

JAN 24 2018

A BILL FOR AN ACT

RELATING TO THE SPAYING AND NEUTERING OF DOGS AND CATS.

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

1 SECTION 1. The legislature finds that domestic animals
2 have provided companionship to people for centuries. They share
3 the homes of over fifty per cent of United States households,
4 including an estimated 225,000 owned dogs and cats in Hawaii,
5 providing many benefits such as love, loyalty, and an improved
6 sense of well-being to their families. Each year, 2,400,000
7 healthy and adoptable cats and dogs are euthanized in animal
8 shelters due to a lack of critical resources and public
9 awareness. The legislature further finds that nearly ninety per
10 cent of pets living in poverty and ninety-eight per cent of
11 community cats and feral and stray cats are unaltered.

12 Spaying and neutering have been shown to dramatically
13 reduce the number of animals that are euthanized in animal
14 shelters, as well as effectively manage populations of unowned
15 community cats to reduce their numbers and protect Hawaii's
16 vulnerable wildlife. Hawaii lacks well-funded programs to
17 assist with the cost of spaying and neutering pets and unowned



1 community cats. Veterinarians, local animal protection
 2 organizations, and private citizens support the need for
 3 affordable and accessible spay and neuter services to reduce
 4 animal suffering in the State.

5 The purpose of this Act is to:

6 (1) Establish the Hawaii spay/neuter council to administer
 7 the Hawaii spay/neuter grant program;

8 (2) Establish the Hawaii spay/neuter grant program to
 9 provide grants to counties and animal welfare groups
 10 to spay and neuter dogs and cats; and

11 (3) Establish the spay/neuter fee program to impose a fee
 12 on pet food to be deposited into a new special fund to
 13 support the Hawaii spay/neuter grant program.

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 HAWAII SPAY/NEUTER PROGRAM

19 § -1 Definitions. As used in this chapter, unless the
 20 context otherwise requires:



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1 "Council" means the Hawaii spay/neuter council established
2 pursuant to section -2.

3 "Department" means the department of commerce and consumer
4 affairs.

5 "Director" means the director of commerce and consumer
6 affairs.

7 "Distributor" means any person, including a manufacturer or
8 wholesale dealer, who receives, stores, manufactures, bottles,
9 or distributes commercial pet food for sale to retailers doing
10 business in the State.

11 "Fund" means the Hawaii spay/neuter special fund
12 established pursuant to section -8.

13 "Pet food" means any commercial feed prepared and
14 distributed for consumption by dogs and cats.

15 "Retailer" means any person who sells or otherwise
16 dispenses in the State pet food to a consumer.

17 "Sale" means the transfer of title or possession for
18 valuable consideration regardless of the manner by which the
19 transfer is completed.

20 § -2 **Hawaii spay/neuter council; established.** (a)

21 There is established the Hawaii spay/neuter council, which shall



1 be administratively attached to the department and be an
2 advisory board exempt from section 26-34.

3 (b) The council shall:

4 (1) Establish guidelines and protocols for awarding grants
5 through the Hawaii spay/neuter grant program,
6 including establishment of appropriate standards for
7 grant proposals and reporting requirements for award
8 recipients;

9 (2) Solicit and evaluate competitive grant proposals and
10 make recommendations to the department for the
11 disbursement of grant funds; and

12 (3) Advise the department on the adoption of regulations
13 regarding implementation of the Hawaii spay/neuter
14 grant program and any other appropriate matter with
15 respect to the implementation of the Hawaii
16 spay/neuter grant program.

17 (c) The council shall consist of the following members:

18 (1) One representative from the board of veterinary
19 examiners;

20 (2) One representative from the department of commerce and
21 consumer affairs;



- 1 (3) One Hawaii licensed veterinarian specializing in
- 2 large-scale spay-neuter of pets;
- 3 (4) One representative from each county humane society
- 4 contracted by a county to provide animal care and
- 5 control services;
- 6 (5) One representative of community cat caregivers;
- 7 (6) One representative from the pet food industry;
- 8 (7) One representative from the pet retail industry;
- 9 (8) One representative from a non-profit animal welfare
- 10 organization; and
- 11 (9) One representative of the public.

12 Additional members may be added as determined by the council.

13 (d) Members of the council shall serve without

14 compensation.

15 (e) The council shall meet quarterly or more frequently as

16 it deems necessary. A majority of the members of the council

17 shall constitute a quorum to do business and to validate any

18 decision or act of the council.

