

**"CHAPTER 142  
ANIMALS, BRANDS, AND FENCES**

Part I. Animal Diseases and Quarantine

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## "PART I. ANIMAL DISEASES AND QUARANTINE

**§142-1 Information and statistics.** The department of agriculture shall gather, compile, and tabulate, from time to time information and statistics concerning domestic animals in the State, their protection and use, inquire into and report upon the causes of contagious, infectious and communicable diseases among them, and the means for the prevention, suppression, and cure of the same. [L 1905, c 82, pt of §4; RL 1925, §607; RL 1935, §202; am L 1941, c 228, §2; RL 1945, §1051; RL 1955, §20-1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-1]

" **§142-2 Rules.** Subject to chapter 91 the department of agriculture may make and amend rules for the inspection, quarantine, disinfection, or destruction, either upon introduction into the State or at any time or place within the State, of animals and the premises and effects used in connection with the animals. Included therein may be rules governing the control and eradication of transmissible diseases of animals and the transportation of animals between the different islands of the State and along the highways thereof, as well as rules requiring the owner or captain of any vessel or aircraft arriving in the State with animals aboard and the managers or agents of trucking and air and water transportation companies carrying animals within the State to report on the number and class of animals carried, names of owners and consignees, the places to and from which the animals are shipped, the manner of handling the animals, the number of deaths or injuries to animals occurring in transit or while being loaded or unloaded together with the causes of the deaths or injuries, and all other matters which may be deemed necessary by the department for a full and complete record of the shipping and handling of animals. The department may also prohibit the importation into the State from any foreign country or other parts of the United States or the movement from one island within the State to another island therein or to one locality from another locality on the same island, of animals known to be or suspected of being infected with a contagious, infectious, or communicable disease or known to have been exposed to any of those diseases. [L 1905, c 82, pt of §4; am L 1909, c 114, §1; RL 1925, §608; RL 1935, §203; RL 1945, §1052; am L 1955, c 28, §1; RL 1955, §20-2; am L Sp 1959 2d, c 1, §22; am L 1961, c 103 and c 132, §2; HRS §142-2; am L 1986, c 36, §1]

## Law Journals and Reviews

Hawaii's Quarantine Laws: Can Spot Come Home? 13 UH L. Rev. 175.

Crying Over Spilt Milk: Recognizing Hawaii's Unique State Characteristics in the Context of the Dormant Commerce Clause. 32 UH L. Rev. 513.

## Case Notes

Department established quarantine pursuant to this section; without reasonable modifications to quarantine requirement for benefit of visually-impaired individuals who rely on guide dogs, quarantine requirement effectively prevented those persons from enjoying benefits of state services and activities in violation of Americans with Disabilities Act. 81 F.3d 1480.

In case arising from plaintiff and plaintiff's hearing guide dog's encounter with Hawaii's animal quarantine laws, where plaintiff alleged that in the course of enforcing animal quarantine laws, defendants deprived plaintiff of various constitutional, statutory, and common law rights, plaintiff's claim, among others, under (1) Americans with Disabilities Act (ADA) against defendant in defendant's individual capacity dismissed, as an action under Title II of the ADA may not be maintained against public actors in their individual capacities; and (2) §504 of the Rehabilitation Act of 1973 dismissed as plaintiff did not allege that the program received federal financial assistance. 128 F. Supp. 2d 684.

" **§142-3 Department, duties.** The department of agriculture shall have charge, direction, and control of all matters relating to the inspection of animals and the prevention and eradication of contagious, infectious, and communicable diseases among animals and of all matters relating to animal industry within this chapter. [L 1905, c 82, pt of §4; am L 1915, c 136, §8; RL 1925, §609; RL 1935, §204; RL 1945, §1053; RL 1955, §20-3; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-3]

" **§142-3.5 Authority to contract or rent facilities.** The board of agriculture may contract with third parties for the use or rental of the division of animal industry's property or facilities; provided that:

- (1) The board determines the property or facilities are not required for use by the division of animal industry during the term of use by the third party;

- (2) The property or facilities shall be leased or rented at a reasonable lease rent as determined by the board of agriculture;
- (3) The property or facilities shall be used for animal welfare, including emergency shelters for animals, or other commercial purposes; and
- (4) The property or facilities shall be used only by the third party.

Revenues generated by the use or rental of the division of animal industry's property or facilities, including the animal quarantine property or facilities shall be deposited into the animal industry special fund, established pursuant to section 142-3.6, and used to defray the operational costs of the department of agriculture's division of animal industry. [L 2005, c 161, §2; am L 2008, c 109, §1; am L 2011, c 185, §2]

" **[§142-3.6] Animal industry special fund.** There is established the animal industry special fund to be administered by the board of agriculture. Moneys received by the board of agriculture from:

- (1) The use or rental of the division of animal industry's properties or facilities, including the animal quarantine property or facilities pursuant to section 142-3.5; or
- (2) Appropriations or other moneys made available, shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover costs of the division of animal industry, including the costs of salaries, fringe benefits, operating expenses, equipment, motor vehicles, contract with any qualified person or entity for livestock handling services, and operating and maintenance of the animal industry facilities; provided that moneys in the special fund may be used to fund the department's resource management and planning programs. A reserve shall be maintained in the special fund to cover contingency costs, including accrued vacation leave, unemployment insurance, and workers' compensation. [L 2011, c 185, §1]

" **§142-4 Entry of animals without inspection prohibited.** No animal shall be allowed to enter the State except after inspection by the department of agriculture and the issuance of a permit by the department to the consignee or owner; provided that no fees for inspection shall be charged, nor delays caused, concerning the landing of any domestic animal for which a certificate of health has been issued as prescribed by the Federal Cattle Contagious Disease Act. Every carrier, owner, or

handler bringing animals into the State shall be required to present these animals to the department of agriculture for inspection. [L 1905, c 82, pt of §4; RL 1925, §611; RL 1935, §206; RL 1945, §1055; RL 1955, §20-5; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-4; am L 1986, c 263, §1]

" **[§142-4.5] Health certificate.** Any animal entering the State pursuant to this chapter shall be accompanied by a valid health certificate. The health certificate shall include information as to the animal's identification, approximate age, species, and sex if the animal's sex can be practicably and reasonably determined. The animal shall be free of certain internal and external parasites as prescribed by departmental rules. A statement confirming this parasite-free status shall be noted on the health certificate. The animal shall also appear to be free of any infectious or contagious diseases and to the best of the issuing veterinarian's knowledge, shall not have been exposed to any of those diseases. A statement to this effect shall also be noted on the health certificate. In addition to the requirements of this section, any person responsible for any live animal entering the State, shall comply with appropriate departmental rules. [L 1986, c 265, §1]

" **§142-5 Landing of animals.** The landing of any animal for the purpose of inspection or quarantine shall not be construed to be an entry into the State for any purpose whatsoever, except as herein provided, and if in the opinion of the department of agriculture it shall be necessary or proper to quarantine any animal, it may do so at the expense of the owner or consignee.

