

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO CRUELTY TO ANIMALS.

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

1           SECTION 1. Chapter 711, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§711-A Cruelty to animals by fighting cocks in the first  
5 degree. (1) A person commits the offense of cruelty to animals  
6 by fighting cocks in the first degree if the person:

7           (a) Knowingly:

8                   (i) Causes, sponsors, arranges, or holds a cockfight  
9                   for entertainment or financial gain; or

10                   (ii) Owns, trains, transports, possesses, sells,  
11                   transfers, or equips any cock with the intent  
12                   that the cock shall be engaged in a cockfight; or

13           (b) Recklessly:

14                   (i) Allows a cockfight to occur on any property owned  
15                   or controlled by the person; or

16                   (ii) Allows any cock intended to be used for a  
17                   cockfight to be kept trained on, or transported



1                   in, any property owned or controlled by the  
2                   person.

3           (2) As used in this section, "cockfight" means a cock or  
4 cocks pitted against another cock or cocks with the intent that  
5 the encounter will result in injury to one or more of the cocks.

6           (3) Violation of this section shall be a class B felony.

7           (4) If there is any conflict between this section and  
8 section 711-1109, or any other provision of law, this section  
9 shall apply.

10           **§711-B Cruelty to animals by fighting cocks in the second**  
11 **degree.** (1) A person commits the offense of cruelty to animals

12 by fighting cocks in the second degree if the person knowingly:

- 13           (a) Wagers on a cockfight;  
14           (b) Attends or pays to attend a cockfight; or  
15           (c) Possesses any device intended to enhance the cock's  
16 fighting ability with the intent that the device be  
17 used to train or prepare the cock for a cockfight.

18           (2) As used in this section:

19           "Cockfight" means a cock or cocks pitted against another  
20 cock or cocks with the intent that the encounter will result in  
21 injury to one or more of the cocks.



1        "Device" means any tool, machine, paraphernalia, or  
2 equipment, animate or inanimate, including live animals used as  
3 bait animals.

4        "Wager" means staking or risking something of value on the  
5 outcome of a cockfight.

6        (3) Cruelty to animals by fighting cocks in the second  
7 degree is a class C felony.

8        (4) If there is any conflict between this section and  
9 section 711-1109, or any other provision of law, this section  
10 shall apply."

11        SECTION 2. Section 711-1109, Hawaii Revised Statutes, is  
12 amended by amending subsection (1) to read as follows:

13        "(1) A person commits the offense of cruelty to animals in  
14 the second degree if the person intentionally, knowingly, or  
15 recklessly:

16        (a) Overdrives, overloads, tortures, torments, beats,  
17 causes substantial bodily injury to, or starves any  
18 animal, or causes the overdriving, overloading,  
19 torture, torment, beating, or starving of any animal;

20        (b) Deprives a pet animal of necessary sustenance or  
21 causes such deprivation;



- 1 (c) Mutilates, poisons, or kills without need any animal  
2 other than insects, vermin, or other pests; provided  
3 that the handling or extermination of any insect,  
4 vermin, or other pest is conducted in accordance with  
5 standard and acceptable pest control practices and all  
6 applicable laws and regulations;
- 7 (d) Keeps, uses, or in any way is connected with or  
8 interested in the management of, or receives money for  
9 the admission of any person to, any place kept or used  
10 for the purpose of fighting or baiting any bull, bear,  
11 [~~cock~~] or other animal[~~7~~] not including a dog or  
12 cock, and includes every person who encourages, aids,  
13 or assists therein, or who permits or suffers any  
14 place to be so kept or used;
- 15 (e) Carries or causes to be carried, in or upon any  
16 vehicle or other conveyance, any animal in a cruel or  
17 inhumane manner;
- 18 (f) Confines or causes to be confined, in a kennel or  
19 cage, any pet animal in a cruel or inhumane manner;
- 20 (g) Tethers, fastens, ties, or restrains a dog to a  
21 doghouse, tree, fence, or any other stationary object



1 by means of a choke collar, pinch collar, or prong  
 2 collar; provided that a person is not prohibited from  
 3 using such restraints when walking a dog with a hand-  
 4 held leash or while a dog is engaged in a supervised  
 5 activity; or

6 (h) Assists another in the commission of any act specified  
 7 in subsections (1)(a) through (1)(g)."

8 SECTION 3. Section 711-1109.1, Hawaii Revised Statutes, is  
 9 amended as follows:

10 1. By amending subsection (1) to read:

11 "(1) If there is probable cause to believe that a pet  
 12 animal, cock, or equine animal is being subjected to treatment  
 13 in violation of section 711-1108.5, 711-1109, 711-1109.3,  
 14 711-1109.6, [~~or~~] 711-1109.35, 711-A, or 711-B, as applicable, a  
 15 law enforcement officer, after obtaining a search warrant, or in  
 16 any other manner authorized by law, may enter the premises where  
 17 the pet animal, cock, or equine animal is located to provide the  
 18 pet animal, cock, or equine animal with food, water, and  
 19 emergency medical treatment or to impound the pet animal, cock,  
 20 or equine animal. If after reasonable effort, the owner or  
 21 person having custody of the pet animal, cock, or equine animal



1 cannot be found and notified of the impoundment, an impoundment  
2 notice shall be conspicuously posted on the premises and within  
3 seventy-two hours after posting, the notice shall be sent by  
4 certified mail to the address, if any, from which the pet  
5 animal, cock, or equine animal was removed."

