

JAN 18 2013

S.B. NO. 414

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# A BILL FOR AN ACT

RELATING TO COMMERCIAL DOG BREEDERS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 COMMERCIAL DOG BREEDERS

6 § -1 Definitions. As used in this chapter:

7 "Adequate rest between breeding cycles" means ensuring that  
8 female dogs are not bred to produce more litters in any given  
9 period than that recommended by a veterinarian licensed under  
10 chapter 471, as appropriate for the species, age, and health of  
11 the dog.

12 "Commercial dog breeder" means any person who, whether  
13 acting in person or by or through any agent, servant,  
14 contractor, or employee, owns, maintains, or otherwise has  
15 custody or control of more than ten female dogs with intact  
16 sexual organs over the age of six months, for the purpose of  
17 breeding those dogs and selling, bartering, giving away, or  
18 otherwise transferring their offspring.



1 "Department" means the department of commerce and consumer  
2 affairs, including an employee or agent thereof; or a designated  
3 society or organization duly contracted with the county to  
4 enforce animal-related statutes and ordinances, including an  
5 employee or agent thereof.

6 "Director" means the director of the department of commerce  
7 and consumer affairs, or the director's representative or  
8 assignee.

9 "Dog" means any animal that is wholly or in part of the  
10 species *canis familiaris*.

11 "Enclosure" means a structure used to house a dog or  
12 restrict a dog from running at large.

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

14 "Necessary veterinary care" means, at minimum, 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; and where needed,  
18 humane euthanasia by a veterinarian licensed under chapter 471  
19 using lawful techniques deemed acceptable by the American  
20 Veterinary Medical Association.

21 "Premises" means the property, whether private or public,  
22 on which buildings, yards, kennels, pens, enclosures, or cages



1 are used by a commercial dog breeding operation in the usual  
2 course of business.

3 "Regular exercise" means the opportunity for the dog to  
4 move sufficiently to maintain normal muscle tone and mass for  
5 the species, age, and health of the dog, as recommended by a  
6 veterinarian licensed under chapter 471.

7 "Sufficient food and clean water" means easy and convenient  
8 access to appropriate nutritious food and potable water that is  
9 free of debris, feces, algae, and other contaminants, provided  
10 to the dog in a safe receptacle, dish, or container, and in such  
11 quantity and intervals as suitable for the species, age, and  
12 health of the dog.

13 "Sufficient housing, including protection from the  
14 elements" means continuous and unfettered access to an enclosure  
15 that:

- 16 (1) Provides a solid floor;
- 17 (2) Provides proper ventilation;
- 18 (3) Provides reasonable shade and protection from  
19 inclement weather;
- 20 (4) Is not stacked or otherwise placed on top of or below  
21 another animal's enclosure;
- 22 (5) Is no more than forty two inches off the floor;



1 (6) Is cleaned of waste at least once a day while the dog  
2 is outside of the enclosure; and

3 (7) Only contains dogs compatible with one another, as  
4 determined by observation; provided that

5 (A) Breeding females in heat may not be in the same  
6 enclosure at the same time with sexually mature  
7 males, except for breeding purposes;

8 (B) Breeding females and their litters may not be in  
9 the same enclosure at the same time with other  
10 dogs; and

11 (C) Puppies under twelve weeks may not be in the same  
12 enclosure at the same time with other adult dogs,  
13 other than the dam or foster dam, unless under  
14 immediate supervision.

15 "Sufficient space" means appropriate space for each dog to  
16 turn about freely, to stand, sit, and lie down while fully  
17 extended, without the head, face, tail, legs, or feet of the dog  
18 touching the sides of the enclosure or touching any other dog,  
19 when all dogs are lying down simultaneously; and the interior  
20 height of the enclosure must be at least one foot above the head  
21 of the tallest dog in the enclosure when it is in a normal  
22 standing position.



1           §    -2 **License required.** No person shall operate as a  
2 commercial dog breeder unless the person has a current and valid  
3 commercial dog breeder license and the approval of the  
4 appropriate county department of planning and permitting.

5           §    -3 **Limit on number of dogs.** A person may not own,  
6 maintain, or otherwise have custody or control of more than  
7 fifty dogs with intact sexual organs over the age of six months  
8 at any time.

9           §    -4 **Rules.** The director shall adopt rules consistent  
10 with this chapter, and pursuant to chapter 91, as necessary for  
11 the administration and enforcement of this chapter. The  
12 director may further amend and repeal such rules, pursuant to  
13 chapter 91, as necessary for the administration and enforcement  
14 of this chapter.

15           §    -5 **License application; fees; renewal; records**  
16 **required; premises and records available for inspection.** (a)  
17 An applicant for a commercial dog breeder license shall submit  
18 an application to the department on a form prescribed by the  
19 department, together with the annual license fee as established  
20 by a fee schedule established by the department pursuant to  
21 rules adopted under chapter 91.