The landing of any domestic animal known to be affected with any contagious, infectious, or communicable disease shall constitute an unlawful entry; provided that with the permission of the department, the animals may be landed for quarantine or destruction and disposal at the expense of the owner or consignee. [L 1905, c 82, pt of §4; RL 1925, §612; RL 1935, §207; RL 1945, §1056; am L 1947, c 177, §1; RL 1955, §20-6; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-5]

" **§142-5.5 Service dogs.** Any person with a disability who uses the services of a service dog, as defined in section 347-2.5, shall be permitted to reside on site for the duration of quarantine, if housing is available. [L 1991, c 178, §3; am L 2011, c 175, §3]

#### **Cross References**

Uses of service dogs, see §347-13.

" **§142-6 Quarantine.** The department of agriculture may quarantine any animal known to be affected with, to have been exposed to, or to be susceptible to, any contagious, infectious, or communicable disease, and destroy the same, when in the opinion of the department, such measure is necessary to prevent the spread of the disease. The department of agriculture may also require disinfection of premises and materials contaminated by or exposed to disease, including the proper disposition of hides and carcasses if, in the opinion of the department, such measures are necessary to prevent the spread of disease. [L 1905, c 82, pt of §4; RL 1925, §613; RL 1935, §208; RL 1945, §1057; RL 1955, §20-7; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-6; am L 2002, c 99, §2]

#### Case Notes

Section 142-18 does not supersede §142-6. 69 H. 349, 742 P.2d 359.

" **§142-7 Breeding in quarantine prohibited.** The use of any animal for breeding purposes while the animal is quarantined is prohibited, except that the department of agriculture may, with the written permission of the owner and under rules adopted by the department, permit the collection of semen from the male animal or the artificial insemination of the female animal while in quarantine by a licensed veterinarian under the supervision of an agent of the department. [L 1935, c 32, §§1, 2; RL 1945, §1058; RL 1955, §20-8; HRS §142-7; am L 1969, c 35, §1; am L 1986, c 5, §1]

#### Attorney General Opinions

Includes artificial insemination during the quarantine period. Att. Gen. Op. 66-13.

" **§142-8 Notification of arrival.** The captain of any vessel or aircraft transporting any live animal to any port in this State shall immediately upon arrival in the State notify the department of agriculture. No animal so transported, nor any portion of the food or water nor any effects connected therewith or provided for the animal's use during transit, shall be removed from the wharf or airport until the department has inspected and passed the same. The department, at the owner's or shipper's expense, may require that the animal be moved to a more suitable location for inspection. [L 1882, c 34, §3; am L 1884, c 29, §1; RL 1925, §614; RL 1935, §209; RL 1945, §1059; RL

1955, §20-9; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-8; am L 1986, c 266, §1]

" **§142-9 Quarantine between islands.** Live animals passing between the islands of the State may be quarantined as provided by law, at either the port of shipment or of delivery, on good cause shown to the department of agriculture at the port of entry nearest to the port of shipment or delivery. [L 1882, c 34, §5; RL 1925, §615; RL 1935, §210; RL 1945, §1060; RL 1955, §20-10; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-9]

" **§142-10 Importing prohibited, when.** The governor, notwithstanding anything in this chapter, may, from time to time by proclamation declaring any port or country to be infected, absolutely prohibit the introduction of any animals therefrom until the restriction is removed. [L 1882, c 34, §6; RL 1925, §616; RL 1935, §211; RL 1945, §1061; RL 1955, §20-11; HRS §142-10]

" **§142-11 Forfeiture of animals, etc.** All animals, fodder, fittings, or effects landed contrary to this chapter or taken or removed from quarantine before being duly discharged, shall be forfeited to the use of the State. All animals brought into quarantine grounds or placed with any animals under quarantine or placed into provisional quarantine, shall be deemed to come under this chapter and shall be subject to all the conditions of the same. [L 1882, c 34, §7; am L 1905, c 81, §2; RL 1925, §617; RL 1935, §212; RL 1945, §1062; RL 1955, §20-12; HRS §142-11; am L 1986, c 115, §1]

" **§142-12 Penalties.** (a) Any person violating any provision of this chapter or any rule adopted pursuant thereto, for which action a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction thereof, shall be punished as follows:

- (1) For the first conviction, by a fine of not more than \$1,000 or by imprisonment of not more than one year, or both.
- (2) For a second conviction within one year of a previous conviction, by a fine of not less than \$500 nor more than \$1,000 or by imprisonment of not more than one year, or both.
- (3) For a third conviction within five years of the first conviction, by a fine of not less than \$1,000 or by imprisonment of one year, or both.



(b) Any person, carrier, or handler who has been convicted of a violation of this chapter more than three times within a five-year period or whose violation poses a grave or serious health threat to the State's citizens, animal industry, wildlife, or domestic animals, shall be guilty of a class C felony and upon conviction shall be punished as follows:

- (1) For the first conviction, by a fine of not more than \$5,000 or by imprisonment of not more than five years, or both.
- (2) For a second conviction within five years of a previous conviction, by a fine of not less than \$3,000 nor more than \$5,000 or by imprisonment of not more than five years, or both.
- (3) For a third or subsequent conviction within five years of the first conviction, by a fine of not less than \$5,000 or by imprisonment of not more than five years, or both.

(c) In addition to the penalties in subsection (a) or (b) and for the first conviction, the department of agriculture may impound, seize, confiscate, destroy, quarantine, sell, auction, or dispose of any animal, animal product, container, crate, or any other item under the jurisdiction of this chapter in the best interest of the State.

(d) Persons found to be in possession of any animal, fodder, fittings, or effects contrary to this chapter shall be found guilty and upon conviction shall be punished in accordance with this section. [L 1882, c 34, §8; am L 1903, c 8, §1; RL 1925, §621; RL 1935, §216; RL 1945, §1066; RL 1955, §20-13; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-12; am L 1972, c 86, §2; am L 1983, c 130, §1; am L 1986, c 262, §1]

" **§142-13 Reporting disease; penalty.** Any person knowing or having reason to believe that any animal on or about that person's premises or the premises of another is affected with any infectious or contagious disease who fails to promptly report the same to the department of agriculture, shall be fined not less than \$25 nor more than \$500. [L 1884, c 29, pt of §2; am L 1905, c 81, §3; am L 1909, c 138, §1; RL 1925, §618; RL 1935, §213; RL 1945, §1063; RL 1955, §20-14; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-13; gen ch 1985; am L 1986, c 63, §1]

" **§142-14 Sale of diseased animals; penalty.** Any person who sells or offers for sale, or uses, or exposes, or who causes or procures to be sold, or offered for sale, or used, or to be exposed, any horse or any other animal having the disease known as glanders, or farcy, or any other contagious or infectious

disease, known by the person to be dangerous to human life, or which are diseased past recovery, shall be guilty of a petty misdemeanor. [L 1884, c 51, §6; RL 1925, §619; RL 1935, §214; RL 1945, §1064; RL 1955, §20-15; HRS §142-14; am L 1980, c 232, §5]

" **§142-15 REPEALED.** L 1986, c 269, §1.

