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# A BILL FOR AN ACT

RELATING TO THE TRANSFER OF INVASIVE SPECIES REGULATION.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                                   "CHAPTER

5                                   INVASIVE SPECIES

6                                 PART I. GENERAL PROVISIONS

7           § -1 Definitions. As used in this chapter, unless the  
8 context otherwise requires:

9           "Advisory committee" means the advisory committee on  
10 invasive species.

11          "Agricultural Risk Protection Act" means the federal  
12 Agricultural Risk Protection Act of 2000, P.L. 106-224.

13          "Algae" means any plant containing chlorophyll, which lacks  
14 true roots, stems, and leaves, and typically inhabits moist  
15 habitats, except those algae on or in humans or animals in the  
16 state and those in or on processed foods, beverages, or  
17 pharmaceuticals.



1 "Animal" means any invertebrate or vertebrate species of  
2 the animal kingdom in any state of development, including but  
3 not limited to mammal, bird, fish, reptile, mollusk, crustacean,  
4 insect, mite, nematode, protozoan and other invertebrate, other  
5 than common domestic animals such as dogs, cats, poultry,  
6 livestock, and horses.

7 "Aquatic life" means any type or species of mammal, fish,  
8 amphibian, reptile, mollusk, crustacean, arthropod,  
9 invertebrate, coral, or other animal that inhabits the  
10 freshwater or marine environment and includes any part, product,  
11 egg, or offspring thereof; or freshwater or marine plants,  
12 including seeds, roots, products, and other parts thereof.

13 "Article" means any material or tangible object that could  
14 harbor invasive species, including plants, plant products, soil,  
15 boxes and containers, vehicles, baggage, or packing material  
16 used in connection with the movement of plants, plant products,  
17 or animals.

18 "Bacteria" or "bacterium" means any prokaryotic or  
19 archaeobacterial organism, except those bacteria on or in humans  
20 or animals in this state, and those in or on processed foods,  
21 beverages, or pharmaceuticals.



1 "Biological control organism" means any enemy, antagonist,  
2 or competitor used to control a plant pest, noxious weed, or  
3 invasive species.

4 "Council" means the invasive species council.

5 "Fungus" means all nonchlorophyll-bearing thallophytes,  
6 except those fungi on or in living humans or animals in this  
7 state and those on or in processed food, beverages, or  
8 pharmaceuticals.

9 "Import" or "importation" means to move into, or the act of  
10 movement into the territorial limits of the state.

11 "Insect" means an invertebrate animal belonging to the  
12 class Insecta, including beetle, bug, fly, and other arthropods,  
13 such as spider, mite, tick, centipede, and wood louse.

14 "Inspect" means to examine articles or means of conveyance  
15 to ascertain the presence or absence of prohibited or restricted  
16 plants, plant products, or invasive species.

17 "Inspector" means an employee or official of the council  
18 authorized by the council or the Secretary to administer and  
19 enforce the provisions of this chapter and the Agricultural Risk  
20 Protection Act.

21 "Invasive species" means any plant, plant pest,  
22 microorganism, biological control organism, or animal that can



1 directly or indirectly injure, cause damage to, or impede  
2 agriculture, horticulture, aquaculture, animal or public health,  
3 irrigation systems, navigation, the natural resources of the  
4 state, or the environment.

5 "Means of conveyance" means any personal property used for  
6 or intended to be used for the movement of any other personal  
7 property.

8 "Microbial product" means any product manufactured with  
9 known cultures of microorganisms for the purpose of  
10 bioremediation or bioaugmentation, including products such as  
11 microbial pesticides.

12 "Microorganism" means any unicellular microscopic organism,  
13 including but not limited to algae, bacteria, fungi, protozoa,  
14 and viruses.

15 "Move" means:

- 16 (1) To carry, enter, import, mail, ship, or transport;  
17 (2) To aid, abet, cause, or induce the carrying, entering,  
18 importing, mailing, shipping, or transporting;  
19 (3) To offer to carry, enter, import, mail, ship, or  
20 transport;  
21 (4) To receive to carry, enter, import, mail, ship, or  
22 transport;



1 (5) To release into the environment; or

2 (6) To allow any of the activities in (1) , (2) , (3) ,  
3 (4), or (5) .

4 "Noxious weed" means any plant species or plant product  
5 that can directly or indirectly injure or cause damage to, or be  
6 detrimental or potentially harmful to agriculture, horticulture,  
7 aquaculture, animal or public health, or the interests of  
8 irrigation, navigation, natural resources of the state, or the  
9 environment as determined by the council based on sound science.

10 "Permit" means an authorization, by written or electronic  
11 methods, by the council under this chapter or Secretary under  
12 the Agricultural Risk Protection Act, to move plants, plant  
13 products, plant pests, biological control organisms,  
14 microorganisms, animals, or articles under the conditions  
15 prescribed by the council or by law.

16 "Person" means any and all persons, natural or artificial,  
17 including an individual, firm, association, organization,  
18 partnership, business trust, corporation, and company.

19 "Phytosanitary treatment" means any measure, including  
20 testing, inspection, fumigation, decontamination, quarantine, or  
21 other remedial procedure applied to any article or means of



1 conveyance to prevent the movement of an invasive species into  
2 or within the state.