1 (b) Upon receipt of the application and annual license  
2 fee, and upon satisfactory completion of a license-qualifying  
3 inspection under section -7, the department shall issue the  
4 license. The license shall not be transferable to another  
5 person or location.

6 (c) A license to operate as a commercial dog breeder shall  
7 be renewable by filing with the department on or before December  
8 31 of each year a renewal application on forms prescribed by the  
9 department and submitting the annual license fee.

10 (d) The director shall have sole jurisdiction, power,  
11 authority, and discretion to grant, renew, deny, suspend, and  
12 revoke any license to operate as a commercial dog breeder,  
13 subject only to the provisions of this chapter and chapter 91.

14 (e) A commercial dog breeder licensed under this chapter  
15 shall keep and maintain records for each dog under that person's  
16 ownership, maintenance, custody, or control, whether acting in  
17 person or by or through any agent, servant, contractor, or  
18 employee, which identify:

19 (1) The date of birth for the dog, or if the date of birth  
20 is unknown, the date the person acquired ownership,  
21 maintenance, custody, or control of the dog and the  
22 source of the dog;



- 1           (2) The dates on which the dog has been bred;
- 2           (3) For a female, the number of dogs in each litter
- 3                 produced; and
- 4           (4) The disposition the person makes of each dog,
- 5                 including the date of disposition, manner of
- 6                 disposition, and the name and address of any person to
- 7                 whom the dog is sold, bartered, given away, or
- 8                 otherwise transferred.

9 Records required under this subsection shall be retained by that  
10 person for a period of three years following the death of the  
11 dog or the date on which that person permanently transferred  
12 ownership, maintenance, custody, or control of the dog.

13           (f) A commercial dog breeder licensed under this chapter  
14 shall make its premises and records available for announced or  
15 unannounced inspection by the department, during regular  
16 business hours.

17           § -6 **Minimum requirements for dogs.** (a) Any person  
18 operating as a commercial dog breeder shall provide the  
19 following for each dog under the person's ownership,  
20 maintenance, custody, or control, whether acting in person or by  
21 or through any agent, servant, contractor, or employee:

- 22           (1) Necessary veterinary care;



- 1           (2) Adequate rest between breeding cycles;
- 2           (3) Regular exercise;
- 3           (4) Sufficient food and clean water;
- 4           (5) Sufficient housing, including protection from the
- 5                 elements; and
- 6           (6) Sufficient space to turn and stretch freely, lie down,
- 7                 and fully extend the limbs,
- 8 as defined in section     -1.

9           (b) The licensee shall be subject to a citation issued by  
10 the department for a violation of this section for each dog.

11           §   -7   **Inspections; investigations; access.** (a) The  
12 department may make any investigation necessary to ensure  
13 compliance with this chapter, including a license-qualifying  
14 inspection. For this purpose, the department shall have free  
15 and unimpeded access, during regular business hours:

- 16           (1) To the premises, including those portions of all
- 17                 buildings, yards, kennels, pens, enclosures, cages or
- 18                 other areas in which any dogs are kept, handled, or
- 19                 transported; and
- 20           (2) To all records required to be kept, and may make
- 21                 copies of such records,





1 for the purpose of carrying out any provision of this chapter or  
2 any rule adopted pursuant to this chapter.

3 (b) After the denial, suspension, or revocation of a  
4 license for a commercial dog breeder, the department shall have  
5 free and unimpeded access to the premises and records that are  
6 reasonably necessary to verify that operation of a commercial  
7 dog breeder has ceased. Such access shall include those  
8 portions of all buildings, yards, kennels, pens, enclosures,  
9 cages, or other areas in which there is probable cause to  
10 believe that dogs are being kept, handled, or transported  
11 without the appropriate license; and to all records that are  
12 equivalent to those required to be kept for the purpose of  
13 carrying out the provisions of this chapter.

14 (c) The director shall have full authority to administer  
15 oaths and take statements, issue subpoenas requiring the  
16 attendance of witnesses, and require the production of all  
17 books, memoranda, papers, and other documents, articles, or  
18 instruments, and to compel the disclosure by a witness of all  
19 facts known to the witness relative to the matters under  
20 investigation. Upon the failure or refusal of any witness to  
21 obey any subpoena, the attorney general may petition the  
22 district court and, upon a proper showing, the court may enter



1 an order compelling the witness to appear and testify or produce  
2 documentary evidence. Failure to obey such an order of the  
3 court shall be punishable as contempt of court.

4 § -8 **Enforcement.** (a) The director shall enforce the  
5 provisions of this chapter.

