



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2561, RELATING TO ANIMAL ENDANGERMENT.

BEFORE THE:

SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Monday, February 5, 2024 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Elyse C.N. Oyama, Deputy Attorney General

Chairs Gabbard and Wakai and Members of the Committees:

The Department of the Attorney General (Department) provides the following comments on this bill.

The purposes of this bill are to prohibit individuals from leaving pet animals in unattended vehicles under certain circumstances and to provide protection to public officials and individuals seeking to retrieve pet animals from said vehicles.

The Department recognizes that the focus of the bill is the health, safety and well-being of pet animals in unattended vehicles. The definitions proposed in subsection (j), on page 6, lines 1-14, create a number of issues. The vagueness of "extreme cold" and "extreme heat" and the subjective nature of what might be considered "extreme" will make enforcement difficult. The definition for "person" is confusing as applied to this proposed offense and we suggest deleting it. The definition for "unattended vehicle" would be problematic to enforce because this offense would likely involve situations where the vehicle owner or operator is unknown to a public official or an individual that retrieves the pet animal, and determining if the vehicle owner or operator is out of sight might not be discernable; also, it is not clear "whose sight" is the determining factor.

Additionally, subsection (b), on page 2, lines 16-21, which provides an exception for a person who accidentally leaves a pet animal in a vehicle, is not necessary to

include in this bill as commission of the offense involves intentional, not accidental conduct. We suggest deleting this subsection.

Subsection (f)(3), on page 4, line 20, to page 5, line 2, is unclear in its description of what type of attempts to contact law enforcement must be made before entering a vehicle. We suggest the following wording to replace paragraph (3): “Calls 911 to coordinate the retrieval of the pet animal with animal control, law enforcement, or fire, or if unable to reach such authorities through a 911 call, otherwise makes reasonable attempts to contact such authorities.”

Lastly, in subsection (h), on page 5, lines 13-17, while the focus is on the owner of the pet animal paying all charges, it is unclear what is to occur should those charges remain unpaid.

The Department notes that the current offense of cruelty to animals in the second degree in section 711-1109(1)(e), Hawaii Revised Statute (HRS), may be used in circumstances intended to be addressed by this bill. Section 711-1109(1)(e), HRS, provides:

- (1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly: . . .
- (e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner

The proposed offense under section 711- (a) would be a violation, which would only result in a fine as the possible penalty. On the other hand, section 711-1109(1)(e), HRS, is a misdemeanor, which carries maximum possible penalties of one year of jail and/or a \$2,000 fine. Furthermore, section 711-1109(1)(e), HRS, provides flexibility, which includes allowing a judge to place the offender under court supervision, or a prosecutor to demonstrate that the conditions of the vehicle were not suitable for an animal.

As one purpose of this bill is to provide public officials with no civil or criminal liability in the event of rescuing a pet animal from an unattended vehicle, the Department would recommend that this possible affirmative defense for criminal property damage to a motor vehicle may fit better under chapter 708, HRS, Offenses against Property Rights, or chapter 291C, Statewide Traffic Code.

Thank you for the opportunity to provide comments.



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February 5th, 2024

RE: Memorandum of Support on SB 2561
Relating to animal endangerment

Dear Chair Gabbard, Vice Chair Richards, and honorable members of the Senate Committee on Agriculture and Environment; and Chair Wakai, Vice Chair Elefante, and honorable members of the Senate Committee on Public Safety and Intergovernmental and Military Affairs,

The Animal Legal Defense Fund, the nation's preeminent legal advocacy organization for animals, and its members in Hawai'i, strongly support the enactment of SB 2561. This bill aims to make leaving an animal unattended in a vehicle in dangerous conditions a crime and limits civil and criminal liability to Good Samaritans who rescue domestic animals in distress from motor vehicles after taking reasonable steps. With so many tragic stories of companion animals dying in the heat, the public is becoming more cognizant of the danger of leaving animals in hot cars. And Hawai'i is a state that experiences hotter temperatures than most year-round. By passing this bill, Hawai'i would join 14 other states in helping save animals from unnecessary deaths.

People often leave their companion animals locked in their car while they run an errand, not realizing that temperatures inside vehicles can rise dangerously quickly. Even on a cloudy day with the windows cracked, conditions inside a car may turn lethal for any animals trapped inside within a matter of minutes. Dogs and other companion animals are particularly vulnerable to heatstroke because they cannot cool themselves like humans and have a harder time maintaining a comfortable body temperature.

This bill does not prescribe criminal penalties for the owner of the vehicle who leaves an animal in the car in dangerous conditions. It solely removes civil and criminal liability from the Good Samaritan who intervenes. In addition, in order to avoid liability, the Good Samaritan will have had to act in accordance with the commonsense steps outlined in the bill to ensure they have tried all other measures before breaking the window.

Further, there has been no evidence that the passage of these kinds of bills would result in a rash of car window smashing across the state. This bill protects the average constituent who wants to do the right thing, and probably would not stand idly by while a dog is in distress anyway despite the current absence of this law. This bill would simply protect them under the outlined limited circumstances.

For these reasons, the Animal Legal Defense Fund strongly supports the enactment of SB 2561 and respectfully requests that it be passed by this committee.

Sincerely,

Lindsay Vierheilig
Animal Legal Defense Fund
lvierheilig@aldf.org

SB-2561

Submitted on: 2/4/2024 1:40:22 PM

Testimony for AEN on 2/5/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cathy Goeggel	Testifying for Animal Rights Hawai'i	Support	Written Testimony Only

Comments:

ARH strongly supports SB2561 !

SB-2561

Submitted on: 2/3/2024 12:06:08 PM

Testimony for AEN on 2/5/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ben Robinson	Individual	Support	Written Testimony Only

Comments:

Support

SB-2561

Submitted on: 2/3/2024 6:11:46 PM

Testimony for AEN on 2/5/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Bishop	Individual	Support	Written Testimony Only

Comments:

Aloha,

i strongly support this bill that can save the lives of defenseless animals.

With Aloha,

Lisa Bishop

Hawaii resident, homeowner, taxpayer, voter

SB-2561

Submitted on: 2/4/2024 4:20:59 PM

Testimony for AEN on 2/5/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

No Body Trust the Government!!!!!!!!!!