and-desist
14 order within twenty-four hours, the director may bring a suit
15 for a temporary restraining order and for injunctive relief to
16 prevent any further or continued violation of this chapter.

17 (c) No stay of a cease-and-desist order shall be issued
18 before a hearing on the order involving both parties.

19 (d) Whenever the director possesses sufficient evidence
20 satisfactorily indicating that any person has engaged in or is
21 about to engage in any act or practice constituting a violation
22 of any provision of this chapter or any rule adopted under this



1 chapter, the director may apply to any court of competent
2 jurisdiction to temporarily or permanently restrain or enjoin
3 the act or practice in question and to enforce compliance with
4 this chapter or any rule or order issued under this chapter. In
5 any such action, the director shall not be required to plead or
6 prove irreparable injury or the inadequacy of the remedy at law.
7 Under no circumstances shall the court require the director to
8 post a bond.

9 § -G Rules. The director shall adopt rules pursuant to
10 chapter 91 necessary for the purposes of this chapter.

11 § -H Civil penalties. (a) Any person who operates as a
12 large-scale dog breeder without being licensed under this
13 chapter shall be subject to a civil penalty of up to \$1,000, as
14 determined by the director; provided that each day of a
15 violation shall be considered a separate offense. Any person
16 who violates section -E shall be subject to a civil penalty
17 of up to \$1,000, as determined by the director, for each
18 citation.

19 (b) No civil penalty shall be imposed unless the person
20 charged is given notice and opportunity for a hearing.



1 (c) If the director is unable to collect a civil penalty
2 or if any person fails to pay all or a set portion of the civil
3 penalty imposed by the director, the director may:

4 (1) Bring suit to recover the amount of the civil penalty
5 plus costs and attorney fees by action in any court of
6 competent jurisdiction; or

7 (2) Refuse to renew any license under this chapter.

8 § -I **Criminal penalties.** In addition to the civil
9 penalties under section -H, any person who operates as a
10 large-scale dog breeder without being licensed under this
11 chapter or who violates section -E, or both, shall be guilty
12 of a misdemeanor.

13 § -J **Unlawful acts.** (a) Unless otherwise authorized by
14 law, it is unlawful and shall be a violation of this chapter for
15 any person or entity:

16 (1) To perform any of the acts of a large-scale dog
17 breeder for which licensure is required without
18 possessing a valid license under this chapter;

19 (2) To solicit, advertise, or offer to perform any of the
20 acts for which licensure as a large-scale dog breeder
21 is required without possessing a valid license under
22 this chapter to perform such acts;



- 1 (3) To refuse to comply with a cease-and-desist order
- 2 issued pursuant to section -F;
- 3 (4) To refuse or fail to comply with the provisions of
- 4 this chapter;
- 5 (5) To make a material misstatement in a license
- 6 application, a license renewal application, or to the
- 7 department during an official investigation;
- 8 (6) To impersonate any state, county, city and county, or
- 9 municipal official or inspector;
- 10 (7) To refuse or fail to comply with any rules adopted by
- 11 the department pursuant to this chapter or any lawful
- 12 order issued by the director;
- 13 (8) To aid or abet another in any violation of this
- 14 chapter or any rule adopted by the director under of
- 15 this chapter; and
- 16 (9) To alter or falsify any certificate of veterinary
- 17 inspection or any other certificate of veterinary
- 18 health.
- 19 (b) It is unlawful and shall be a violation of this
- 20 chapter for any large-scale dog breeder:
- 21 (1) To refuse to permit entry or inspection in accordance
- 22 with section -D;

- 1 (2) To allow a license issued pursuant to this chapter to
- 2 be used by an unlicensed person;
- 3 (3) To make any misrepresentation or false promise through
- 4 advertisements, employees, agents, or otherwise in
- 5 connection with the business operations licensed
- 6 pursuant to this chapter or for which an application
- 7 for a license is pending; or
- 8 (4) To fail to take reasonable care to release for sale,
- 9 trade, or adoption only those dogs that are free of
- 10 undisclosed disease, injury, or abnormality.
- 11 (c) Any person who violates this section shall be subject
- 12 to a fine of \$."

13 SECTION 3. In codifying this Act, the revisor shall

14 substitute appropriate section numbers for the letter

15 designations in section 2 of this Act.

16 SECTION 4. This Act, upon its approval, shall take effect

17 on July 1, 2012.

18

INTRODUCED BY: *Man Hee*

Report Title:

Dogs; Large-Scale Dog Breeding; Regulation

Description:

Enacts the large scale dog breeder regulation Act to require a license and to regulate large-scale dog breeding operations. Effective 7/1/2012.

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

