The National Agricultural Law Center

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States' Animal Cruelty Statutes

State of Hawaii

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States' Animal Cruelty Statutes

STATE OF HAWAII

Current through the 2007 third special session of the Hawaii Legislature

§ 711-1100 Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

"Animal" includes every living creature, except a human being.

"Equine animal" means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

"Facsimile" means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

"Necessary sustenance" means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

(1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;

(2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal's needs;

(3) Access to protection from wind, rain, or sun; and

(4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

"Obstructs" means renders impassable without unreasonable inconvenience or hazard.

"Pet animal" means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

"Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

"Public" means affecting or likely to affect a substantial number of persons.

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

"Record", for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

"Torment" means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

"Torture" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

§ 711-1108.5 Cruelty to animals in the first degree.

(1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal resulting in serious bodily injury or death of the pet animal.

(2) subsection (1) shall not apply to:

(a) Accepted veterinary practices;
(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
(c) Cropping or docking as customarily practiced.

(3) Whenever any pet animal is so severely injured that there is no reasonable probability that its life can be saved, the pet animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the first degree is a class C felony.

§ 711-1109 Cruelty to animals in the second degree.

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal, or deprives a pet animal of necessary sustenance or causes such deprivation;
(b) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
(c) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;
(d) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner; or
(e) Assists another in the commission of any act specified in subsections (1)(a) through (1)(d).

(2) Subsection (1)(a), (b), (d), and (e), shall not apply to:

(a) Accepted veterinary practices;
(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor.

§ 711-1109.1 Authority to enter premises; notice of impoundment of animal; damage resulting from entry.

(1) If there is probable cause to believe that a pet animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, or 711-1109.3, a law enforcement officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the pet animal is located to provide the pet animal with food, water, and emergency medical treatment or to impound the pet animal. If after reasonable effort, the owner or person having custody of the pet animal 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 pet animal was removed.

(2) A law enforcement officer is not liable for any damage resulting from an entry under subsection (1), unless the damage resulted from intentional or reckless behavior on behalf of the law enforcement officer.

(3) A court may order a pet animal impounded under subsection (1) to be held at a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. A facility receiving the pet animal shall provide adequate food and water and may provide veterinary care.

(4) For purposes of this section, "law enforcement officer" shall have the same meaning as section 710-1000.

§ 711-1109.2 Forfeiture of animal prior to disposition of criminal charges.

(1) If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1108.5, 711-1109, or 711-1109.3. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or
(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal.
Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court

that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal may be destroyed by a petitioner under this section prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, except in the event that the pet animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

§ 711-1109.2 Forfeiture of animal prior to disposition of criminal charges.

(1) If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1108.5, 711-1109, or 711-1109.3. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or
(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal.
Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court

that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal may be destroyed by a petitioner under this section prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, except in the event that the pet animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

§ 711-1109.3 Cruelty to animals; fighting dogs.

(1) A person commits the offense of cruelty to animals if the person:

(a) Owns or trains any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog;
(b) For amusement or gain, intentionally causes any dog to fight with another dog, or causes any dog to injure another dog; or
(c) Knowingly or recklessly permits any act in violation of paragraph (a) or (b) to be done on the premises under the person's charge or control, or aids or abets any such act.

(2) Nothing in this section shall prohibit any of the following:

(a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;
(b) The use of dogs in hunting wildlife including game; or
(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

(3) Violation of this section shall be a class C felony.

(4) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.

§ 711-1109.4 Causing injury or death to a guide dog, signal dog, or service animal.

(1) A person commits the offense of causing injury or death to a guide dog, signal dog, or service animal if:

(a) The person recklessly causes injury to or the death of any guide dog, signal dog, or service animal, while the dog is in the discharge of its duties; or
(b) The person is the owner of a dog and recklessly permits that dog to attack a guide dog, signal dog, or service animal while that dog is in the discharge of its duties, resulting in the injury or death of the guide dog, signal dog, or service animal.

(2) Any person who commits the offense of causing injury or death to a guide dog, signal dog, or service animal shall be punished as follows:

(a) For a first offense by a fine of not more than $2,000, imprisonment of not more than thirty days, or both; and
(b) For a second or subsequent offense by a fine of not more than $5,000, imprisonment of not more than thirty days, or both.

(3) Any person who is convicted of a violation of this section shall be ordered to make restitution to:

(a) The person with a disability who has custody or ownership of the guide dog, signal dog, or service animal, for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the dog; and
(b) The person or organization that incurs the cost of retraining or replacing the animal, for the cost of retraining or replacing the animal if it is disabled or killed.

(4) As used in this section, "guide dog", "signal dog", and "service animal" shall have the same meaning as in section 515-3(8).

[§ 711-1109.5]. Intentional interference with the use of a guide dog, signal dog, or service animal

(1) A person commits the offense of intentional interference with the use of a guide dog, signal dog, or service animal if the person, with no legal justification, intentionally or knowingly:

(a) Harms a guide dog, signal dog, or service animal; or

(b) Strikes or kicks a guide dog, signal dog, or service animal;

while the guide dog, signal dog, or service animal is in the discharge of its duties.

(2) Intentional interference with the use of a guide dog, signal dog, or service animal is a misdemeanor.

(3) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(4) As used in this section, “guide dog”, “signal dog”, and “service animal” shall have the same meaning as in section 515-3(8).

§ 711-1109.6. Animal hoarding

(1) A person commits the offense of animal hoarding if the person intentionally, knowingly, or recklessly:

(a) Possesses more than fifteen dogs, cats, or a combination of dogs and cats;

(b) Fails to provide necessary sustenance for each dog or cat; and

(c) Fails to correct the conditions under which the dogs or cats are living, where conditions injurious to the dogs', cats', or owner's health and well-being result from the person's failure to provide necessary sustenance.

(2) Animal hoarding is a misdemeanor.

§ 711-1110 Relating to agent of society.

The agent of any society which is formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any district in the State, may within such district make arrests and bring before any district judge thereof offenders found violating the provisions of section 711-1109 to be dealt with according to law.

§ 711-1110.5 Surrender or forfeiture of animals.

Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1108.5, 711-1109, or 711-1109.3:

(1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and
(2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.