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# A BILL FOR AN ACT

RELATING TO CRUELTY TO ANIMALS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 **PART I**

2 SECTION 1. The legislature finds that an estimated  
3 forty-three per cent of households in Hawaii include a dog.  
4 Profit-driven breeding is prevalent in Hawaii and recent  
5 research by the Hawaiian Humane Society reveals that on Oahu,  
6 during a two-week period in November, over three hundred sixty  
7 puppies were available for sale.

8 The legislature further finds that a law is needed to  
9 ensure that dogs at large-scale breeding facilities receive  
10 sanitary living conditions, proper and timely medical care, the  
11 ability to move freely at least once per day, and adequate  
12 shelter from the elements. Existing state and federal laws  
13 regarding the care and husbandry of dogs inadequately regulate  
14 large-scale breeding facilities in Hawaii. Inadequate  
15 regulation places an unfair fiscal burden on the county and  
16 state taxpayers, government agencies, and nongovernmental  
17 organizations, whose resources contribute to the care of dogs  
18 discarded or abused by large-scale breeding facilities.



1 The purpose of this part is to:

2 (1) Require owners of more than ten dogs over the age of  
3 four months with intact sexual organs per premise to  
4 meet minimum standards of care to ensure the proper  
5 treatment and care of the dogs and the dogs'  
6 offspring;

7 (2) Prohibit the ownership or custody at any time of more  
8 than thirty dogs, over the age of one year and with  
9 intact sexual organs per premise; and

10 (3) Require owners of more than ten dogs over the age of  
11 four months with intact sexual organs to maintain  
12 specific written records of each dog for a specified  
13 period.

14 SECTION 2. The Hawaii Revised Statutes is amended by  
15 adding a new chapter to be appropriately designated and to read  
16 as follows:

17 **"CHAPTER**

18 **PREVENTION OF CRUELTY TO DOGS**

19 § -1 **Definitions.** As used in this chapter:

20 "Dog" means any animal that is wholly or in part of the  
21 subspecies *Canis lupus familiaris*.



1 "Litter" means one or more dogs that are born to the same  
2 mother at the same time.

3 "Person" means any individual, firm, partnership, joint  
4 venture, association, limited liability company, corporation,  
5 estate, trust, receiver, or syndicate; provided that the term  
6 shall not include:

7 (1) An animal control or welfare agency tax exempt under  
8 title 26 United States Code section 501(c)(3);

9 (2) A person who provides care for dogs at the request of  
10 a government agency;

11 (3) A veterinary clinic; or

12 (4) A boarding facility that only houses dogs temporarily  
13 and prohibits the breeding of dogs or selling of dogs.

14 "Premise" means any place, building, or part thereof.

15 "Primary enclosure" means any kennel, cage, or structure  
16 used to restrict a dog to a limited area of space.

17 "Regular exercise" means providing the dog with constant  
18 and unfettered access to an outdoor or indoor exercise area that  
19 provides at least four times the square footage of a dog's  
20 primary enclosure required for each dog pursuant to paragraph  
21 (3) of the definition of "sufficient space for movement".



1 "Sufficient food and clean water" means access to adequate  
2 amounts of appropriately nutritious food to maintain good  
3 health; and continuous access to potable water that is  
4 substantially free from debris, feces, algae, and other  
5 contaminants.

6 "Sufficient housing or shelter" means constant and  
7 unfettered access to a primary enclosure that:

- 8 (1) Is sufficiently ventilated at all times to minimize  
9 odors, drafts, and ammonia levels, and to prevent  
10 moisture condensation;
- 11 (2) Has a means of fire suppression, such as functioning  
12 fire extinguishers, located within forty feet of the  
13 primary enclosure;
- 14 (3) Has sufficient lighting to allow for observation of  
15 the dogs at any time of day or night;
- 16 (4) Is not stacked or otherwise placed on top of or below  
17 another animal's primary enclosure; and
- 18 (5) Is cleaned at least once a day of feces, hair, dirt,  
19 debris, and food waste.