" **§142-16 Dairy and breeding cattle; tuberculin tests.** All dairy and breeding cattle within the State shall be tuberculin tested by the department of agriculture as often as in its judgment such testing is necessary in order to prevent, suppress, and eradicate bovine tuberculosis. All cattle so tested shall be marked by the department with some distinguishing mark. The department may, for the purpose of making the tests, go upon any property where such cattle are kept. [L 1923, c 124, §1; RL 1925, §626; am L 1925, c 5, §1; am L Sp 1932 2d, c 39, §1; am L 1933, c 57, §1; RL 1935, §222; am L 1939, c 111, §1; RL 1945, §1076; am L 1945, c 104, §1; RL 1955, §20-17; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-16]

" **§142-17 Branding of tuberculous cattle.** All cattle found to be tuberculous either upon physical examination or by means of the tuberculin test shall be branded upon the left cheek with the registered brand "T". [L 1923, c 124, §2; RL 1925, §627; am L Sp 1932 2d, c 39, §2; RL 1935, §223; RL 1945, §1077; RL 1955, §20-18; HRS §142-17]

" **§142-18 Disposal of tuberculous animals.** The owner of all cattle reacting to the tuberculin test shall, subject to section 142-16, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered for slaughter at such time and place as may be designated by the department of agriculture. The slaughter shall be under the direct supervision of the department and in accordance with the meat inspection regulations of the United States Department of Agriculture. [L 1923, c 124, §3; RL 1925, §628; am L 1927, c 215, §1; RL 1935, §224; am L 1939, c 111, §2; RL 1945, §1078; RL 1955, §20-19; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-18; am L 1986, c 7, §1]

#### Case Notes

Section 142-18 does not supersede §142-6. 69 H. 349, 742 P.2d 359.

" **§142-19 Indemnification for tuberculous animals.** For any animal slaughtered, under section 142-18, the owner shall be paid one-third the difference between the appraised value of each animal so destroyed and the value of the salvage thereof; provided that in no case shall the payment exceed \$25 per head; except when no lesions are found, when a payment not to exceed \$50 shall be made; and provided further that no compensation shall be paid for tubercular steers or unregistered bulls.

The department of agriculture may agree with the owner of any animal as to the valuation thereof. In case no agreement can be reached as to the valuation of any animal, the department shall choose some disinterested citizen, the owner another, and the two so chosen shall designate a third, the three to act as appraisers who shall appraise the animal and whose decision or the decision of a majority thereof shall be final. All appraisals of cattle under this section, whether by agreement or by the appraisers, shall be based upon the market value of the animal so condemned on the day of appraisal, whether for breeding purposes or for milk production. All appraisals shall be signed by the owner and the appraisers and shall be reported to the department. Compensation for appraisers shall be \$2.50 per day and their necessary traveling expenses, which compensation shall be borne by the owner in case the appraisers fail to increase the valuation made by the department; otherwise, the appraisers shall be paid by the department.

The amount of indemnification having thus been ascertained, the owner may present to the state comptroller a claim against the State therefor. A warrant for the payment of the claim shall be made upon vouchers approved by the department and supported by the inspector's report on the presence or otherwise of tubercular lesions; provided that no indemnification shall be paid:

- (1) Unless the owner has cooperated with the department in complying with all rules and regulations issued by the department relative to the control and eradication of bovine tuberculosis and has presented the owner's whole herd for testing;
- (2) For any animal which has been placed in herds known to be infected at the time, unless the animal is found upon post mortem not to be tubercular;
- (3) For any imported animal condemned on retest while in quarantine and before release from quarantine unless the animal is found upon post mortem not to be affected with tuberculosis;
- (4) On any animal if introduced into a herd under supervision within a period of less than six months prior to condemnation, unless the animal was obtained

from a herd under state and federal supervision for the eradication of tuberculosis;

- (5) For any animal condemned for tuberculosis in any dairy herd under supervision where it appears that any untested animal has been allowed to mingle or mix with the herd; and
- (6) For any animal from any dairy herd under supervision, if any animal from the herd is allowed to mingle or come in contact with other cattle not under supervision, unless the cattle not under supervision are proved by the tuberculosis test to be free from tuberculosis.

In case of any report or ruling adverse to the owner thereof, the owner shall be given a hearing before the department before a final ruling is made. [L 1923, c 124, §4; RL 1925, §629; am L 1927, c 215, §2; am L 1929, c 99, §1; am L Sp 1932 2d, c 39, §3; am L 1933, c 57, §2; RL 1935, §225; RL 1945, §1079; RL 1955, §20-20; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-19; gen ch 1985]

#### **Cross References**

Administrative hearing, see chapter 91.

" **§142-20 Premises from which tuberculous cattle removed to be disinfected.** Any premises upon which have been kept animals affected with tuberculosis shall be disinfected promptly after the removal of the animals and in a manner satisfactory to the department of agriculture and at the expense of the owner. [L 1923, c 124, §5; RL 1925, §630; RL 1935, §226; RL 1945, §1080; RL 1955, §20-21; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-20]

" **§142-21 Cooperation with federal authorities.** The department of agriculture may cooperate with the United States Department of Agriculture in its efforts to eradicate bovine tuberculosis or any other transmissible disease of animals, and may make appraisals of condemned animals and report on the salvage derived from the sale of the animals in conformity with the regulations of the United States Department of Agriculture. [L 1923, c 124, §6; RL 1925, §631; RL 1935, §227; RL 1945, §1081; RL 1955, §20-22; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-21; am L 1986, c 6, §1]

" **§142-22 Anaplasmosis; indemnity for slaughtered cattle.** The department of agriculture may pay indemnities to owners of cattle sent to slaughter as reactors to the anaplasmosis test.

The payment shall be in the amount of one-third of the difference between the appraised value of each animal slaughtered and the value of the salvage value thereof to owners of cattle reacting positively to the anaplasmosis test and sent to slaughter within thirty days of official notification in writing of the reaction; provided that in no case shall this amount exceed \$100 per animal; and provided further that no indemnity shall be paid for steers, spayed heifers, or unregistered bulls.

The department may agree with the owner of any animal as to the valuation thereof. In case no agreement can be reached as to the valuation of any animal, the department shall choose some disinterested citizen, the owner another, and the two so chosen shall designate a third, the three to act as appraisers who shall appraise such animal and whose decision or the decision of a majority thereof shall be final. All appraisals of cattle under this section, whether by agreement or by the appraisers, shall be based upon the market value of the animal so condemned on the day of appraisal, whether for breeding purposes or for milk production. All appraisals shall be signed by the owner and the appraisers and shall be reported to the department. Compensation for appraisers shall be \$10 per day and their necessary traveling expenses, which compensation shall be borne by the owner in case the appraisers fail to increase the valuation made by the department; otherwise the appraisers shall be paid by the department.