19 (f) The council shall submit a report of its findings and

20 recommendations to the legislature no later than twenty days

21 prior to the convening of each regular session. The report



1 shall include a description of the activities financed by the
2 fund in the previous fiscal year, including:

- 3 (1) A description of all grant proposals selected for
4 funding and grant programs implemented;
- 5 (2) A statement of the number of spay and neuter surgeries
6 performed under each grant proposal selected; and
- 7 (3) A description of and accounting for any public
8 education and outreach efforts made for the benefit of
9 Hawaii spay/neuter grant program.

10 § -3 **Hawaii spay/neuter grant program; established.**

11 There is established within the department for administrative
12 purposes only the Hawaii spay/neuter grant program to be
13 administered by the council. The council shall solicit and
14 evaluate competitive grant proposals submitted by a county or an
15 animal welfare organization to facilitate and promote the
16 provision of spay and neuter services for dogs and cats.

17 Competitive grant proposals shall:

- 18 (1) Target low-income communities and populations to the
19 maximum extent possible and detail how that goal is to
20 be accomplished;



1 (2) Efficiently and effectively facilitate and promote the
 2 provision of spay and neuter services for dogs and
 3 cats; and

4 (3) Include public education and outreach components.
 5 The council shall require a grant recipient to report relevant
 6 information on how the grant was used, including data on the
 7 number and type of spay or neuter surgeries performed and a
 8 description of all public education and outreach implemented. A
 9 grant proposal may include catios or sanctuaries for outdoor dog
 10 and cat populations; provided that spay and neuter services
 11 shall take priority.

12 § -4 **Registration.** Every distributor, and any person
 13 intending to become a distributor, shall register as such with
 14 the department on forms to be prescribed, prepared, and
 15 furnished by the department.

16 § -5 **Hawaii spay/neuter fee program.** (a) Every
 17 distributor selling pet food in the State shall pay a fee that
 18 is hereby imposed at the following rates:

19 (1) Beginning January 1, 2019, \$50 per pet food brand name
 20 or product name sold or offered for sale to a retailer
 21 for sale in the State to a consumer;



1 (2) Beginning January 1, 2020, \$75 per pet food brand name
2 or product name sold or offered for sale to a retailer
3 for sale in the State to a consumer; and

4 (3) Beginning January 1, 2021, \$100 per pet food brand
5 name or product name sold or offered for sale to a
6 retailer for sale in the State to a consumer.

7 (b) Any retailer that sells pet food in the State to a
8 consumer, on which the fee imposed by this section has not been
9 paid by a distributor, shall be liable for the fee imposed in
10 subsection (a) at the time of sale to the consumer.

11 (c) A distributor may add the amount of fees levied by
12 this section to the price of pet food sold to a retailer, and
13 the retailer may pass the amount of the fee through to a
14 consumer as a component of the final retail purchase price.

15 § -6 **Exemptions.** The following shall be exempt from the
16 fee imposed by this chapter:

17 (1) Pet food sold by a distributor or a retailer expressly
18 for resale or consumption outside the State; and

19 (2) Pet food sold by a distributor to another distributor,
20 if the sales invoice clearly indicates that the sale
21 is exempt. If the sale is to a person who is both a



1 distributor and a retailer, the sale shall also be
2 exempt from the fee and the fee shall be paid when the
3 purchasing distributor who is also a retailer resells
4 the product to a retailer or a consumer. This
5 exemption shall not apply to any other sale to a
6 retailer.

7 § -7 **Payment.** Every distributor, on or before the
8 fifteenth day of each month, shall file with the department a
9 form identifying all sales of pet food made during the preceding
10 month. The form shall be prescribed by the department and shall
11 contain such information as it may deem necessary for the proper
12 administration of the Hawaii spay/neuter fee program.

13 § -8 **Hawaii spay/neuter special fund; established.** (a)

14 There is established in the state treasury the Hawaii
15 spay/neuter special fund to be administered by the department,
16 into which shall be deposited Hawaii spay/neuter fees, interest
17 payments, and penalty payments imposed pursuant to this chapter
18 and distributed pursuant to section -15.