20 "Sufficient space for movement" means the following for a  
21 primary enclosure:



1 (1) Sufficient space for each dog to lie down and fully  
2 extend limbs and stretch freely without touching the  
3 sides of the enclosure or another dog, and to turn in  
4 a complete circle without any impediments, including a  
5 tether;

6 (2) At least twelve inches of headroom above the head of  
7 the tallest dog in the primary enclosure when it is in  
8 a normal standing position; and

9 (3) A square footage that includes at least:

10 (A) Twelve square feet of floor space for each dog  
11 that is no more than twenty-five inches in  
12 length;

13 (B) Twenty square feet of floor space for each dog  
14 that is no less than twenty-five inches and no  
15 more than thirty-five inches in length; and

16 (C) Thirty square feet of floor space for each dog  
17 that is more than thirty-five inches in length;  
18 provided that the length of the dog shall be measured  
19 from the tip of the nose to the base of the tail.

20 "Sufficient veterinary care" means, at minimum:

21 (1) An examination performed at least once a year by a  
22 veterinarian licensed under chapter 471;



- 1 (2) Prompt treatment of any illness or injury by a  
2 veterinarian licensed under chapter 471; and  
3 (3) Humane euthanasia, when needed, by a veterinarian  
4 licensed under chapter 471, using lawful techniques  
5 deemed acceptable by the American Veterinary Medical  
6 Association.

7 § -2 **Limit on number of dogs.** No person shall own,  
8 possess, control, or otherwise have charge or custody at any  
9 time more than thirty dogs, with intact sexual organs and over  
10 the age of one year, per premise.

11 § -3 **Standard of care; recordkeeping.** (a) Any person  
12 who owns, possesses, controls, or otherwise has charge or  
13 custody of more than ten dogs over the age of four months with  
14 intact sexual organs per premise shall provide the following for  
15 each dog:

- 16 (1) Regular exercise;  
17 (2) Sufficient food and clean water;  
18 (3) Sufficient housing or shelter;  
19 (4) Sufficient space for movement;  
20 (5) Sufficient veterinary care; and  
21 (6) A microchip implanted under the skin;



1 provided that no microchip shall be implanted in any dog aged  
2 less than four months.

3 (b) No person who owns, possesses, controls, or otherwise  
4 has charge or custody of more than ten dogs over the age of four  
5 months with intact sexual organs shall breed any dog unless the  
6 dog is between the ages of twelve months and eight years of age.  
7 No female dog shall be bred to produce more than two litters in  
8 any eighteen month period. No person who owns, possesses,  
9 controls, or otherwise has charge or custody of more than ten  
10 dogs over the age of four months with intact sexual organs per  
11 premise shall breed any dog determined by a veterinarian to be  
12 unfit for breeding purposes.

13 (c) Any person who owns, possesses, controls, or otherwise  
14 has charge or custody of more than ten dogs over the age of four  
15 months with intact sexual organs shall maintain a record for  
16 each dog and the dog's offspring including the following  
17 information:

18 (1) Each breeding dog shall be identified by the  
19 implantation of a microchip, and each dog's health  
20 records shall accurately record the appropriate  
21 identification;

22 (2) All veterinary treatment, including the following:



1 (A) A record of each inoculation and de-worming  
2 treatment, if any, including the dates and types  
3 of treatments administered; and

4 (B) A record of any veterinary treatments or  
5 medications received;

6 (3) The date of birth of the dog or, if the date of birth  
7 is unknown, the date the person acquired possession,  
8 control, or charge of the dog and the source of the  
9 dog;

10 (4) The dates on which the female dog has been bred;

11 (5) For a female, the number of dogs in each litter  
12 produced; and

13 (6) The disposition the person makes of each dog possessed  
14 by, controlled by, or in the charge of the person,  
15 including the date of disposition, manner of  
16 disposition, and the name and address information for  
17 any person taking possession, control, or charge of a  
18 dog.