The amount of indemnification having been thus ascertained, the owner may present to the state comptroller a claim against the State therefor. A warrant for the payment of the claim shall be made upon vouchers approved by the department and supported by the inspector's report; provided that no indemnification shall be paid:

- (1) Unless the owner has cooperated with the department in complying with all rules and regulations issued by the department relative to the control and eradication of anaplasmosis and has presented the owner's whole herd for testing;
- (2) For any animal which has been placed in herds known to be infected at the time;
- (3) For any imported animal condemned on retest while in quarantine and before release from quarantine;
- (4) On any animal if introduced into a herd under supervision within a period of less than six months prior to condemnation, unless the animal was obtained from a herd under state and federal supervision for the eradication of anaplasmosis;

- (5) For any animal condemned for anaplasmosis in any herd under supervision where it appears that any untested animal has been allowed to mingle or mix with the herd; and
- (6) For any animal from any herd under supervision, if any animal from the herd is allowed to mingle or come in contact with other cattle not under supervision, unless the cattle not under supervision are proven by the anaplasmosis test to be free from anaplasmosis. [L 1955, c 244, §2; RL 1955, §20-22.5; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-22; gen ch 1985]

" **§142-23 Brucellosis testing; indemnity for slaughtered cattle.** The department of agriculture may institute and conduct a brucellosis testing program.

The department may pay indemnities to owners of cattle sent to slaughter as reactors to the brucellosis test. The payment shall be in the amount of one-third of the difference between the appraised value of each animal slaughtered and the salvage value thereof to owners of cattle reacting positively to the brucellosis test and sent to slaughter; provided that in no case shall this amount exceed \$75 per animal; and provided further that no indemnity shall be paid for steers and spayed heifers. The department shall prescribe and enforce rules under which the amount of indemnification shall be ascertained, pursuant to this section.

The amount of indemnification having been thus ascertained, the owner may present to the state comptroller a claim against the State therefor. A warrant for the payment of the claim shall be made upon vouchers approved by the department and supported by the inspector's report.

The department may take such action that it may deem necessary to further the provisions of this section over any ensuing fiscal period. [L 1957, c 229, §§1-3; am L 1957, c 152, §1; am L Sp 1959 1st, c 13, §2; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §20-22.8; HRS §142-23]

#### **Attorney General Opinions**

The term "cattle" includes goats. Att. Gen. Op. 64-20.

" **§142-23.1 Hog cholera eradication; indemnity.** When swine are destroyed by the state veterinarian as being infected with hog cholera, or when noninfected swine are ordered destroyed to depopulate an infected herd in accordance with procedures adopted in the national hog cholera eradication program, the

department of agriculture may indemnify the owners of such swine; provided that the amount of the indemnity shall not exceed fifty per cent of the difference between the appraised value and the salvage value of the slaughtered swine; and provided further that in no case shall the amount exceed the maximum amount authorized to be paid for such swine by the federal government.

No indemnification shall be paid when the state veterinarian finds that (1) the owner has not cooperated with the department in complying with all rules and regulations issued by the department relative to the control and eradication of hog cholera; or (2) the swine died of hog cholera prior to the first report by the owner to the state veterinarian of the existence of a disease in the herd. The determination of the state veterinarian that no indemnification be paid the owner for the destruction of the owner's swine, may be appealed by the owner to the board of agriculture within twenty days after notice of such determination is sent to the owner. The board shall hold a hearing in accordance with chapter 91.

Valuation may be determined by agreement in writing between the owner and the state veterinarian, the state veterinarian's assistant or deputy making the diagnosis of hog cholera, subject to approval by the board. In the event agreement on valuation cannot be so reached, valuation shall be determined by a board of appraisers consisting of a disinterested citizen appointed by the chairperson of the board of agriculture, a person selected by the owner, and a third person selected by the two initially selected appraisers. The board of appraisers shall appraise the value of the destroyed swine and the decision of a majority of the board of appraisers shall be final and binding.

All valuation of swine under this section, whether by agreement or by the board of appraisers, shall be based upon the market value of the swine so destroyed as of the date of appraisal, whether for breeding or feeding purposes.

Compensation for the board of appraisers shall be the amount of the state per diem and necessary travel expenses, which compensation shall be paid by the owner if the board of appraisers does not increase the valuation made by the state veterinarian, the state veterinarian's assistant or deputy, with the approval of the board of agriculture; otherwise, it shall be paid by the department.

When the amount of indemnification has been agreed to or decided by the board of appraisers, the owner shall present to the state comptroller a claim against the State therefor. A warrant for the payment of such claim shall be issued upon vouchers approved by the chairperson of the board and supported

by the inspector's report. [L 1969, c 165, §2; am L 1970, c 39, §1; gen ch 1993]

" **[§142-23.5] Garbage feeding prohibited; penalty.** (a) The feeding of garbage to swine is prohibited, unless:

- (1) A permit to process (cook) garbage for such use is obtained from the department of agriculture's division of animal industry; and
- (2) The garbage has been processed (cooked) under conditions and procedures established by departmental rules.

(b) Any person who violates the provisions of subsection (a) of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [L 1982, c 148, §1]

" **§§142-24 to 27 REPEALED.** L 1993, c 280, §8.

" **§142-28 REPEALED.** L 1998, c 210, §2.

" **§142-28.5 Animal quarantine special fund.** There is established the animal quarantine special fund to be administered by the board of agriculture. Moneys received by the board of agriculture from:

- (1) Fees for the quarantine of cats, dogs, and other carnivores pursuant to this chapter;
- (2) Moneys received for the use of animal quarantine property or facilities pursuant to section 142-3.5; or
- (3) State appropriations or other moneys made available, shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover all costs of quarantine but not limited to the costs of salaries, fringe benefits, operating expenses, including the defraying of quarantine fees, equipment, motor vehicles, contract with any qualified person or entity for animal care services, operation and maintenance of the quarantine station, and promotional expenses. A reserve shall be appropriated and maintained in the special fund to cover contingency costs, including but not limited to accrued vacation leave, unemployment insurance, and workers' compensation. [L 1998, c 210, §1; am L 2000, c 278, §2; am L 2005, c 161, §3; am L 2011, c 185, §3]

" **§142-29 Enforcement; citation and summons.** Violations of the provisions of this chapter or of any rule adopted pursuant thereto may be enforced by citation and summons issued by:

- (1) Any state or county law enforcement officer; or



- (2) Any officer or employee of the department of agriculture, authorized and designated by the board of agriculture to investigate and enforce the provisions of this chapter and all rules adopted by the department pursuant thereto. [L 1972, c 86, pt of §1; gen ch 1985; am L 1986, c 264, §1; am L 1997, c 62, §2]

" **§142-30 Form of citation and summons.** (a) In issuing citations and summons for violations of this chapter, law enforcement officers other than those described in section 142-29(2) shall use the summons and complaint citation books issued by the judiciary for violations of the traffic code.

(b) Citations issued by officers and employees as described in section 142-29(2) shall use citation and summons forms that shall warn the person to appear and answer the charge against the person at a place and at a time within thirty days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal under the laws and rules of the State.