19 (b) All moneys in the fund shall be used for:

20 (1) All costs to implement this chapter, including:



- 1 (A) Administrative, audit, independent evaluation,
- 2 and compliance activities associated with the
- 3 Hawaii spay/neuter fee program and collection and
- 4 payment of the Hawaii spay/neuter fee;
- 5 (B) Personnel to implement the Hawaii spay/neuter fee
- 6 program, including registration and enforcement
- 7 activities; and
- 8 (C) Associated office expenses; and
- 9 (2) Coordination and support of the Hawaii spay/neuter
- 10 grant program.

11 § -9 **Records to be kept.** (a) Every distributor and
12 retailer shall keep a record of all sales of pet food made by
13 the distributor or retailer in such form as the department may
14 prescribe.

15 (b) The records as required in subsection (a) shall be
16 made available, upon request, for inspection by the department;
17 provided that any proprietary information obtained by the
18 department shall be kept confidential and shall not be disclosed
19 to any other person, except:

- 20 (1) As may be reasonably required in an administrative or
- 21 judicial proceeding to enforce any provision of this



1 chapter or any rule adopted to implement this chapter;
2 or
3 (2) Pursuant to an order issued by a court or
4 administrative agency hearings officer.

5 § -10 **Audit authority.** The director, or the duly
6 authorized agent of the director, may examine all records
7 required to be kept under this chapter and books, papers, and
8 records of any person engaged in the sale of pet food to verify
9 the accuracy of the payment of the fee imposed by this chapter
10 and other compliance with this chapter and rules adopted
11 pursuant to this chapter. Every person in possession of such
12 books, papers, and records and the person's agents and employees
13 shall give the director, or the duly authorized agent of the
14 director, the means, facilities, and opportunities for the
15 examination.

16 § -11 **Contract for administrative services.** The
17 department may contract the services of a third party to
18 administer the Hawaii spay/neuter fee program under this
19 chapter.

20 § -12 **Management and financial audit.** The auditor shall
21 conduct a management and financial audit of the Hawaii



1 spay/neuter fee program for the first two fiscal years the
2 program is in effect following the implementation of rules, and
3 for each fiscal year thereafter ending in an even numbered year.
4 The auditor shall submit the audit report to the legislature and
5 the department no later than twenty days prior to the convening
6 of the next regular session. The costs incurred by the auditor
7 for the audit shall be reimbursed by the fund.

8 § -13 **Administration by director; rules.** The
9 administration and enforcement of this chapter are vested in the
10 director, who shall adopt rules in accordance with chapter 91
11 for the enforcement and administration of this chapter.

12 § -14 **Civil penalties.** Any person subject to this
13 chapter who fails to pay the entire fee imposed by the date that
14 payment is due, fails to register as a distributor, fails to
15 submit a form, fails to maintain records required by this
16 chapter, or violates any other provision of this chapter shall
17 be liable for the amount of the fee that is due and a penalty
18 equal to fifty per cent of the fee due. Interest shall accrue
19 on nonpayment or underpayment of the fee at a rate of eight per
20 cent per year from the date the fee was due until paid.



1 § -15 **Distribution of revenues.** One hundred per cent of
2 revenues collected from the Hawaii spay/neuter fee, interest
3 payments, and penalty payments imposed pursuant to this chapter
4 shall be paid to the fund established in section -8."

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2018-2019 into
8 the Hawaii spay/neuter special fund established by this Act.

9 SECTION 4. There is appropriated out of the Hawaii
10 spay/neuter special fund the sum of \$ or so much
11 thereof as may be necessary for fiscal year 2018-2019 for the
12 Hawaii spay/neuter council to administer the Hawaii spay/neuter
13 grant program.

14 The sum appropriated shall be expended by the department of
15 commerce and consumer affairs for the purposes of this Act.

16 SECTION 5. This Act shall take effect on July 1, 2018,
17 except that the fees established by section -5, Hawaii
18 Revised Statutes, shall be imposed upon the adoption of
19 administrative rules pursuant to section -13, Hawaii Revised
20



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1 Statutes, for the enforcement and administration of
2 chapter , Hawaii Revised Statutes, established by this Act.

3

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Report Title:

Hawaii Spay/Neuter Council; Hawaii Spay/Neuter Special Fund;
Hawaii Spay/Neuter Grant Program; Appropriation

Description:

Establishes the Hawaii spay/neuter council to be administratively attached to the department of Commerce and Consumer Affairs. Establishes the Hawaii spay/neuter special fund. Imposes a fee on pet food to support the Hawaii spay/neuter grant program to spay and neuter dogs and cats. Makes an appropriation.

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

