

provision of this chapter or of any rule adopted pursuant thereto. [L 1972, c 86, pt of §1; gen ch 1985; am L 1986, c 264, §1]

§142-30 Form of citation and summons. There shall be printed a form of citation and summons for use in citing violators of this chapter and rules adopted pursuant thereto warning the person to appear and answer the charge against the person at a place and at a time within seven days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and contents of the citation and summons shall be as adopted or prescribed by the district courts.

In every case when a citation and summons is issued, the original shall be given to the accused; provided that the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original. [L 1972, c 86, pt of §1; am L 1986, c 17, §1]

§142-31 Administration of oath. When a complaint is made to any prosecuting officer of the violation of the provisions of this chapter and all rules adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to it under oath administered by another official of the department of agriculture whose name has been submitted to the prosecuting officer and who has been designated by the chairperson of the board of agriculture to administer oaths. [L 1972, c 86, pt of §1; am L 1986, c 18, §1; gen ch 1993]

PART II. BRANDS

§142-41 Brands to be recorded, etc. Every owner of livestock in the State shall have the owner's brand or mark, in order to secure its validity and individuality, recorded in a separate book kept for that purpose by the department of agriculture to be known as the "Hawaii Brand Book." No brand or mark shall be recorded which may be similar or approximate in design to any brand or mark which has been previously recorded. The fee for each application for registration shall be established by rule adopted pursuant to chapter 91. The application may be made directly to the department, through its duly authorized agents, or through any duly authorized police officer. The chief of police of the respective counties shall authorize police officers to receive applications for registration of brands under this section. All moneys so received shall be paid to the director of finance. A signed and dated receipt shall be issued for each paid application. All applications shall be promptly forwarded to the department. If it is determined that the application seeks the registration of a brand which either has not already been recorded by another person or is not similar in design to any other previously recorded brand which has not expired, then a certificate showing that such brand or mark has been duly recorded shall be issued forthwith to the applicant. No record shall be made of any earmark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to preemptive use but shall be the common property of all persons. [L 1888, c 35, §19; am L 1911, c 58, §1; RL 1925, §681; RL 1935, §259; am L 1939, c 104, §7; am L 1943, c 62, §21 and c 64, §22; RL 1945, §1068; am L 1953, c 235, §1(a); am L 1955, c 73, §1(a); RL 1955, §20-40; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1; HRS §142-41; am L 1982, c 149, §1; gen ch 1985]

§142-42 Expiration of registration, reregistration. Each brand registered under section 142-41 shall expire on December 31, 1960, and at each five year interval thereafter unless reregistered during the one hundred twenty days preceding date of expiration. [L 1893-4, c 57, §1; RL 1925, §682; RL 1935, §260; RL 1945, §1069; am L 1955, c 73, §1(b); RL 1955, §20-41; HRS §142-42]

§142-43 Right to a brand determined by department. The department of agriculture shall determine conflicting claims by the applicants for a brand of similar or approximate design and in so doing shall be guided by the length of time each has used the brand, record of original registration, the number of animals then branded by each, and the priority of application. [L 1892, c 55, §1; RL 1925, §683; am L 1927, c 57, §1; RL 1935, §261; RL 1945, §1070; am L 1953, c 235, §1(b); am L 1955, c 73, §1(c); RL 1955, §20-42; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §142-43]

§142-44 Owners of unbranded animals. All cattle, horses, mules, donkeys, sheep, goats, and swine, over twelve months of age, not marked or branded, which may be running wild at any time on any lands in the State, shall belong to and be the property of the owners or lessees of the lands on which the animals are then running. [L 1870, c 30, §1; am L 1874, c 27, §1; RL 1925, §684; RL 1935, §262; RL 1945, §1071; am L 1951, c 32, §1; RL 1955, §20-43; HRS §142-44]

Case Notes

Effect of brand, prior to statute. 2 H. 367.
Enumerated animals in this section are property and subjects of larceny. 4 H. 409.
Cited: 20 H. 7, 30.

§142-45 Using other's brand prohibited; penalty. It shall be unlawful for any person other than the registered owner to use any brand or mark that has been duly registered or reregistered according to law and for which the registration or reregistration has not expired, except by the consent of the registered owner, the registered owner's personal representatives or assigns. Any person violating this section shall be fined \$200 for each animal so branded or marked. [L 1888, c 35, §20; am L 1903, c 8, §2; RL 1925, §685; RL 1935, §263; RL 1945, §1072; am L 1953, c 235, §1(c); RL 1955, §20-44; HRS §142-45; am L 1976, c 200, pt of §1; am L 1984, c 8, §1; gen ch 1985]

§142-46 Using unregistered brand prohibited; penalty. It shall be unlawful for any person to use any brand that has not been duly registered according to law. Any person using any brand that has not been duly registered according to law shall be fined not less than \$1 nor more than \$200 for each animal so branded. [L 1893-4, c 39, §1; am L 1903, c 8, §2; RL 1925, §686; RL 1935, §264; RL 1945, §1073; RL 1955, §20-45; HRS §142-46; am L 1984, c 8, §2]

§142-47 Obliterating brand; penalty. Any person who obliterates any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, although without felonious intent, shall be fined not more than \$200 for every brand or mark so obliterated. [PC 1869, c 83, §2 (same as CC 1859, §249); RL 1925, §687; RL 1935, §265; RL 1945, §1074; RL 1955, §20-46; HRS §142-47; am L 1984, c 8, §3]

§142-48 Felonious branding; penalty. Whoever wilfully and feloniously brands, or otherwise marks, any kine, horse, mule, sheep, goat, or other cattle belonging to another, with one's mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to one's own use, or to the use of another shall be imprisoned not more than one year, or fined not more than \$200 for each kine, horse, mule, sheep, goat or other cattle thus branded or marked. [PC 1869, c 25, §1; am L 1903, c 12, §1; RI 1975, §688; RI 1935, §266; RL 1945, §1075; RL 1955, §20-47; HRS §142-48; gen ch 1985]

Case Notes

Brand of itself not conclusive evidence of ownership; law regulating brands does not apply to wild herds roaming Maunakea. 2 H. 367.