19 Records shall be retained for at least three years  
20 following the death of the dog or a date on which the person  
21 permanently ceased to have possession or control of the dog.





1           §   -4   **Prohibitions on certain types of dogs in the same**  
2 **enclosure.** No person who owns, possesses, controls, or  
3 otherwise has charge or custody of more than ten dogs over the  
4 age of four months with intact sexual organs per premise shall  
5 place:

6           (1) A dog with a vicious or aggressive disposition in an  
7 enclosure with another dog, except for breeding  
8 purposes;

9           (2) Breeding females in heat in the same enclosure at the  
10 same time with sexually mature males, except for  
11 breeding purposes;

12           (3) Breeding females and their litters in the same  
13 enclosure at the same time with other adult dogs; and

14           (4) Puppies aged twelve weeks or younger in the same  
15 enclosure at the same time with other adult dogs,  
16 other than the dam or foster dam, unless under  
17 immediate and constant supervision.

18           §   -5   **Penalty.** Any person who violates section       -2,  
19 -3, or       -4 shall be guilty of a misdemeanor. Each  
20 violation shall constitute a separate offense. If the  
21 circumstances warrant a charge of cruelty to animals in the



1 second degree prescribed under section 711-1109, the defendant  
2 may be charged with violating that section instead.

3 § -6 **Severability.** Any violation of section -2,  
4 -3, or -4 shall be in addition to and not in lieu of any  
5 other state and federal laws protecting animal welfare.  
6 Sections -2, -3, and -4 shall not be construed to limit  
7 any state law, rule, or regulation protecting the welfare of  
8 animals, nor shall anything in these sections prevent a local  
9 governing body from adopting and enforcing its own animal  
10 welfare laws and regulations in addition to these sections."

11 **PART II**

12 SECTION 3. The legislature finds that Hawaii does not  
13 currently regulate the breeding of dogs. However, in early  
14 2011, the discovery of a puppy mill in Waimanalo focused  
15 attention on dog breeders and the potential for cruel and  
16 inhumane conditions.

17 The legislature further finds the Animal Welfare Act was  
18 first enacted by Congress in 1966. This federal law requires  
19 licensure and regulation of certain types of businesses that  
20 fall under the category of animal dealers. However, the law  
21 exempts businesses, such as the Waimanalo puppy mill, that fall



1 under certain categories, including retail pet stores, retail  
2 chain stores, hobby breeders, and direct sales.

3 During the regular session of 2011, S.B. No. 1522, S.D. 2,  
4 H.D. 1, was introduced and heard throughout the legislative  
5 process. This measure proposed that the department of commerce  
6 and consumer affairs issue licenses to large-scale dog breeders  
7 after the breeders meet certain licensure requirements, and  
8 authorized the department's director to enforce the new law.  
9 S.C.R. No. 111, S.D. 1, was also adopted during the regular  
10 session of 2011. This resolution directed the auditor to  
11 conduct a sunrise review of the regulation of large-scale dog  
12 breeders and dog breeding facilities, as proposed under S.B. No.  
13 1522, S.D. 2, H.D. 1.

14 In October 2011, the office of the auditor issued its  
15 corresponding report. According to the auditor's report, S.B.  
16 No. 1522, S.D. 2, H.D. 1, did not meet the criteria for  
17 regulation of large-scale dog breeders through the State's  
18 regulatory agency. However, the report did cite other  
19 alternatives that could be used to protect dogs, including laws  
20 in other states, the American Veterinary Medical Association's  
21 model law, a county-based regulatory model, and puppy lemon  
22 laws.



1           In considering the strengths of various states' laws and  
2 the most appropriate structure for regulating dog breeders, the  
3 legislature finds merit in authorizing counties to conduct or  
4 contract for inspections and to implement minimum requirements  
5 for the housing and treatment of breeding dogs. The counties  
6 are presently charged with issuing dog licenses and regulating  
7 animals pursuant to chapter 143, Hawaii Revised Statutes.