The citation and summons shall be in a form that allows a carbon copy to be provided to the accused. The district courts may provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original. [L 1972, c 86, pt of §1; am L 1986, c 17, §1; am L 1997, c 62, §3]

" **§142-31 Administration of oath.** When a complaint is made by officers and employees as described in section 142-29(2) to any prosecuting officer of the violation of the provisions of this chapter and all rules adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to it under oath administered by another official of the department of agriculture whose name has been submitted to the prosecuting officer and who has been designated by the chairperson of the board of agriculture to administer oaths. [L 1972, c 86, pt of §1; am L 1986, c 18, §1; gen ch 1993; am L 1997, c 62, §4]

## "PART II. BRANDS

**§142-41 Brands to be recorded, etc.** Every owner of livestock in the State shall have the owner's brand or mark, in order to secure its validity and individuality, recorded in a separate book kept for that purpose by the department of agriculture to be known as the "Hawaii Brand Book". No brand or

mark shall be recorded which may be similar or approximate in design to any brand or mark which has been previously recorded. The fee for each application for registration shall be established by rule adopted pursuant to chapter 91. The application may be made directly to the department, through its duly authorized agents, or through any duly authorized police officer. The chief of police of the respective counties shall authorize police officers to receive applications for registration of brands under this section. All moneys so received shall be paid to the director of finance. A signed and dated receipt shall be issued for each paid application. All applications shall be promptly forwarded to the department. If it is determined that the application seeks the registration of a brand which either has not already been recorded by another person or is not similar in design to any other previously recorded brand which has not expired, then a certificate showing that such brand or mark has been duly recorded shall be issued forthwith to the applicant. No record shall be made of any earmark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to preemptive use but shall be the common property of all persons. [L 1888, c 35, §19; am L 1911, c 58, §1; RL 1925, §681; RL 1935, §259; am L 1939, c 104, §7; am L 1943, c 62, §21 and c 64, §22; RL 1945, §1068; am L 1953, c 235, §1(a); am L 1955, c 73, §1(a); RL 1955, §20-40; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1; HRS §142-41; am L 1982, c 149, §1; gen ch 1985]

" **§142-42 Expiration of registration, reregistration.** Each brand registered under section 142-41 shall expire on December 31, 1960, and at each five year interval thereafter unless reregistered during the one hundred twenty days preceding date of expiration. [L 1893-4, c 57, §1; RL 1925, §682; RL 1935, §260; RL 1945, §1069; am L 1955, c 73, §1(b); RL 1955, §20-41; HRS §142-42]

" **§142-43 Right to a brand determined by department.** The department of agriculture shall determine conflicting claims by the applicants for a brand of similar or approximate design and in so doing shall be guided by the length of time each has used the brand, record of original registration, the number of animals then branded by each, and the priority of application. [L 1892, c 55, §1; RL 1925, §683; am L 1927, c 57, §1; RL 1935, §261; RL 1945, §1070; am L 1953, c 235, §1(b); am L 1955, c 73, §1(c); RL 1955, §20-42; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-43]

" **§142-44 Owners of unbranded animals.** All cattle, horses, mules, donkeys, sheep, goats, and swine, over twelve months of age, not marked or branded, which may be running wild at any time on any lands in the State, shall belong to and be the property of the owners or lessees of the lands on which the animals are then running. [L 1870, c 30, §1; am L 1874, c 27, §1; RL 1925, §684; RL 1935, §262; RL 1945, §1071; am L 1951, c 32, §1; RL 1955, §20-43; HRS §142-44]

#### Case Notes

Effect of brand, prior to statute. 2 H. 367.

Enumerated animals in this section are property and subjects of larceny. 4 H. 409.

Cited: 20 H. 7, 30.

" **§142-45 Using other's brand prohibited; penalty.** It shall be unlawful for any person other than the registered owner to use any brand or mark that has been duly registered or reregistered according to law and for which the registration or reregistration has not expired, except by the consent of the registered owner, the registered owner's personal representatives or assigns. Any person violating this section shall be fined \$200 for each animal so branded or marked. [L 1888, c 35, §20; am L 1903, c 8, §2; RL 1925, §685; RL 1935, §263; RL 1945, §1072; am L 1953, c 235, §1(c); RL 1955, §20-44; HRS §142-45; am L 1976, c 200, pt of §1; am L 1984, c 8, §1; gen ch 1985]

" **§142-46 Using unregistered brand prohibited; penalty.** It shall be unlawful for any person to use any brand that has not been duly registered according to law. Any person using any brand that has not been duly registered according to law shall be fined not less than \$1 nor more than \$200 for each animal so branded. [L 1893-4, c 39, §1; am L 1903, c 8, §2; RL 1925, §686; RL 1935, §264; RL 1945, §1073; RL 1955, §20-45; HRS §142-46; am L 1984, c 8, §2]

" **§142-47 Obliterating brand; penalty.** Any person who obliterates any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, although without felonious intent, shall be fined not more than \$200 for every brand or mark so obliterated. [PC 1869, c 83, §2 (same as CC 1859, §249); RL 1925, §687; RL 1935, §265; RL 1945, §1074; RL 1955, §20-46; HRS §142-47; am L 1984, c 8, §3]

" **§142-48 Felonious branding; penalty.** Whoever wilfully and feloniously brands, or otherwise marks, any kine, horse, mule, sheep, goat, or other cattle belonging to another, with one's mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to one's own use, or to the use of another shall be imprisoned not more than one year, or fined not more than \$200 for each kine, horse, mule, sheep, goat or other cattle thus branded or marked. [PC 1869, c 25, §1; am L 1903, c 12, §1; RL 1925, §688; RL 1935, §266; RL 1945, §1075; RL 1955, §20-47; HRS §142-48; gen ch 1985]

### Case Notes

Brand of itself not conclusive evidence of ownership; law regulating brands does not apply to wild herds roaming Maunakea. 2 H. 367.

" **§142-49 Livestock ownership and movement certification.** Every owner, upon sale or transportation of livestock, including cattle, horses, sheep, goats, pigs, bison, or llamas, shall complete a certificate describing the animal or animals including sex, breed, age, and brand and indicating the seller or owner, buyer or consignee, and origin and destination. Two copies of the certificate shall accompany the shipment, one copy shall be given to the department of agriculture, and a copy shall be retained by the owner. One of the copies of the certificate shall be presented upon request to a law enforcement officer or other officer or employee as described in section 142-29. [L 1986, c 62, §1; am L 1997, c 62, §5]

### "PART III. FENCES AND TRESPASSES BY ANIMALS

#### Rules of Court

Applicability of District Court Rules of Civil Procedure, see DCRCP rule 81(b)(3).

**§142-61 Lawful fence; penalty.** (a) Every fence made of stone, posts and rails, posts and boards, posts and wire, or other suitable materials shall be a lawful fence, provided that it is not less than four feet in height, substantially built, strong and close, existing in good state of repair, and capable of turning either all stock or all stock excepting swine, attempting to pass through the fence.