6 2. By amending subsection (3) to read:

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

13 SECTION 4. Section 711-1109.2, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§711-1109.2 Forfeiture of animal prior to disposition of**  
16 **criminal charges.** (1) If any pet animal or equine animal or  
17 cock is impounded pursuant to section 711-1109.1, prior to final  
18 disposition of a criminal charge under section 711-1108.5,  
19 711-1109, 711-1109.3, 711-1109.6, [~~or~~] 711-1109.35, 711-A, or  
20 711-B, as applicable, against the pet animal's or equine  
21 animal's or cock's owner, any duly incorporated humane society



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

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

14 (3) At a hearing conducted pursuant to subsection (2), the  
15 petitioner shall have the burden of establishing probable cause  
16 that the pet animal or equine animal or cock was subjected to a  
17 violation of section 711-1108.5, 711-1109, 711-1109.3,  
18 711-1109.6, [~~or~~] 711-1109.35, 711-A, or 711-B, as applicable.  
19 If the court finds that probable cause exists, the court shall  
20 order immediate forfeiture of the pet animal or equine animal or



1 cock to the petitioner, unless the defendant, within seventy-two  
2 hours of the hearing:

3 (a) Posts a security deposit or bond with the court clerk  
4 in an amount determined by the court to be sufficient  
5 to repay all reasonable costs incurred, and  
6 anticipated to be incurred, by the petitioner in  
7 caring for the pet animal or equine animal or cock  
8 from the date of initial impoundment to the date of  
9 trial; or

10 (b) Demonstrates to the court that proper alternative care  
11 has been arranged for the pet animal or equine  
12 animal[-] or cock.

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

16 (4) If a security deposit or bond has been posted in  
17 accordance with subsection (3)(a), the petitioner may draw from  
18 the security deposit or bond the actual reasonable costs  
19 incurred by the petitioner in caring for the pet animal or  
20 equine animal or cock until the date of final disposition of the  
21 criminal action. If the trial is continued to a later date, any





1 order of continuance shall require the defendant to post an  
2 additional security deposit or bond in an amount determined by  
3 the court that shall be sufficient to repay all additional  
4 reasonable costs anticipated to be incurred by the petitioner in  
5 caring for the pet animal or equine animal or cock until the  
6 date of final disposition of the criminal action, and the  
7 petitioner may draw from the additional security deposit or bond  
8 as necessary.

9 (5) No pet animal or equine animal or cock may be  
10 destroyed by a petitioner under this section prior to final  
11 disposition of a criminal charge under section 711-1108.5,  
12 711-1109, 711-1109.3, 711-1109.6, [~~or~~] 711-1109.35, 711-A, or  
13 711-B, as applicable, against the pet animal's or equine  
14 animal's or cock's owner, except in the event that the pet  
15 animal or equine animal or cock is so severely injured that  
16 there is no reasonable probability that its life can be saved.

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

20 (7) In addition to any reasonable costs incurred under  
21 subsection (4) by the petitioner in the caring for the pet



1 animal or equine animal[~~7~~] or cock, the court may award  
 2 reasonable attorney's fees and court costs to the petitioner  
 3 following the conviction of the defendant.

4 (8) As used in this section, "pet animal or equine animal"  
 5 includes any offspring from the pet animal or equine animal that  
 6 was pregnant at the time of the rescue and born during the  
 7 impoundment of the pet animal or equine animal."

8 SECTION 5. Section 711-1110.5, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 **"§711-1110.5 Surrender or forfeiture of animals.** Upon  
 11 conviction, guilty plea, or plea of nolo contendere for any  
 12 violation of section 711-1108.5, 711-1109, 711-1109.3,  
 13 711-1109.6, [~~e~~] 711-1109.35[+], 711-A, or 711-B:

14 (1) The court may order the defendant to surrender or  
 15 forfeit the animal whose treatment was the basis of  
 16 the conviction or plea to the custody of a duly  
 17 incorporated humane society or duly incorporated  
 18 society for the prevention of cruelty to animals for  
 19 the time and under the conditions as the court shall  
 20 order; and



1           (2) The court also may order the defendant to surrender or  
2           forfeit any other animals under the possession,  
3           custody, or control of the defendant to the custody of  
4           a duly incorporated humane society or duly  
5           incorporated society for the prevention of cruelty to  
6           animals for the time and under the conditions as the  
7           court shall order, if there is substantial evidence  
8           that the animals are being abused or neglected.

9 The court shall order the defendant to reimburse the duly  
10 incorporated humane society or duly incorporated society for the  
11 prevention of cruelty to animals for reasonable costs incurred  
12 to care, feed, and house any animal that is surrendered or  
13 forfeited pursuant to this section."

14           SECTION 6. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17           SECTION 7. If any provision of this Act, or the  
18 application thereof to any person or circumstance, is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 8. In codifying the new sections added by section  
4 1 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 9. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 10. This Act shall take effect on June 30, 2015;  
10 provided that the amendments made to section 711-1109.1, Hawaii  
11 Revised Statutes, in section 3 of this Act, to section  
12 711-1109.2, Hawaii Revised Statutes, in section 4 of this Act,  
13 and to section 711-1110.5, Hawaii Revised Statutes, in section 5  
14 of this Act, shall not be repealed when sections 711-1109.1(1),  
15 711-1109.2 (1), (3), and (5), and 711-1110.5, Hawaii Revised  
16 Statutes, are reenacted on July 1, 2015, by Act 128, Session  
17 Laws of Hawaii 2008, as amended by Act 160, Session Laws of  
18 Hawaii 2009, as amended by Act 149, Session Laws of Hawaii 2011.

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INTRODUCED BY:

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*[Handwritten signature]*



# S.B. NO. 590

**Report Title:**

Cockfighting; Class B and Class C Felony; Cruelty to Animals

**Description:**

Creates the offenses of cruelty to animals by cockfighting in the first and second degree.

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

