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# A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

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

1 **PART I**

2 SECTION 1. The legislature finds that there is a need to  
3 regulate dog breeding operations and facilities in order to  
4 protect the public as well as prevent any cruel treatment of the  
5 dogs. The purpose of regulation is to ensure that:

6 (1) All dogs that are handled by breeders are provided  
7 with humane care and treatment in their transport,  
8 sale, purchase, housing, care, handling, and treatment  
9 by persons or organizations engaged in breeding dogs;

10 (2) The public is protected from purchasing dogs that have  
11 been raised in an inhumane manner and may be  
12 unhealthy; and

13 (3) Each dog bred commercially is provided with basic food  
14 and water, adequate shelter from the elements,  
15 necessary veterinary care, adequate space, and regular  
16 exercise.

17 The purpose of this part is to require the licensing of  
18 breeders to provide every dog under their care with basic food



1 and water, adequate shelter from the elements, necessary  
2 veterinarian care, adequate space, and regular exercise.

3 SECTION 2. The Hawaii Revised Statutes is amended by  
4 adding a new chapter to be appropriately designated and to read  
5 as follows:

6 "CHAPTER

7 DOG BREEDERS

8 § -A Definitions. As used in this chapter, unless  
9 clearly indicated otherwise:

10 "Adequate rest between breeding cycles" means ensuring, at  
11 a minimum, that intact female dogs are not bred to produce more  
12 than two litters in any eighteen-month period.

13 "Department" means the department of commerce and consumer  
14 affairs.

15 "Director" means the director of commerce and consumer  
16 affairs.

17 "Dog" means a domesticated animal of the species *Canis*  
18 *lupus familiaris* or a hybrid of *Canis lupus familiaris* and  
19 another species of the family *Canis*.

20 "Dog breeder" means a person who engages in dog breeding.

21 "Dog breeding" means the impregnation of a female dog for  
22 commercial purposes either by allowing the mating of a female



1 dog and a male dog or by artificial insemination of a female  
2 dog. Dog breeding includes the provision of stud services.

3 "Necessary veterinary care" means, as applicable, an  
4 examination at least once yearly, prompt treatment of any  
5 illness or injury, or humane euthanasia by a veterinarian  
6 licensed under chapter 471 using lawful techniques deemed  
7 acceptable by the American Veterinary Medical Association.

8 "Person" means a natural or a legal person.

9 "Pet" means a dog normally maintained in or near the  
10 household of its owner for the purpose of companionship or for  
11 use as a service animal.

12 "Regular exercise" means constant and unfettered access to  
13 an outdoor exercise area that is composed of a solid, ground-  
14 level surface with adequate drainage; provides some protection  
15 against sun, wind, and rain; and provides each dog with at least  
16 twice the square footage of the indoor floor space provided to  
17 that dog.

18 "Service animal" shall have the same meaning as in section  
19 515-3.

20 "Stud services" means the provision of a fertile male dog  
21 for the purpose of impregnating a female dog.



1 "Sufficient food and clean water" means access at least  
2 once a day to appropriate nutritious food sufficient to maintain  
3 good health and continuous access to potable water that is free  
4 of debris, feces, algae, and other contaminants.

5 "Sufficient housing, including protection from the  
6 elements" means constant and unfettered access to an indoor  
7 enclosure that has a solid floor and that is not stacked or  
8 otherwise placed on top of or below another animal's enclosure;  
9 is cleaned of waste at least once a day while the dog is outside  
10 the enclosure; and does not rise above eighty-five degrees  
11 Fahrenheit indoors.

12 "Sufficient space to turn and stretch freely, lie down, and  
13 fully extend its limbs" means having:

- 14 (1) Sufficient indoor space for each dog to turn in a  
15 complete circle without any impediment, including a  
16 tether;
- 17 (2) Enough indoor space for each dog to lie down and fully  
18 extend its limbs and stretch freely without touching  
19 the side of an enclosure or another dog;
- 20 (3) At least four to six inches of headroom above the head  
21 of the tallest dog in the enclosure; and



1           (4) Requires a plastic bottom or tray with no holes to  
2           cover the cage.

3           §    **-B License required; exemption.**   (a) No person shall

4           (1) Engage in dog breeding;

5           (2) Present one's self as a dog breeder; or

6           (3) Offer or advertise the sale of dogs or of dog breeding  
7           services,

8 for commercial purposes without a license issued pursuant to  
9 this chapter.

10           (b) A license issued pursuant to this chapter shall be  
11 prominently displayed at each location where dog breeding  
12 occurs. The director shall allow the issuance of multiple  
13 copies of a license for any person who engages in dog breeding  
14 at more than one location.

15           (c) A license issued pursuant to this chapter shall be  
16 valid for one year from the date of issue and shall be subject  
17 to annual renewal according to a procedure determined by the  
18 director by rule adopted pursuant to chapter 91.