(b) Woven wire, or what is otherwise known also as hog-wire, used as a type of wire by itself or with a combination of barbed wire or plain wire, when supported on posts and properly

fastened thereto and meeting the minimum height and stock turning requirements prescribed in subsection (a), shall be a lawful fence.

(c) The sea, rivers, ponds, and natural perpendicular bluffs, whenever impassable, shall be lawful fences.

(d) Whenever fences are built on any boundary, or within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas or to keep farms protected against the trespass of animals, except on the boundary of any government road, it shall be lawful to have fence wire electrically charged, provided such wire is fastened to insulators supported on posts, and provided also that the charge supplied shall be through an approved electric fence controller which shall be labeled or listed as conforming to the standards of either the National Institute of Standards and Technology, the Underwriters Laboratories, Inc., or any other similar institutions of recognized standing, and provided that an electric fence controller intended for use in the State shall bear a recognized commercial trade name and the name of the selling agency of same.

(e) Whenever fences are built on any boundary, including on the boundary of any government road, within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas or to keep farms protected against the trespass of animals, it shall be lawful to attach electrically charged attachments to the interior side of the fence; provided that in the case of wire fences, it shall be lawful to attach electrically charged attachments only to the interior side of posts supporting the wire; and provided further that no person shall be subject to injury by the electrically charged attachments while the person is on or touches the exterior side of the fence or fence posts.

(f) Any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments not conforming to the requirements of this section shall be fined not more than \$500, or imprisoned not more than one year, or both.

(g) Any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments along the boundary of any government road or within the exterior boundaries of any leased public land or lot shall defend, indemnify, and hold harmless, the State, county, or other public entity from all claims, suits, or judgments arising from the use of an electrically charged fence or fence with electrically charged attachments. [L 1907, c 125, §10; RL 1925, §698; RL

1935, §276; am L 1941, c 284, §1; RL 1945, §1082; RL 1955, §20-60; HRS §142-61; am L 1984, c 210, §1; am L 1990, c 23, §2; am L 2012, c 34, §6]

### **Cross References**

Fences and boundaries, see chapter 664.

" **§142-62 Breaking, etc., of fence; penalty.** If any person maliciously and designedly opens a gateway, or breaks a fence, so as to allow any animal ingress or egress, so that it may commit a trespass, or maliciously and designedly drives or leads any animal into another locality where it may commit a trespass, the person shall, for every offense, be fined not more than \$100, or imprisoned not more than one year. [L 1907, c 125, §11; RL 1925, §699; RL 1935, §277; RL 1945, §1083; RL 1955, §20-61; HRS §142-62; gen ch 1985]

" **§142-63 Trespass on fenced cultivated land.** If any cattle, horse, mule, ass, swine, sheep, or goat, trespasses on any properly fenced cultivated ground, the owner thereof shall pay upon proof, the full amount of the damage or loss to the landowners, or to any person in possession of the land, whoever suffers the damage or loss. [L 1907, c 125, §12; RL 1925, §700; RL 1935, §278; RL 1945, §1084; RL 1955, §20-62; HRS §142-63; am L 1975, c 40, pt of §1]

" **§142-64 On unfenced cultivated land.** If any of the animals mentioned in section 142-63 trespasses on any unfenced cultivated ground, the owner thereof shall pay upon proof, the full amount of the damage or loss to the landowner or to any person in possession of the land, whoever suffers the damage or loss. [L 1907, c 125, §13; RL 1925, §701; RL 1935, §279; RL 1945, §1085; RL 1955, §20-63; HRS §142-64; am L 1975, c 40, pt of §1]

" **§142-65 On uncultivated land.** If any of the animals mentioned in section 142-63 trespasses on any properly fenced uncultivated land, the owner of the animals shall pay upon proof, the full amount of the damage or loss to the landowner or to any person in possession of the land, whoever suffers the damage or loss. [L 1907, c 125, §14; RL 1925, §702; RL 1935, §280; RL 1945, §1086; RL 1955, §20-64; HRS §142-65; am L 1975, c 40, pt of §1]

" **§142-66 On public roads, lands.** If any animal mentioned in section 142-63 trespasses or strays on any of the government

roads bounded on both sides by legal fence, or upon any government land which is not used for animal husbandry situated in the counties of Hawaii, Maui and Kauai and the city and county of Honolulu, any police officer or such person as may be thereunto authorized by ordinance of the councils of said counties and city and county, may take up the animal and impound the same as said councils shall provide. The owner of the animals so taken up or impounded shall pay to the police officer or such person as may be authorized fees as provided in section 142-70 hereof. In addition, if any damage is done by the animals to a government road or land or improvements thereon, the owner thereof shall further pay such amount as shall be fixed by the directors of finance of said counties or city and county. In case the charges and pound fees are not paid, the animals impounded shall be sold at public auction as provided by any ordinance relating thereto. [L 1907, c 125, §15; am L 1919, c 219, §1; RL 1925, §703; RL 1935, §281; RL 1945, §1087; am L 1947, c 15, §1; RL 1955, §20-65; HRS §142-66; am L 1974, c 63, §1]

#### Case Notes

Cited: 21 H. 532, 536.

" **§142-67 REPEALED.** L 1987, c 58, §2.

" **§142-68 Fine for continued trespassing by animals.** In case cattle, horses, mules, asses, sheep, swine, or goats trespass on any land, the owner of the animals, if known, shall be notified by the owner or occupier of the land trespassed upon, and if the owner of the animals does not remove them within twenty-four hours, if the animals are trespassing on a homesite, garden, or truck farm, or within forty-eight hours, if the animals are trespassing on any other type of land, the owner of the animals shall be subject to penalties as provided in section 142-12. [L 1945, c 266, §1; RL 1955, §20-67; HRS §142-68; gen ch 1985; am L 1987, c 58, §1]

" **§142-69 Stallions.** Every person on whose land any stallion of twelve months old or upwards is found trespassing, may, without any notice, cause the stallion to be impounded, and the owner shall pay to the person upon whose land the trespass is committed \$10 for every trespass, to be collected by the pound keeper as provided by any ordinance relating thereto. [L 1907, c 125, §17; RL 1925, §705; RL 1935, §283; RL 1945, §1089; RL 1955, §20-68; HRS §142-69]

" **§142-70 Expenses, driving, etc.** In all cases when animals are taken up for trespass, the actual expenses reasonably incurred, which shall include, but not be limited to allowances for employees' wages, equipment cost, transportation cost, feeding cost, cost of advertising notice, and other costs related to the catching, driving and conveying of animals, to be established by ordinance by the councils of the counties of Hawaii, Maui and Kauai and the city and county of Honolulu, in addition to forfeits and damages specified in the preceding sections of this part may be assessed against the owner of the animals. [L 1907, c 125, §18; am L 1923, c 137, §1; RL 1925, §706; RL 1935, §284; RL 1945, §1090; am L 1947, c 15, §2; RL 1955, §20-69; HRS §142-70; am L 1974, c 63, §2]

" **§142-71 Procedure to recover animals; owner notified before impounding.** Where any animals are taken up for trespass, the owner, if known, shall be immediately notified, if reasonably practicable, of the fact, and of the amount of damage and trespass fees claimed, and if the owner refuses or fails to pay the legal charges, or in case the owner is unknown, then the animals shall be impounded forthwith. [L 1907, c 125, §19; RL 1925, §707; RL 1935, §285; RL 1945, §1091; RL 1955, §20-70; HRS §142-71; gen ch 1985]

#### Case Notes

Where animals are taken up, known owner must be notified or impounding is illegal. 29 H. 294.