8           The legislature also finds that the local humane societies  
9 designated by the counties currently have in place the  
10 structure, personnel, and contracts with humane organizations to  
11 handle animal control. In contrast, the legislature understands  
12 that the department of commerce and consumer affairs is not  
13 equipped to administer regulation of animal breeders and  
14 recognizes that the department of agriculture's resources are  
15 also strained by its existing duties.

16           The legislature additionally finds that there is not  
17 reliable information on the number and size of large-scale dog  
18 breeders in the State. While it is believed that Oahu has  
19 approximately twenty large-scale dog breeders and the island of  
20 Hawaii has approximately ten, it is also believed that Maui and  
21 Kauai do not have any.



1           The legislature finds that regulation at the county level  
2 is the most reasonable approach in addressing dog breeders. The  
3 legislature understands that county officials may have concerns  
4 associated with the costs and responsibility of regulating dog  
5 breeders. However, the legislature notes that the Hawaiian  
6 Humane Society on Oahu has indicated a willingness to assist  
7 with this responsibility at no extra cost to the State. The  
8 legislature hopes that the Hawaiian Humane Society will be  
9 equally supportive of dog breeder regulations if handled on a  
10 county level.

11           The purpose of this part is to:

- 12           (1) Require the licensing of dog breeders to ensure that  
13 every dog under their care is provided with sufficient  
14 food and clean water, sufficient shelter from the  
15 elements, necessary veterinary care, sufficient space,  
16 and regular exercise, among other things;
- 17           (2) Allow each county or its contracted local humane  
18 society the flexibility to assess the county's own  
19 situation, determine whether the need for regulation  
20 exists, and develop appropriate rules for housing and  
21 treatment of dogs by dog breeders, if necessary; and



1 (3) Require each county or its contracted local humane  
2 society to assess appropriate license fees for dog  
3 breeders and to pursue civil penalties for  
4 noncompliant dog breeders.

5 SECTION 4. Chapter 143, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§143- Dog breeders; license required; fees; minimum  
9 requirements; premises available for inspection; civil  
10 penalties. (a) It shall be unlawful for any person to own or  
11 operate as a dog breeder unless the person obtains a valid  
12 license as a dog breeder pursuant to this chapter.

13 (b) Each county council shall have the power to fix  
14 license fees for dog breeders on a biennial basis. Until and  
15 unless otherwise provided by ordinance, the biennial license fee  
16 for each dog breeder shall be \$500. Any person operating as a  
17 dog breeder shall pay the license fee to the director of finance  
18 of the county in which the breeder operation is located. The  
19 license fee shall be due and payable on January 2 of every  
20 second year and shall be paid before March 11 of every second  
21 year, or within thirty days after becoming subject to this  
22 chapter. The full amount of the fee shall be paid for any



1 fraction of the license period for which a license is issued.

2 All moneys received by the director of finance under this  
3 chapter shall be paid into the general fund of each county.

4 (c) The minimum standards regarding the care, treatment,  
5 and proper recordkeeping requirements in dog breeding operations  
6 shall be the same as prescribed under section -3.

7 (d) A dog breeder licensee shall make its premises  
8 available for unannounced inspection by the county or the  
9 county's contracted designee, pursuant to sections 143-15 and  
10 143-16, during regular business hours.

11 (e) Any person who operates as a dog breeder without a  
12 license shall be subject to a civil penalty of up to \$1,000;  
13 provided that each day of a violation shall be considered a  
14 separate offense. Any failure to comply with the standards and  
15 recordkeeping requirements prescribed under section -3 shall  
16 be subject to a civil penalty of up to \$1,000 for each  
17 violation."

18 SECTION 5. Section 143-1, Hawaii Revised Statutes, is  
19 amended by adding three new definitions to be appropriately  
20 inserted and to read as follows:



1        "Dog breeder" means any person who owns, possesses,  
2 controls, or otherwise has charge or custody of more than ten  
3 dogs over the age of four months with intact sexual organs.