[§142-49] Livestock ownership and movement certification. Every owner, upon sale or transportation of livestock, shall complete a certificate describing the animal or animals including sex, breed, age, and brand and indicating the seller or owner, buyer or consignee, and origin and destination. A copy of the certificate shall accompany the shipment, one copy shall be given to the department of agriculture, and a copy shall be retained by the owner. [L 1986, c 62, §1]

PART III. FENCES AND TRESPASSES BY ANIMALS

Rules of Court

Applicability of District Court Rules of Civil Procedure, see DCRCP rule 81(b)(3).

§142-61 Lawful fence; penalty. (a) Every fence made of stone, posts and rails, posts and boards, posts and wire, or other suitable materials shall be a lawful fence, provided that it is not less than four feet in height, substantially built, strong and close, existing in good state of repair, and capable of turning either all stock or all stock excepting swine, attempting to pass through the fence.

(b) Woven wire, or what is otherwise known also as hog-wire, used as a type of wire by itself or with a combination of barbed wire or plain wire, when supported on posts and properly fastened thereto and meeting the minimum height and stock turning requirements prescribed in subsection (a), shall be a lawful fence.

(c) The sea, rivers, ponds, and natural perpendicular bluffs, whenever impassable, shall be lawful fences.

(d) Whenever fences are built on any boundary, or within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas or to keep farms protected against the trespass of animals, except on the boundary of any government road, it shall be lawful to have fence wire electrically charged, provided such wire is fastened to insulators supported on posts, and provided also that the charge supplied shall be through an approved electric fence controller which shall be labeled or listed as conforming to the standards of either the National Bureau of Standards, the Underwriter's Laboratories, Inc., or any other similar institutions of recognized standing, and provided that an electric fence controller intended for use in the State shall bear a recognized commercial trade name and the name of the selling agency of same.

(e) Whenever fences are built on any boundary, including on the boundary of any government road, within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas or to keep farms protected against the trespass of animals, it

§142-31 Administration of oath. When a complaint is made by officers and employees as described in section 142-29(2) to any prosecuting officer of the violation of the provisions of this chapter and all rules adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to it under oath administered by another official of the department of agriculture whose name has been submitted to the prosecuting officer and who has been designated by the chairperson of the board of agriculture to administer oaths. [L 1972, c 86, pt of §1; am L 1986, c 18, §1; gen ch 1993; am L 1997, c 62, §4]

PART II. BRANDS

§142-49 Livestock ownership and movement certification. Every owner, upon sale or transportation of livestock, including cattle, horses, sheep, goats, pigs, bison, or llamas, shall complete a certificate describing the animal or animals including sex, breed, age, and brand and indicating the seller or owner, buyer or consignee, and origin and destination. Two copies of the certificate shall accompany the shipment, one copy shall be given to the department of agriculture, and a copy shall be retained by the owner. One of the copies of the certificate shall be presented upon request to a law enforcement officer or other officer or employee as described in section 142-29. [L 1986, c 62, §1; am L 1997, c 62, §5]

PART III. FENCES AND TRESPASSES BY ANIMALS

§142-74 Liability of dog owner; penalty. (a) If any dog, while on private property without the consent of the owner of that property, injures or destroys any sheep, cattle, goat, hog, fowl, or other property belonging to any person other than the owner of the dog, the owner of the dog shall be liable in damages to the person injured for the value of the property so injured or destroyed. The owner of the dog shall confine or destroy the dog, and if the owner of the dog neglects or refuses to do so, the owner of the dog, in the event of any further damage being done to the person or property of any person by the dog, in addition to paying the person injured for the damage, shall pay the costs of the trial together with the penalty imposed under section 142-12, and it shall be lawful for any other person to destroy the dog.

(b) Each county may enact and enforce ordinances regulating persons who own, harbor, or keep any dog that has injured, maimed, or destroyed an animal belonging to another person. No ordinance enacted under this subsection shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that the ordinance shall not affect the civil liability of a person owning, harboring, or keeping the dog. Upon enactment of an ordinance, whether enacted on, before, or after June 30, 2001, the ordinance shall have full force and effect; provided that the ordinance is consistent with this section. [PC 1869, c 23, §9; RL 1925, §667; RL 1935, §252; RL 1945, §1094; RL 1955, §20-73; HRS §142-74; gen ch 1985; am L 1986, c 64, §1; am L 2001, c 222, §1]

§142-75 Human bitten by dog; duty of dog owners; action against owner. (a) The owner of any dog that has bitten a human being shall have the duty to take such reasonable steps as are necessary to prevent the recurrence of such incident. (b) Whenever a dog has bitten a human being on at least two separate occasions for which none of the exceptions specified in section 663-9.1 apply, any person may bring an action against the owner of the dog in the district court of the judicial circuit in which the owner resides, to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by