" **§142-72 Procedure, if owner believes impounding illegal.** If the owner of any animal taken up for trespass, has reason to believe that the taking up or impounding of the animal was illegal, or if he regards the claim for damages or expenses as excessive, he may have his animal returned to him upon his delivering to the landowner or to the pound keeper, if the animal has been impounded, a certificate from any district judge of the circuit, stating that he has deposited with the judge the amount claimed by the landowner, together with the pound fees, if any, or a good and sufficient bond for the same and the costs of an action before him. [L 1907, c 125, §20; RL 1925, §708; RL 1935, §286; RL 1945, §1092; RL 1955, §20-71; HRS §142-72; am L 1970, c 188, §§39, 40]

" **§142-73 Jurisdiction; appeal.** The judge shall upon receiving the amount claimed, including pound fees, if any, or a good and sufficient bond for the amount, and the costs of the action, issue the required certificate, and at the same time



summon the parties to appear before the judge with their witnesses; and after a fair hearing the judge shall decide between them. No appeal shall be allowed from the judge's decision unless taken and perfected within five days after the decision has been rendered. In case of appeal the judge shall send up the costs deposited, and the amount claimed or the bond given in lieu of the amount, to the appellate court together with the certificate of appeal. If it appears on trial that the impounding was illegal, the landowner shall be compelled to pay the pound fees. [L 1907, c 125, §21; RL 1925, §709; RL 1935, §287; RL 1945, §1093; RL 1955, §20-72; HRS §142-73; am L 1970, c 188, §39]

### Case Notes

Party who impounds has burden of showing the right to impound. 21 H. 532.

" **§142-74 Liability of dog owner; penalty.** (a) If any dog, while on private property without the consent of the owner of that property, injures or destroys any sheep, cattle, goat, hog, fowl, or other property belonging to any person other than the owner of the dog, the owner of the dog shall be liable in damages to the person injured for the value of the property so injured or destroyed. The owner of the dog shall confine or destroy the dog, and if the owner of the dog neglects or refuses to do so, the owner of the dog, in the event of any further damage being done to the person or property of any person by the dog, in addition to paying the person injured for the damage, shall pay the costs of the trial together with the penalty imposed under section 142-12, and it shall be lawful for any other person to destroy the dog.

(b) Each county may enact and enforce ordinances regulating persons who own, harbor, or keep any dog that has injured, maimed, or destroyed an animal belonging to another person. No ordinance enacted under this subsection shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that the ordinance shall not affect the civil liability of a person owning, harboring, or keeping the dog. Upon enactment of an ordinance, whether enacted on, before, or after June 30, 2001, the ordinance shall have full force and effect; provided that the ordinance is consistent with this section. [PC 1869, c 23, §9; RL 1925, §667; RL 1935, §252; RL 1945, §1094; RL 1955, §20-73; HRS §142-74; gen ch 1985; am L 1986, c 64, §1; am L 2001, c 222, §1]

## Case Notes

Under charge of malicious injury, facts shown that dog was trespasser and seen carrying off something were justification for attack on dog. 8 H. 115.

" **§142-75 Human bitten by dog; duty of dog owners; action against owner.** (a) The owner of any dog that has bitten a human being shall have the duty to take such reasonable steps as are necessary to prevent the recurrence of such incident.

(b) Whenever a dog has bitten a human being on at least two separate occasions for which none of the exceptions specified in section 663-9.1 apply, any person may bring an action against the owner of the dog in the district court of the judicial circuit in which the owner resides, to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by such animal. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including but not limited to the removal of the animal from the area or its destruction by its owner. In making its decision, the court may consider:

- (1) The vicious or dangerous propensities of the animal;
- (2) The ability of the owner to adequately confine or remove the animal; and
- (3) The necessity of any destruction of an animal in light of the health, safety, and welfare of the community.

This section shall not preclude any existing common law remedies.

(c) Each county may enact and enforce ordinances regulating persons who own, harbor, or keep any dog that has bitten, injured, or maimed a person. No ordinance enacted under this subsection shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that the ordinance shall not affect the civil liability of a person owning, harboring, or keeping the dog. Upon enactment of an ordinance, whether enacted on, before, or after June 30, 2001, the ordinance shall have full force and effect; provided that the ordinance is consistent with this section. [L 1980, c 283, §2; am L 2001, c 222, §2]

## "PART IV. MISCELLANEOUS PROVISIONS

**§142-91 Destruction of animals ferae naturae.** (a) No person shall shoot or otherwise destroy any animal ferae naturae

or its progeny within ten years of the introduction of the species into the State.

(b) Nothing in this section shall be construed to prohibit the destruction of such animals as shall be proved to be common nuisances. [PC 1869, c 85, pt of §8; am L 1870, c 13, §2; RL 1925, §668; RL 1935, §253; RL 1945, §1095; RL 1955, §20-90; HRS §142-91; am L 1986, c 268, §1]

" **§142-92 Mongoose; keeping or breeding; penalty.** It shall be unlawful for any person to introduce, keep or breed any mongoose within the State except upon and according to the terms of a written permit which may be granted therefor by the department of agriculture, in its discretion, to scientists, scientific institutions, associations, or colleges, or to officers, boards, or commissions of the State or any county. The department shall not issue a permit authorizing the keeping or breeding of mongoose within either the county of Kauai or the island of Lanai. Any person who violates this section shall be fined not less than \$250 nor more than \$1,000 for each mongoose introduced, kept or bred contrary to this section. [L 1892, c 48, §1; am L 1903, c 8, §2; RL 1925, §672; RL 1935, §257; am L 1937, c 185, §1; RL 1945, §1096; RL 1955, §20-91; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-92; am L 1986, c 8, §2]

" **§142-93 Harboring mongoose; penalty.** Any person harboring, feeding, or in any way caring for a mongoose, except upon and according to the terms of a written permit which may be granted therefor by the department of agriculture, in its discretion, to scientists, scientific institutions, associations, or colleges, or to officers, boards, or commissions of the State or any county, shall be penalized pursuant to section 142-12. [L 1907, c 137, §7; RL 1925, §680; RL 1935, §258; am L 1937, c 185, §2; RL 1945, §1097; RL 1955, §20-92; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-93; am L 1986, c 8, §3]

" **[§142-93.5] Mongoose; killing allowed.** No person shall be prohibited from killing a mongoose in any manner not prohibited by law, including by trapping. [L 1986, c 8, §1]

" **§142-94 Destruction of unconfined rabbits and Belgian hares.** Any police officer or other person may destroy any rabbit or Belgian hare found unconfined and no officer or other person destroying any rabbits or Belgian hares so found shall be liable for any damages for such destruction to any person claiming the ownership of the animals; provided that no officer

or other person shall enter any inhabited enclosure for the purpose of taking or destroying any rabbits or Belgian hares without authority of law or under a warrant duly issued. [L 1890, c 61, §3; am L 1917, c 50, §4; RL 1925, §671; RL 1935, §256; RL 1945, §1100; RL 1955, §20-93; HRS §142-94]

" **§142-95 Rabbits, Belgian hares, to be kept off ground; penalty.** Any person who breeds, raises or keeps rabbits or Belgian hares shall keep them off the ground.