4        "Person" means any individual, firm, partnership, joint  
5 venture, association, limited liability company, corporation,  
6 estate, trust, receiver, or syndicate; provided that the term  
7 shall not include:

8        (1) An animal control or welfare agency tax exempt under  
9 title 26 United States Code section 501(c) (3);

10       (2) A person who provides care for dogs at the request of  
11 a government agency; or

12       (3) A veterinary clinic.

13       "Premises" means the location of property, whether private  
14 or public, upon which buildings, yards, kennels, pens, and cages  
15 are used by a dog breeder in the usual course of business."

16       SECTION 6. Section 143-15, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       **"§143-15 Contracts for seizing and impounding dogs.** Any  
19 county may contract with any society or organization formed for  
20 the prevention of cruelty to animals, or similar dog protective  
21 organization, for ~~the~~:





1       (1) The seizure and impounding of all unlicensed dogs,  
 2           ~~[and for the]~~ dogs owned by a dog breeder not in  
 3           compliance with this chapter and any rules adopted  
 4           pursuant to this chapter, and dogs owned by a person  
 5           acting in the capacity of or engaged in the business  
 6           of a dog breeder within the county without a dog  
 7           breeder license obtained under and in compliance with  
 8           this chapter and any rules adopted pursuant to this  
 9           chapter;

10       (2) The maintenance of a shelter or pound for [unlicensed]  
 11           seized dogs, and for lost, strayed, and homeless  
 12           dogs [~~, and for the~~]; and

13       (3) The destruction or other disposition of seized dogs  
 14           not redeemed as provided in this chapter.

15       The county may prescribe in the contract the manner in which the  
 16       work is to be done by the society or organization and it may  
 17       also direct the disposition to be made of all dogs seized  
 18       pursuant to this chapter."

**PART III**

20       SECTION 7. The Hawaii Revised Statutes is amended by  
 21       adding a new chapter to be appropriately designated and to read  
 22       as follows:

1 "CHAPTER

2 SALE OF DOGS AND CATS

3 § -1 Definitions. As used in this chapter unless the  
4 context otherwise requires:

5 "Pet seller" means any retail pet store or any person,  
6 partnership, entity, or corporation who sells dogs or cats to a  
7 retail pet store; provided that a "pet seller" shall not apply  
8 to humane societies, or animal control, rescue, or care  
9 organizations exempt under title 26 United States Code section  
10 501(c)(3).

11 "Public place" means a place to which the public or a  
12 substantial group of persons has access and includes public  
13 roads, parking lots, sidewalks, highways, transportation  
14 facilities, schools, places of amusement or business, parks,  
15 playgrounds, prisons, and hallways, lobbies, and other portions  
16 of apartment houses and hotels not constituting rooms or  
17 apartments designed for actual residence.

18 "Retail pet store" means a retail establishment engaged in  
19 the business of buying, selling, exchanging, or offering pets to  
20 the public; provided that a "retail pet store" shall not apply  
21 to humane societies; animal control, rescue, or care  
22 organizations exempt under title 26 United States Code section



1 501(c)(3); or retail pet stores solely offering dogs or cats for  
2 adoption in cooperation with a humane society or animal control,  
3 rescue, or care organizations exempt under title 26 United  
4 States Code section 501(c)(3).

5 § -2 Sale of dogs and cats. (a) Retail pet stores  
6 shall enter into arrangements with veterinarians or humane  
7 societies to facilitate the microchip implantation requirements  
8 of this section.

9 (b) If a microchip has not been previously implanted in  
10 the dog or cat, a retail pet store shall provide a certificate  
11 or voucher to the purchaser for the implantation of a microchip  
12 in the dog or cat at the time of sale or exchange of the dog or  
13 cat. The certificate or voucher shall be redeemable through the  
14 veterinarian or the local humane society with which the retail  
15 pet store has made arrangements.

