

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 108
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 108, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS,"

begs leave to report as follows:

The purpose and intent of this measure is to prevent individuals from participating in dogfighting by creating more comprehensive penalties. Specifically, this measure:

- (1) Establishes the offense of cruelty to animals by fighting dogs in the second degree, which penalizes knowingly wagering on a dogfight or possessing any device or bait dog to enhance a dog's fighting ability;
- (2) Establishes that a violation of the offense of cruelty to animals by fighting dogs in the second degree is a class C felony;
- (3) Amends the offense of cruelty to animals under section 711-1109.3, Hawaii Revised Statutes, to clarify the elements of the offense and elevate the offense from a class C to B felony; and
- (4) Adds cruelty to animals by fighting dogs in the second degree to those offenses for which a dog may be provided emergency medical treatment, impounded, or forfeited.



Prior to the hearing on this measure, your Committee posted a proposed S.D. 1 for review and comment. The proposed S.D. 1 deletes the contents of this measure and replaces it with language that:

- (1) Adds a part I to ensure that dogs at breeding facilities receive a minimum standard of care by:
 - (A) Prohibiting the ownership or custody of more than thirty dogs over the age of one year with intact sexual organs;
 - (B) Requiring owners of ten or more dogs over the age of four months with intact sexual organs to meet minimum standards of care to ensure the proper treatment and care of the dogs and the dogs' offspring;
 - (C) Requiring owners of ten or more dogs over the age of four months with intact sexual organs to maintain specific written records of each dog for a specified period;
 - (D) Prohibiting certain types of dogs from being placed in the same enclosure; and
 - (E) Establishing penalties;
- (2) Adds a part II to ensure that every dog under a dog breeder's care is appropriately cared for by:
 - (A) Requiring the licensing of dog breeders;
 - (B) Granting each county the flexibility to assess the county's own situation and determine the need for and, if necessary, develop appropriate rules for the housing and treatment of dogs by dog breeders;
 - (C) Requiring each county or its contracted local humane society to assess appropriate license fees for dog breeders and to pursue civil penalties for noncompliance;
 - (D) Requiring dog breeder licensees to make their premises available for unannounced inspection



during regular business hours by the county or the county's contracted designee; and

- (E) Authorizing any county to contract with any society or organization formed for the prevention of cruelty to animals for the seizure and impounding of dogs owned by persons who do not comply with chapter 143, Hawaii Revised Statutes, and any rules adopted thereto;
- (3) Adds a part III to establish certain requirements with respect to the sale of dogs and cats at retail pet stores by:
- (A) Requiring 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; provide written information on the health and benefits of spaying and neutering to the purchaser; and provide written information for inspection and copying upon request from a law enforcement officer;
 - (B) Prohibiting the sale or trading of dogs and cats in public places, except by humane societies or certain animal control, rescue, or care organizations facilitating adoptions; and
 - (C) Establishing penalties; and
- (4) Changes the effective date to upon approval.

Your Committee received testimony in support of the proposed S.D. 1 from the Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaiian Humane Society, Hawaii Military Pets, and one private individual. Testimony in opposition to the proposed S.D. 1 was submitted by the American Kennel Club, Windward Hawaiian Dog Fanciers Association, Hawaii Hulacat Club, and ninety-one private individuals. Three private individuals submitted comments.

Your Committee finds that profit-driven breeding is prevalent in Hawaii. Unfortunately, existing state and federal laws



regarding the care and husbandry of dogs inadequately regulate dog breeding facilities in Hawaii. This measure ensures that dogs at these breeding facilities receive sanitary living conditions, proper and timely medical care, the ability to move freely at least once a day, and adequate shelter from the elements. Furthermore, this measure ensures that every dog under a dog breeder's care is provided a minimum standard of care by requiring the licensure of dog breeders. Lastly, this measure attempts to better protect Hawaii's animals and consumers by requiring the implantation of an identification microchip in a dog or cat prior to sale and requires pet sellers to provide essential history and medical information to purchasers and animal care and animal control agencies.

Your Committee recognizes the concerns raised in the testimony submitted, especially regarding the requirement for owners with ten or more dogs to meet minimum standards of care. Testimony indicates that a number of dog breeders potentially may exceed the ten dog limit at any given time, especially for breeders who take in older dogs, or dogs whose owners have moved and are unable to take their dogs with them. However, your Committee finds that this measure does not prohibit the possession of more than ten dogs; rather, it establishes standards to ensure that dogs are properly cared for when owned or bred in certain numbers.

Your Committee further notes that a City and County of Honolulu ordinance limits owners to no more than ten dogs over the age of four months per household on residential zoned property. Accordingly, changing the minimum standards of care requirement in the proposed S.D. 1 to apply to owners with more than ten dogs over the age of four months with intact sexual organs per premise will be consistent with the City and County of Honolulu ordinances.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Exempting from the requirements under part I a boarding facility that only houses dogs temporarily and prohibits the breeding of dogs or selling of dogs;
- (2) Adding definitions for "premise" and "primary enclosure" under part I and adding these terms accordingly throughout part I, where applicable;



- (3) Amending the definition of "sufficient housing or shelter" under part I to delete the requirement that an indoor enclosure not be placed more than forty-two inches above the floor;
- (4) Specifying that no person shall own, possess, control, or have charge or custody at any time of more than thirty dogs, with intact sexual organs and over the age of one year, per premise;
- (5) Clarifying under part I that the minimum standards of care requirements apply to more than ten dogs per premise;
- (6) Clarifying under part I that the breeding restrictions and record requirements apply only to female dogs;
- (7) Specifying that the prohibitions on breeding any dog determined to be unfit for breeding and on placing certain dogs within the same enclosure apply to persons with more than ten dogs per premise;
- (8) Requiring under part III that retail pet shops enter into arrangements with veterinarians or humane societies to facilitate the microchip implantation requirement, rather than requiring the retail pet store to implant the identification microchip prior to the sale or exchange of a dog or cat;
- (9) Adding a part IV to amend section 711-1109.35, Hawaii Revised Statutes, relating to the offense of cruelty to animals by fighting dogs in the second degree to:
 - (A) Delete attendance or payment to attend a dogfight as a violation; and
 - (B) Add to the offense knowingly possessing a bait dog intended to enhance a dog's fighting ability while training or preparing the dog for a dogfight; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 108, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 108, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