6 (b) Whenever the director has reasonable cause to believe  
7 that a violation of any provision of this chapter or any rule  
8 adopted pursuant to this chapter has occurred and immediate  
9 enforcement is deemed necessary, the director may issue a cease-  
10 and-desist order, which may require any person to cease  
11 violating any provision of this chapter or any rule adopted  
12 pursuant to this chapter; provided that:

13 (1) The cease-and-desist order shall set forth the  
14 particular provision or rule alleged to have been  
15 violated, the facts alleged to have constituted the  
16 violation, and the requirement that all unlawful  
17 actions cease;

18 (2) At any time after service of the order to cease and  
19 desist, the person may request, at the person's  
20 discretion, a prompt hearing to determine whether or  
21 not a violation has occurred;



1           (3) If any person fails to comply with a cease-and-desist  
2           order within twenty-four hours, the director may bring  
3           a suit for a temporary restraining order and for  
4           injunctive relief to prevent any further or continued  
5           violation of this chapter; and

6           (4) No stay of a cease-and-desist order shall be issued  
7           before a hearing on the order involving both parties.

8           (c) Whenever the director possesses sufficient evidence  
9           satisfactorily indicating that any person has engaged in or is  
10          about to engage in any act or practice constituting a violation  
11          of any provision of this chapter or any rule adopted pursuant to  
12          this chapter, the director may apply to any court of competent  
13          jurisdiction to temporarily or permanently restrain or enjoin  
14          the act or practice in question and to enforce compliance with  
15          this chapter or any rule or order issued pursuant to this  
16          chapter. In any such action, the director shall not be required  
17          to plead or prove irreparable injury or the inadequacy of the  
18          remedy at law. Under no circumstances shall the court require  
19          the director to post a bond.

20          § -9 **Civil penalties.** (a) Any person who operates as a  
21          commercial dog breeder without being licensed under this chapter  
22          shall be subject to a civil penalty of up to \$1,000, as



1 determined by the director; provided that each day of a  
2 violation shall be considered a separate offense. Any order,  
3 reprimand, or penalty imposed by the director upon a person for  
4 not having a valid license to operate as a commercial dog  
5 breeder shall be in addition to any penalty that might be  
6 imposed upon that person's conviction in a court of law for any  
7 violation of this chapter.

8 (b) Any licensee who violates any provision of this  
9 chapter or any rule adopted pursuant to this chapter shall be  
10 subject to a fine of up to \$2,000, as determined by the  
11 director, for each citation.

12 (c) No civil penalty shall be imposed unless the person  
13 charged is given notice and opportunity for a hearing, pursuant  
14 to chapter 91.

15 (d) If the director is unable to collect a civil penalty  
16 or if any person fails to pay all or a portion of the civil  
17 penalty imposed by the director, the director may:

- 18 (1) Bring suit to recover the amount of the civil penalty  
19 plus costs and attorney fees by action in any court of  
20 competent jurisdiction; or  
21 (2) Refuse to renew any license under this chapter.



1           §    -10 **Criminal penalties.** In addition to the civil  
2 penalties under section       -9, any person who operates as a  
3 commercial dog breeder without being licensed under this  
4 chapter, or who violates section       -6, shall be guilty of a  
5 misdemeanor.

6           §    -11 **Unlawful acts.** (a) Unless otherwise authorized  
7 by law, it is unlawful and shall be a violation of this chapter  
8 for any person or entity to:

- 9           (1) Operate as a commercial dog breeder without being  
10           licensed under this chapter;
- 11           (2) Solicit, advertise, or offer to perform any act for  
12           which a commercial dog breeder license is required  
13           without being licensed under this chapter;
- 14           (3) Refuse to comply with a cease-and-desist order issued  
15           pursuant to section       -8;
- 16           (4) Refuse or fail to comply with the provisions of this  
17           chapter;
- 18           (5) Refuse or fail to comply with any rules adopted by the  
19           director or any lawful order issued by the director  
20           pursuant to this chapter;
- 21           (6) Make a material misstatement in an application for a  
22           commercial dog breeder license, an application for



- 1 license renewal, or to the department during an  
2 official investigation;
- 3 (7) Impersonate any state, county, city and county, or  
4 department official or inspector;
- 5 (8) Aid or abet another in any violation of this chapter  
6 or any rule adopted by the director pursuant to this  
7 chapter; and
- 8 (9) Alter or falsify any certificate of veterinary  
9 inspection or any other certificate of veterinary  
10 health.
- 11 (b) It is unlawful and shall be a violation of this  
12 chapter for any commercial dog breeder to:
- 13 (1) Refuse to permit entry or inspection in accordance  
14 with section -7;
- 15 (2) Allow a license issued pursuant to this chapter to be  
16 used by an unlicensed person; or
- 17 (3) Make any misrepresentation or false promise through  
18 advertisements, employees, agents, or otherwise in  
19 connection with the business operations licensed  
20 pursuant to this chapter or for which an application  
21 for a license is pending."



1 SECTION 2. This Act shall take effect on July 1, 2013.

2

INTRODUCED BY: *Anne Mercedes K.*

**By Request**



# S.B. NO. 414

**Report Title:**

Honolulu Prosecutor Package; Commercial Dog Breeders

**Description:**

Establishes licensing requirements and minimum standards of care for commercial dog breeders. Effective 07/01/2013.

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