16 (c) Upon sale or exchange of a dog or cat, pet sellers  
17 shall deliver the following information to the retail pet store,  
18 and retail pet stores shall deliver the following information to  
19 the purchaser:

- 20 (1) The breeder's name and address and license  
21 information, if licensed by the United States  
22 Department of Agriculture;



- 1           (2) The date of the dog or cat's birth, if known;
- 2           (3) The date the pet seller or retail pet store received
- 3           the dog or cat, if applicable;
- 4           (4) The breed, sex, color, and identifying marks of the
- 5           dog or cat;
- 6           (5) The veterinarian information, including the following,
- 7           if applicable:
  - 8           (A) A record of each inoculation and worming
  - 9           treatment, if any, including the dates and types
  - 10           of treatments administered;
  - 11           (B) A record of any veterinarian treatments or
  - 12           medications received while the dog or cat was in
  - 13           the possession of the pet seller;
  - 14           (C) A receipt or other documentation signed by a
  - 15           veterinarian licensed under chapter 471,
  - 16           indicating if the dog or cat was spayed or
  - 17           neutered; and
  - 18           (D) A document stating that the dog or cat has no
  - 19           known diseases or illnesses or describing any
  - 20           known diseases or illnesses of the dog or cat or
  - 21           any known congenital or hereditary conditions
  - 22           that may adversely affect the health of the dog



1 or cat at the time of sale or exchange or is  
2 likely to adversely affect the health of the dog  
3 or cat in the future; and

4 (6) Written information on the health and other benefits  
5 of spaying and neutering, to be delivered by pet  
6 stores to purchasers.

7 (d) A pet seller shall attest to the delivery of the  
8 documents by signing all applicable documents required under  
9 subsection (b) and retaining copies of all documents for a  
10 period of not less than two years after the sale or exchange of  
11 the dog or cat. A retail pet store shall make all completed and  
12 signed documents available for inspection and copying during  
13 normal business hours only upon request by a law enforcement  
14 officer after receipt of a violation complaint by the law  
15 enforcement agency.

16 § -3 Sale of dogs and cats in a public place prohibited.

17 Notwithstanding any ordinance, law, or rule to the contrary, it  
18 shall be unlawful for any person to sell, exchange, give away,  
19 display for commercial purposes, or trade for monetary or other  
20 compensation any dog or cat in any public place; provided that  
21 this section shall not apply to humane societies, or animal  
22 control, rescue, or care organizations exempt under title 26



1 United States Code section 501(c) (3) facilitating the adoption  
2 of animals.

3 § -4 Penalties. Any person who knowingly,  
4 intentionally, or recklessly violates section -2 or -3  
5 shall be subject to a fine of \$500 per offense. Each violation  
6 shall constitute a separate offense."

7 **PART IV**

8 SECTION 8. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 9. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect upon its approval.



**Report Title:**

Animal Cruelty; Dog Breeders; Licensing; Penalties; Counties;  
Sale of Dogs and Cats; Retail Pet Stores; Pet Sellers;  
Identification Microchip

**Description:**

Requires specified persons who own, control, or have custody or control of more than ten dogs over age four months with intact sexual organs to meet minimum standards of care to ensure the proper treatment and care of dogs and the dogs' offspring. Prohibits any person from owning or having custody of more than thirty dogs over one year of age with intact sexual organs. Requires specified persons to maintain specific records for each dog for at least three years following the death of the dog or a date on which the person permanently ceased to have possession or control of the dog. Prohibits certain types of dogs in the same enclosure. Requires the licensing of dog breeders. Authorizes each county to develop license requirements and fees. Establishes minimum standards of care. Authorizes each county to pursue civil penalties for noncompliant dog breeders. Requires retail pet stores to implant an identification microchip in a dog or cat prior to sale or exchange, provide specific written documentation regarding each dog or cat sold, and provide written information about spaying and neutering. Prohibits the sale of dogs and cats in a public place, except for humane groups facilitating adoptions. Establishes penalties. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

