

ACT 222

S.B. NO. 643

A Bill for an Act Relating to Dogs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-74, Hawaii Revised Statutes, is amended to read as follows:

“§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.”

SECTION 2. Section 142-75, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~142-75[~~]~~] Human bitten by dog; duty of dog owners; action against owner. (a) The owner of any dog [~~whiēh~~] 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 [~~sueh~~] the dog in the district court of the judicial circuit in which [~~sueh~~] 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~~] The vicious or dangerous propensities of the animal[~~;~~];
- (2) [~~the~~] The ability of the owner to adequately confine or remove the animal[~~;~~]; and
- (3) [~~the~~] 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.”

SECTION 3. Any county ordinance enacted before July 1, 2001, consistent with sections 142-74 and 142-75, Hawaii Revised Statutes, as amended by this Act, even though the ordinance is enacted before the effective date of this Act, shall be deemed valid retroactive to the date of enactment of the ordinance.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 30, 2001.

(Approved June 12, 2001.)