Any person who violates this section shall be fined not more than \$100 or imprisoned not more than six months, or both. [L 1957, c 298, §§1, 2; Supp, §20-94; HRS §142-95]

#### **Cross References**

Classification of offense and authorized punishment, see §§701-107, 706-640, 663.

" **§142-96 Frightening animals; penalty.** Whoever frightens, exasperates, or animates a horse or other animal, and thereby endangers the personal safety or the personal property of any person, or the animal itself, being that of another, shall, in case the personal safety of any person is thereby imminently endangered, be fined not less than \$5 nor more than \$500; or in case the personal safety of any person is not so endangered, be fined not less than \$5 nor more than \$100. [PC 1869, c 26, §4; RL 1925, §4393; RL 1935, §6285; RL 1945, §11704; RL 1955, §311-4; HRS §142-96]

" **§142-97 Wild cattle through street; penalty.** Whoever drives, leads, or otherwise conducts any wild bull, bullock, cattle, or other ferocious or dangerous animal in the street of any village, or in any place of public resort, shall, in case the personal safety of any person is thereby imminently endangered, be fined not less than \$5, nor more than \$500, or in case the personal safety of any person is not so endangered, be fined not less than \$5, nor more than \$100. [PC 1869, c 26, §3; RL 1925, §4394; RL 1935, §6286; RL 1945, §11705; RL 1955, §311-5; HRS §142-97]

#### **Cross References**

Riding of animals recklessly, see §291-2.

" **§142-98 Fees.** (a) The department of agriculture may establish and assess fees pursuant to chapter 91 for facilities

usage, vaccination programs, emergency transportation of quarantined animals, insecticides, medication, and other goods and services deemed necessary and provided by the department of agriculture in enforcing the provisions of this chapter; provided that the assessment of these fees does not violate any other provision of this chapter.

(b) All fees and expenses, other than for the initial inspection, relating to quarantine, confinement, investigation, overtime, meals, transportation, recapture, vaccination, examination, treatment, dipping, and any other function deemed necessary by the department shall be the responsibility of the owner, consignee, or handler.

(c) Notwithstanding any other law to the contrary, any payments due and owing to the State for any fees for goods and services received from the State at the animal quarantine station may be made by means of credit cards as may be deemed acceptable by the comptroller. The use of credit cards shall be exempt from section 40-35. A service fee may be required by the department for this use. [L 1986, c 267, §1; am L 1995, c 75, §1]

#### **Cross References**

Animal quarantine special fund, see §142-28.5.

" **[§142-99] Lost or rescued animals; penalty.** (a) Except as otherwise provided in section 143-10, any person who exerts control over a lost animal shall immediately notify the owner of the animal, if known, or an animal control officer of the local humane society chapter of the county in which the animal is found and release the animal to the owner, animal control officer, or humane society chapter. For purposes of this section, "exert control" means any act which constrains an animal including leashing, chaining, or otherwise confining an animal.

(b) Any person who violates this section shall be fined not more than \$500. [L 1991, c 226, §1]

" **[§142-100 Beekeepers, registration; apiary program.]** (a) Beekeepers may register with the department of agriculture, on forms prescribed and prepared by the department, which shall include the following information:

- (1) The name, address, and contact information for the beekeeper; and
- (2) Other information that may assist the department in compiling accurate information on Hawaii's beekeeping industry.

(b) The department of agriculture shall keep registration information confidential subject to the limitations on confidentiality imposed under chapter 92F; provided that the name and business address of each registrant shall be made publicly available by the department; and provided further that the department may compile statistics based on the information, pursuant to section 141-1.

(c) The registration shall be effective for a period of one year, and shall be renewed at the end of the one-year period.

[(d)] The department of agriculture shall establish an apiary program, which may include the following positions, to carry out the purposes of this [section]:

- (1) One apiary specialist;
- (2) One apiary planner; and
- (3) Two apiary technicians. [L 2011, c 200, §§2, 3]

#### **Revision Note**

Subsection (d) is codified to this section pursuant to §23G-15.

#### **"[PART V.] PIGEONS**

**[\$142-101] Definitions.** As used in this part, unless the context otherwise provides:

"Carrier pigeon" means homing and racing pigeons which are banded on the leg with an identification leg band.

"Department" means the department of agriculture.

"Identification leg band" means the band placed around the pigeon's leg identifying the owner by name or initials or containing numbers or letters or a combination thereof.

"Pigeon" includes all carrier and show birds but does not pertain to birds raised for food or for similar commercial purposes.

"Racing pigeon" means any pigeon whose leg band identification is registered with any county, state, national, or international pigeon racing organization.

"Show pigeon" means any pigeon intended for show purposes which bears an identification leg band. [L 1989, c 9, pt of §2]

" **[\$142-102] Pigeon permits.** The department shall issue a pigeon ownership permit to any person who raises pigeons and shall adopt rules pursuant to chapter 91 to effectuate this part. [L 1989, c 9, pt of §2]

" **[\$142-103] Exercise, training, and racing.** Any owner of carrier pigeons, to whom the department has issued a pigeon permit, or person acting for the owner, having in the owner's or person's control or possession and under restraint not more than twenty-five pairs of carrier pigeons in an area zoned for residential or for hotel and apartment uses shall be allowed to fly the pigeons for necessary exercise, training, and racing. Any owner or person maintaining the carrier pigeons in areas zoned for other land uses shall fly not more than two hundred birds for necessary exercise, training, and racing. Show pigeons which are not allowed to fly free are not within the foregoing control on carrier pigeons. [L 1989, c 9, pt of §2]

**"[PART VI.] AVIARY GAME BIRDS**

**[\$142-111] Definitions.** As used in this part, unless the context otherwise requires:

"Aviary game bird" includes the various species of pheasant which are of rare nature and are generally propagated and raised for its ornamental and aesthetic purposes, but does not pertain to birds raised for food, fighting, baiting, or for similar commercial purposes.

"Department" means the department of agriculture. [L 1989, c 9, pt of §3]

" **[\$142-112] Aviary game bird permits.** The department shall issue an aviary game bird permit to any person who raises aviary game birds and shall adopt rules pursuant to chapter 91 to effectuate this part. [L 1989, c 9, pt of §3]