

ACT 214

H.B. NO. 695

A Bill for an Act Relating to Fences.

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

SECTION 1. Section 142-61, Hawaii Revised Statutes, is amended to read as follows:

“§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]~~ the lawful fence shall be no 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) A battery-charged security fence used for non-agricultural purposes shall be a lawful fence; provided that the battery-charged security fence:

- (1) Interfaces with a monitored alarm device in a manner that enables the alarm system to transmit a signal intended to summon the property owner or law enforcement in response to an intrusion or any unauthorized entry;
- (2) Is located on property that is not designated by a county exclusively for residential use;
- (3) Has an energizer that is powered by a commercial storage battery that is no more than twelve volts of direct current;
- (4) Has an energizer that meets the standards set forth in the most current edition of the International Electrotechnical Commission Standard 60335-2-76;

- (5) Is completely surrounded by a non-electric perimeter fence or wall that is no less than five feet in height;
- (6) Does not exceed ten feet in height or is not two feet higher than the non-electric perimeter fence or wall identified in paragraph (5), whichever is higher; and
- (7) Is marked with conspicuous warning signs that are located on the battery-charged security fence at no more than thirty-foot intervals and that read: "WARNING — ELECTRIC FENCE".
- (d) Notwithstanding any law to the contrary, no county shall adopt or enforce an ordinance that:

- (1) Requires a permit or fee for the installation or use of a battery-charged security fence that is in addition to any permit for an alarm system that may be issued by the county;
- (2) Imposes installation or operational requirements for a battery-charged security fence that are inconsistent with the requirements set forth in subsection (c); or
- (3) Prohibits the installation or use of a battery-charged security fence.
- (e) As used in subsections (c) and (d):

"Alarm system" means any device that is designed for the detection of an unauthorized entry into any building, place, or premises, except motor vehicles, or for alerting others to the commission of an unlawful act, or both, and that emits a sound or transmits a signal or message when activated.

"Battery-charged security fence" means an alarm system and ancillary components, or equipment attached to such a system, including but not limited to:

- (1) A fence;
- (2) A battery-operated energizer that is intended to periodically deliver voltage impulses to the fence to which it is connected; and
- (3) A battery charging device used exclusively to charge the battery.

~~[(e)]~~ (f) The sea, rivers, ponds, and natural perpendicular bluffs, whenever impassable, shall be lawful fences.

~~[(d)]~~ (g) 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] that the wire is fastened to insulators supported on posts[;and]; provided [also] further that the charge supplied shall be through an approved electric fence controller [which] that 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)]~~ (h) 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)]~~ (i) 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]~~ no more than \$500, or imprisoned ~~[not]~~ no more than one year, or both.

~~[(g)]~~ (j) 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.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 2023.)