

ACT 224

H.B. NO. 2058

A Bill for an Act Relating to Dangerous Dogs.

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

SECTION 1. The legislature finds that Hawaii struggles with the problem of loose dogs that behave aggressively. Some of these dogs are feral; other dogs have owners who have failed to control or train their dogs; and yet other dogs have been abandoned. The legislature further finds that for dogs with owners, these owners should clearly be held responsible for the aggressive actions of their dogs that harm persons or other animals.

Therefore, the purpose of this Act is to:

- (1) Define what constitutes a dangerous dog; and
- (2) Establish requirements and penalties for owners of dangerous dogs.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . DANGEROUS DOGS

§711-A Definitions. As used in this part, unless the context clearly indicates or requires a different meaning:

“Animal control authority” means a county agency that enforces animal control laws.

“Bite injury” means any contact between an animal’s mouth and teeth and the skin of a bite victim that causes visible trauma, such as a puncture wound, laceration, or other piercing of the skin.

“Bodily injury” has the same meaning as defined in section 707-700.

“Dangerous dog” means any dog that, without provocation, causes a bite injury to a person or another animal. A dog’s breed shall not be considered in determining whether it is dangerous.

“Escape-proof kennel” means a kennel:

- (1) That allows a dog to stand normally and without restriction, is at least two and one-half times the length of the dog, and protects the dog from the elements;
- (2) Having fencing or wall materials that have no openings or gaps that exceed two inches; and
- (3) Having no gates, or gates that are lockable and designed to prevent the entry of children or the escape of the dog.

“Microchip” has the same meaning as defined in section 143-1.

“Negligently” has the same meaning as set forth in section 702-206(4).

“Officer” means any sheriff, deputy, and any member of a police force and animal control officers of the several counties of the State.

“Owner” means any person owning, harboring, or keeping a dog; provided that, if the owner is a minor under the age of eighteen years, the parents, guardian, or another person having the care, custody, or control of the minor shall be presumed to be the owner; provided further that the person whose current contact information is registered with a microchip registration company shall be presumed to be the owner of the dog.

“Provocation” means behavior that precipitates a bite injury caused by a dog under the following circumstances:

- (1) The dog was protecting or defending its owner or a member of its owner’s household from an attack or assault;
- (2) The person bitten was committing a crime or offense while on the property of the owner of the dog;
- (3) The person bitten was teasing, tormenting, abusing, or assaulting the dog or at any time in the past had teased, tormented, abused, or assaulted the dog;
- (4) The dog was attacked or menaced by another animal, or the animal was on the property of the owner of the dog;
- (5) The dog was responding to pain or injury inflicted by the person bitten or another animal;
- (6) The dog was protecting itself, its kennel, or its offspring from the person bitten or an animal; or
- (7) The person bitten or an animal was disturbing the dog’s natural functions, such as sleeping or eating, while the dog was on its owner’s property.

“Serious bodily injury” has the same meaning as defined in section 707-700.

“Serious injury to any animal” means physical injury to an animal involving a broken bone, concussion, laceration requiring multiple stitches, or tearing or rupture of an organ.

“Substantial bodily injury” has the same meaning as defined in section 707-700.

§711-B Designation as dangerous dog; basis. (a) An officer may find and declare a dog to be a dangerous dog if the officer has probable cause to believe that the dog falls within the definition of “dangerous dog”. The declaration shall be based upon:

- (1) The written complaint of a person who is willing to testify that the dog has acted in a manner that causes it to fall within the definition of “dangerous dog”;
- (2) Actions of the dog witnessed by an officer; or
- (3) Other substantial evidence admissible in court.

(b) The declaration in subsection (a) shall be in writing and shall be served by the officer upon the owner of the dangerous dog, if known, using one of the following methods:

- (1) Certified mail to the owner’s last known address; or
- (2) Personally.

(c) The owner of a dog declared to be a dangerous dog may initiate a contested case with the declarant officer’s department or agency within thirty days following the service date of the declaration.

§711-C Legal requirements of owner. (a) The owner of a dog declared to be a dangerous dog shall:

- (1) Provide the owner’s name, address, and telephone number to the animal control authority;
- (2) Provide the location at which the dangerous dog is currently kept, if the location is not the owner’s address, to the animal control authority;
- (3) Promptly notify the animal control authority of:
 - (A) Any changes in the ownership of the dangerous dog or the location of the dangerous dog, along with the names, addresses, and telephone numbers of the new owners or the new address at which the dangerous dog is located;
 - (B) Any further instances of an attack by the dangerous dog upon a person or an animal;
 - (C) Any current or future claims made or legal actions brought as a result of an attack by the dangerous dog upon a person or an animal; or
 - (D) The death of the dangerous dog;
- (4) Have a microchip implanted in the dangerous dog, register the owner’s microchip information pursuant to section 143-2.2, and provide the microchip identification number of the dangerous dog to the animal control authority;
- (5) Ensure that the dangerous dog is under the control of a person who is at least eighteen years of age, when the dangerous dog is indoors at the owner’s premises;
- (6) Ensure that when the dangerous dog is outdoors on the owner’s premises and unattended, the dangerous dog is confined to an escape-proof kennel that remains locked;
- (7) Ensure that when the dangerous dog is outdoors on the owner’s premises and attended, the dangerous dog is:

- (A) Kept on a fixed and secure leash no longer than four feet in length;
 - (B) Under the control of a person at least eighteen years of age; and
 - (C) Kept within a fenced or walled area from which it cannot escape;
- (8) Ensure that when the dangerous dog is outdoors outside the owner's premises, the dangerous dog is:
- (A) Kept on a fixed and secure leash no longer than four feet in length;
 - (B) Under the control of a person who is at least eighteen years of age; and
 - (C) Muzzled with a properly fitted, basket muzzle that prevents the dangerous dog from biting any person or animal but does not cause injury to the dangerous dog or interfere with its vision or respiration;
- (9) Place on the owner's premises a sign or signs provided by the animal control authority informing the public of the presence and dangerousness of the dangerous dog; and
- (10) Neuter or spay the dangerous dog at the owner's expense, unless neutering or spaying the dangerous dog is medically contraindicated.
- (b) The owner of a dangerous dog who keeps the dangerous dog in a manner found to be in violation of this section commits the offense of negligent failure to control a dangerous dog and the dangerous dog shall be subject to seizure and impoundment pursuant to this part if the owner is unable to immediately secure the dangerous dog.

§711-D Rescission of declaration. (a) The owner of a dangerous dog may apply to the animal control authority to have the declaration rescinded after three years if all of the following requirements have been met:

- (1) The owner and dangerous dog have had no subsequent violations of this part;
 - (2) The owner has complied with all provisions of this part for a period of three years; and
 - (3) The owner provides proof to the animal control authority of the dangerous dog's successful completion of a behavior modification or management program administered by an animal trainer or behaviorist who is certified by a nationally recognized organization.
- (b) If the animal control authority finds that the owner and dangerous dog have complied with all of the requirements of this section and the owner has provided sufficient evidence that the dog is no longer dangerous, the animal control authority shall rescind the declaration.

§711-E Negligent failure to control a dangerous dog; penalties. (a) The owner of a dangerous dog commits the offense of negligent failure to control a dangerous dog if:

- (1) A bite injury occurs due to the failure of the owner of a dangerous dog to comply with the requirements of this part; or
- (2) The owner of a dangerous dog negligently fails to take reasonable measures to prevent the dangerous dog from causing a bite injury, without provocation, to a person or another animal and the attack results in:

- (A) The serious injury to any animal or maiming or death of another animal;
- (B) Bodily injury to a person other than the owner; or
- (C) Substantial bodily injury to, serious bodily injury to, or the death of, a person other than the owner.

(b) An offense under subsection (a)(1), (a)(2)(A), or (a)(2)(B) shall be a misdemeanor for which the owner of the dangerous dog shall be sentenced to:

- (1) A fine of no less than \$1,000 but no more than \$2,000;
- (2) A term of imprisonment of up to six months or a period of probation of no more than one year;
- (3) The payment of restitution to any person who has suffered bodily injury or property damage as a result of an attack by the dangerous dog if the person suffers financial losses or medical expenses due to the attack. As used in this paragraph, "medical expenses" may include the costs of necessary counseling or rehabilitative services; and
- (4) The payment of all expenses for the boarding and retention of the dangerous dog if the dog is seized and impounded pursuant to this part;

provided that no sentence under this subsection shall be suspended.

(c) Unless the dangerous dog has been or is ordered to be euthanized, an owner who has negligently failed to control a dangerous dog shall also be required to:

- (1) Meet all conditions imposed on the owner of a dangerous dog pursuant to this part;
- (2) Obtain liability insurance or post bond of no less than \$50,000, or in a higher amount, if the court finds that a higher amount is appropriate to cover medical or veterinary costs, or both, resulting from potential future actions of the dangerous dog; and
- (3) Follow any other condition that the court deems necessary to restrain or control the dangerous dog.

(d) An offense under subsection (a)(2)(C) shall be a class C felony for which the owner of a dangerous dog shall be sentenced to:

- (1) A fine of no less than \$1,000 but no more than \$10,000;
- (2) A term of imprisonment of no less than one year but no more than five years, pursuant to chapter 706; and
- (3) The euthanasia of the dangerous dog;

provided that no sentence under this subsection shall be suspended.

§711-F Impoundment of a dangerous dog. (a) If there is probable cause to believe that the dangerous dog poses an imminent threat to a person or another animal, or if there is probable cause to believe that there is a violation of section 711-C or 711-E, a law enforcement officer, after obtaining a search warrant, or in any other manner authorized by law, may enter the premises where the dangerous dog is located to seize and impound the dog. If, after reasonable effort, the owner or person having custody of the dangerous dog cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and, within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the dangerous dog was removed.