19           (d) This chapter shall not apply to persons who own and  
20 breed up to two dogs that are kept as pets, regardless of the  
21 disposition of the resulting offspring; provided that the



1 offspring are not sold or offered for sale by the person more  
2 than once per year.

3 (e) A license issued pursuant to this chapter is non-  
4 transferrable.

5 § -C **Disqualification to hold license.** No person shall  
6 be eligible to hold a license pursuant to this chapter if that  
7 person has ever been convicted of, pled guilty or nolo contendere  
8 to, or been granted a deferred acceptance of a guilty or nolo  
9 contendere plea for any criminal offense in any jurisdiction  
10 involving cruelty to animals, animal breeding, dog fighting,  
11 improper sale of animals, or any other relevant offense as  
12 determined by the director by rule.

13 § -D **Powers and duties of the director.** In addition to  
14 any other powers and duties authorized by law, the director  
15 shall:

- 16 (1) Grant licenses to dog breeders pursuant to this  
17 chapter;
- 18 (2) Adopt, amend, or repeal rules pursuant to chapter 91  
19 in order to carry out the purposes of this chapter;
- 20 (3) Suspend, revoke, condition, or take any other action  
21 authorized by this chapter or by rule against a



- 1 licensee for noncompliance with the requirements of  
2 this chapter or rules enacted by the director;
- 3 (4) Conduct hearings pursuant to the requirements of  
4 chapter 91 for violations of this chapter or of rules  
5 adopted by the director;
- 6 (5) Contract with outside parties as necessary to carry  
7 out the enforcement functions of this chapter;
- 8 (6) Establish fees as necessary to carry out the purposes  
9 of this chapter;
- 10 (7) Establish penalties, including fines or forfeiture of  
11 dogs, for violations of this chapter; and
- 12 (8) Conduct criminal history record checks pursuant to  
13 section 846-2.7 for applicants for licensure and  
14 renewal of licensure under this chapter.

15 § **-E Rules; humane treatment.** The director shall adopt  
16 rules pursuant to chapter 91 to require the humane treatment of  
17 animals by licensed dog breeders including provision of:

- 18 (1) Sufficient food and clean water;
- 19 (2) Necessary veterinary care;
- 20 (3) Sufficient housing, including protection from the  
21 elements;



- 1           (4) Sufficient space to turn and stretch freely, lie down,
- 2                   and fully extend its limbs;
- 3           (5) Regular exercise; and
- 4           (6) Adequate rest between breeding cycles.

5           § **-F Prohibited activities.** It shall be a violation of  
6 this chapter for any person to:

- 7           (1) Engage in dog breeding without a valid license issued
- 8                   pursuant to this chapter;
- 9           (2) Possess any dogs that are used for dog breeding in
- 10                   violation of this chapter;
- 11           (3) Purchase, sell, or offer for sale any dogs that were
- 12                   bred in violation of this chapter;
- 13           (4) Refuse to allow the director or the director's
- 14                   designee entry to property for the purpose of
- 15                   enforcing this chapter;
- 16           (5) Engage in dog breeding in a manner that violates any
- 17                   applicable local, state, or federal law regarding
- 18                   animal cruelty, environmental protection, or public
- 19                   health;
- 20           (6) Fail to display a license as required by section
- 21                   -B(b); or





1           (7) Engage in any other conduct that violates this  
2           chapter.

3           §    **-G Inspections; investigations; access.** (a) The  
4           director may make any investigation necessary to ensure  
5           compliance with this chapter, including a license qualifying  
6           inspection. At any time during regular business hours, the  
7           director or any enforcement officer employed by the department  
8           shall have free and unimpeded access for the purpose of carrying  
9           out any provision of this chapter or any rule adopted pursuant  
10          to this chapter:

11          (1) To those portions of all buildings, yards, pens, and  
12          other areas in which any dogs are kept, handled, or  
13          transported; and

14          (2) To all records required to be kept, including copies  
15          of records.

16          (b) Upon the denial, suspension, or revocation of a  
17          license for a dog breeder, the director shall have free and  
18          unimpeded access to the premises and records that are reasonably  
19          necessary to verify that the operation of a dog breeding  
20          operation has ceased. The director shall have such access to  
21          those premises or portion of premises and other areas in which



1 dogs are suspected of being kept, handled, or transported  
2 without the appropriate license.

3 (c) The director shall have authority to administer oaths  
4 and take statements, issue subpoenas requiring the attendance of  
5 witnesses, and require the production of all books, memoranda,  
6 papers, and other documents, articles, or instruments, and to  
7 compel the disclosure by a witness of all facts known to the  
8 witness relative to the matters under investigation. Upon the  
9 failure or refusal of any witness to obey any subpoena, the  
10 attorney general may petition the district court and, upon a  
11 proper showing, the court may enter an order compelling the  
12 witness to appear and testify or produce documentary evidence.  
13 Failure to obey such an order of the court shall be punishable  
14 as contempt of court.