A law enforcement officer shall not be liable for any damage resulting from an entry under this subsection, unless the damage was caused by acts be-

yond the scope of the officer's authority or the officer's negligence, gross negligence, or intentional misconduct.

(b) The owner of a dangerous dog that has been impounded under this section may decline to surrender ownership of the dangerous dog to the animal control authority by paying to the animal control authority impoundment, care, and provision costs in an amount determined by the animal control authority to be sufficient to provide for the dangerous dog's care by the animal control authority for at least thirty days, including the day on which the animal was taken into custody.

(c) If the owner of a dangerous dog that has been impounded under this section cannot be located within five days after the dangerous dog is impounded, ownership of the dangerous dog shall be deemed relinquished.

(d) At the request of the dangerous dog's owner, impoundment under this section may occur at the premises of a licensed veterinarian or a commercial kennel of the dangerous dog owner's choosing; provided that:

- (1) The owner shall secure the private boarding placement for the dangerous dog within five days after the dangerous dog has been impounded by the animal control authority; and
- (2) All expenses for the dangerous dog's boarding and care shall be borne by the dangerous dog's owner.

(e) If the owner of the dangerous dog does not arrange for private boarding placement, the following requirements shall apply:

- (1) The owner of the dangerous dog shall pay the animal control authority within five days after the dangerous dog is impounded; and
- (2) At the end of the time for which expenses are covered by an initial or any subsequent impoundment, care, and provision payment:
 - (A) If the owner of the dangerous dog declines to surrender ownership of the dangerous dog to the animal control authority, the owner shall make an additional payment to the animal control authority at least five days before the expiration of the previous payment; or
 - (B) If the owner of the dangerous dog has not made an additional payment in a timely manner to the animal control authority for impoundment, care, and provision costs for the dangerous dog, ownership of the dangerous dog shall be deemed relinquished.

(f) If the owner of a dangerous dog fails to pay impoundment, care, and provision costs for the dangerous dog pursuant to this section, the owner may forfeit the owner's right to contest those costs and any ownership rights to the dangerous dog.

(g) Any dangerous dog that is unclaimed by its owner, within five days after the owner has been notified that the dangerous dog is eligible for release from impoundment, shall be deemed abandoned, and ownership of the dangerous dog shall be deemed relinquished.

(h) If an animal control authority that is impounding a dangerous dog pursuant to this section determines that the dangerous dog is too dangerous for its staff to safely provide basic care, the dangerous dog may be euthanized by the animal control authority.

(i) If a licensed veterinarian determines that an impounded dangerous dog is:

- (1) Experiencing extreme pain or suffering;
- (2) Severely injured past recovery;
- (3) Severely disabled past recovery; or

(4) Severely diseased past recovery, the dangerous dog may be euthanized by the animal control authority.

(j) The owner of a dangerous dog shall not sell or transfer the ownership or physical custody of the dangerous dog before the time period stated in the court summons, and the citation shall notify the owner of this prohibition; provided that this prohibition shall not apply when the owner transfers ownership of the dangerous dog to an animal control authority.

(k) Any person who refuses to surrender a dangerous dog that is subject to relinquishment pursuant to this section shall be guilty of a petty misdemeanor.

If the owner of a dangerous dog that is seized and impounded pursuant to this section fails to appear in court as required, ownership of the dangerous dog shall be deemed relinquished, and the court may order disposition of the dangerous dog as it deems appropriate.

(l) Notwithstanding any relinquishment of ownership of the dangerous dog, the owner shall remain responsible for all expenses incurred in boarding, caring for, and providing for the dangerous dog and any fees and penalties that may be imposed by the court.

§711-G Inspection. Upon the presentation of proper credentials, any officer may enter at reasonable times any building, structure, or premises in the State for the purpose of determining and enforcing compliance with this part or of any court order issued under this part; provided that the entry shall be made in a manner that causes the least possible inconvenience to the person in possession or occupying the building, structure, or premises; provided further that a court order authorizing the entry shall be obtained if entry is denied or resisted.

§711-H Exemption. This part shall not apply to dogs owned by any law enforcement agency and used in the performance of law enforcement work.

§711-I Civil action not precluded. Nothing in this part shall preclude any person injured by a dangerous dog from bringing a civil action against the owner of the dangerous dog pursuant to law.”

SECTION 3. Chapter 711, Hawaii Revised Statutes, is amended by designating sections 711-1100 to 711-1114 as part I, entitled “General Provisions Relating to Offenses Against Public Order”.

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. This Act shall take effect on July 1, 2024; provided that sections 711-B, 711-C, 711-D, and 711-G, Hawaii Revised Statutes, shall take effect on July 1, 2025.

(Approved July 8, 2024.)