15 § -H Enforcement. (a) The director, the director's  
16 designee, or an officer of a federal, state, or county law  
17 enforcement agency shall enforce the provisions of this chapter.  
18 Whenever the director has reasonable cause to believe that a  
19 violation of any provision of this chapter or any rule adopted  
20 pursuant to this chapter has occurred and immediate enforcement  
21 is deemed necessary, the director may issue a cease and desist  
22 order, which may require any person to cease violating any



1 provision of this chapter or any rule adopted pursuant to this  
2 chapter. The cease and desist order shall set forth the  
3 provisions alleged to have been violated, the facts alleged to  
4 have constituted the violation, and the requirement that all  
5 unlawful actions cease. At any time after service of the order  
6 to cease and desist, the person may request, at such person's  
7 discretion, a prompt hearing to determine whether or not a  
8 violation has occurred.

9 (b) If any person fails to comply with a cease-and-desist  
10 order within twenty-four hours, the director may bring a suit  
11 for a temporary restraining order and for injunctive relief to  
12 prevent any further or continued violation of this chapter.

13 (c) No stay of a cease and desist order shall be issued  
14 before a hearing on the order involving both parties.

15 (d) Whenever the director possesses sufficient evidence  
16 satisfactorily indicating that any person has engaged in or is  
17 about to engage in any act or practice constituting a violation  
18 of any provision of this chapter or any rule adopted under this  
19 chapter, the director may apply to any court of competent  
20 jurisdiction to temporarily or permanently restrain or enjoin  
21 the act or practice in question and to enforce compliance with  
22 this chapter or any rule or order issued under this chapter. In



1 any such action, the director shall not be required to plead or  
2 prove irreparable injury or the inadequacy of the remedy at law.  
3 Under no circumstances shall the court require the director to  
4 post a bond.

5 § -I **Civil penalties.** a) Any person who operates as a  
6 dog breeder without being licensed under this chapter shall be  
7 subject to a civil penalty of up to \$1,000, as determined by the  
8 director; provided that each day of a violation shall be  
9 considered a separate offense.

10 (b) No civil penalty shall be imposed unless the person  
11 charged is given notice and opportunity for a hearing.

12 (c) If the director is unable to collect a civil penalty  
13 or if any person fails to pay all or a set portion of the civil  
14 penalty imposed by the director, the director may:

- 15 (1) Bring suit to recover the amount of the civil penalty  
16 plus costs and attorney's fees by action in any court  
17 of competent jurisdiction; or  
18 (2) Refuse to renew any license under this chapter.

19 § -J **Criminal penalties.** In addition to the civil  
20 penalties under section -I, any person who operates as a dog  
21 breeder without being licensed under this chapter or who



1 violates section -E, or both, shall be guilty of a  
2 misdemeanor."

3 **PART II**

4 SECTION 3. The purpose of this part is to prohibit the  
5 sale of unsterilized cats and unsterilized dogs to address the  
6 irresponsible and indiscriminate sale of dogs and cats.

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

10 "§143- Unsterilized cats and unsterilized dogs; sales  
11 prohibited. (a) The sale by any pet retailer of an  
12 unsterilized cat or an unsterilized dog after it is eight weeks  
13 old in this State shall be prohibited. If a pet retailer gives  
14 an eight-week old unsterilized cat or an unsterilized dog to a  
15 purchaser of pet supplies or equipment from that retailer, free  
16 of charge, that act shall be considered a sale of an  
17 unsterilized cat or unsterilized dog for purposes of this  
18 subsection.

19 (b) No person shall purchase a dog before it is eight  
20 weeks old, unless the purchaser obtains a dog breeding license  
21 pursuant to section -B.

22 (c) As used in this section:



1       "Pet retailer" means any person, partnership firm, or  
2 corporation that sells pet animals to customers through a store  
3 operation.

4       "Unsterilized cat" means a female cat that has not been  
5 spayed or a male cat that has not been neutered by a licensed  
6 veterinarian.

7       "Unsterilized dog" means a female dog that has not been  
8 spayed or a male dog that has not been neutered by a licensed  
9 veterinarian.

10       (d) Notwithstanding section 143-19, any person violating  
11 this section shall be subject to a special penalty of a fine of  
12 \$1,000 per violation."


13       SECTION 5. In codifying the new sections added by section  
14 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17       SECTION 6. New statutory material is underscored.

18       SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 2494

**Report Title:**

Animal Cruelty; Sale of Pets; Dog Breeders; Unsterilized Cats and Unsterilized Dogs; DCCA; Environment

**Description:**

Establishes requirements for breeding and selling dogs. Prohibits pet retailers from selling unsterilized cats and unsterilized dogs.

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