3 "Plant" means any plant or plant part for or capable of  
4 propagation, including a tree, tissue culture, plantlet culture,  
5 pollen, shrub, vine, cutting, graft, scion, bud, bulb, root, or  
6 seed, and includes noxious weeds.

7 "Plant pest" means an protozoan, plant, animal, insect,  
8 bacterium, fungus, virus, or other infectious agent or pathogen  
9 in any stage of development that has been determined by the  
10 council based on sound science to:

- 11 (1) Be directly injurious, cause damage to, or cause  
12 disease in any plant or plant product;
- 13 (2) Be detrimental or potentially harmful to agriculture,  
14 horticulture, aquaculture, animal or public health,  
15 natural resources, including native biota; or
- 16 (3) Have an adverse effect on the environment.

17 "Plant product" means any flower, fruit, vegetable, root,  
18 bulb, seed, or other plant part that is not included in the  
19 definition of plant, or any manufactured or processed plant or  
20 plant part.



1 "Port of entry" means a harbor, airport, or any other place  
2 in the state where the articles regulated by this chapter are  
3 first moved.

4 "Secretary" means the United States Secretary of  
5 Agriculture.

6 "Virus" means any of a class of noncellular submicroscopic  
7 obligate parasite, chiefly nucleoprotein in composition but  
8 often reducible to crystalline form, except those viruses on or  
9 in humans or animals in this state, and those on or in processed  
10 food, beverages, or pharmaceuticals.

11 § -2 **Invasive species council.** (a) There is  
12 established an invasive species council, which shall be placed  
13 within the department of agriculture for administrative  
14 purposes. The council shall consist of nine members and shall  
15 include five members representing environmental interests,  
16 agriculture, the airline industry, the water carrier industry,  
17 and large private landowners who shall be appointed by the  
18 governor as provided in section 26-34. The chairperson of the  
19 board of agriculture, director of health, chairperson of the  
20 board of land and natural resources, and director of  
21 transportation shall be ex officio voting members of the  
22 council. The council shall elect its chairperson from among its



1 members; provided that no ex officio member may be elected as  
2 the chairperson.

3 (b) The members of the council shall serve without  
4 compensation, but shall be reimbursed for actual expenses  
5 incurred in the performance of their duties.

6 (c) The council shall hire an executive director, who  
7 shall serve at the pleasure of the council and shall be exempt  
8 from chapter 76. The salary of the executive director shall be  
9 set by the council.

10 (d) The council, through its executive director, may hire  
11 necessary personnel to carry out the purposes of the council.

12 § -3 Council powers and duties. The invasive species  
13 council shall:

14 (1) Establish and maintain inspection and monitoring  
15 facilities at ports of entry and at such places within  
16 the state as deemed necessary for the detection of  
17 invasive species, and implement a program of  
18 inspection of articles or means of conveyance that are  
19 infested or are liable to be infested with or contain  
20 any invasive species;

21 (2) Conduct surveys of public and private lands to gather,  
22 compile, or map information on invasive species





1 infestations, and the agricultural, horticultural,  
2 aquacultural, or environmental resources that are  
3 threatened;

4 (3) Maintain constant vigilance for incipient infestations  
5 of invasive species on islands declared reasonably  
6 free from those species;

7 (4) Maintain lists of animal species that are  
8 conditionally approved, restricted, or prohibited from  
9 entering the state;

10 (5) Maintain lists of plants and plant products that are  
11 prohibited or that require a permit from the council  
12 or the Secretary pursuant to the Agricultural Risk  
13 Protection Act, prior to import into the state;

14 (6) Using sound science and thorough risk assessment,  
15 evaluate plants, plant products, plant pests, and  
16 biological control organisms, or noxious weeds to  
17 determine if there is a special need for the State to  
18 petition the Secretary to impose prohibitions or  
19 restrictions upon the movement of plants, plant  
20 products, plant pests, biological control organisms,  
21 or noxious weeds that are in addition to those imposed  
22 pursuant to the Agricultural Risk Protection Act;



- 1           (7) Develop a statewide invasive species plan in  
2           cooperation with the departments of land and natural  
3           resources, transportation, health, and agriculture,  
4           the Secretary, other governmental agencies, and  
5           private organizations, that identifies priority  
6           species for prevention of introduction, control, or  
7           eradication, assigns responsibilities, and contains  
8           detailed strategies and action plans for the control  
9           or eradication of invasive species;
- 10          (8) Provide or designate satisfactory facilities for any  
11          article or means of conveyance found to be infested or  
12          infected with an invasive species to be held in  
13          quarantine for a sufficient length of time to  
14          eradicate the infestation or infection;
- 15          (9) Enter into agreements with any other state, the  
16          federal government, or foreign government for the  
17          inspection, phytosanitary treatment, and certification  
18          of any articles or means of conveyance outside of the  
19          state if the council finds that the inspection,  
20          phytosanitary treatment, and certification meets the  
21          standards established for in-state inspection and  
22          certification;



- 1           (10) Adopt, amend, and repeal rules pursuant to chapter 91  
2           relating to the prohibition, quarantine, fumigation,  
3           disinfection, or disposition, either upon movement  
4           into the state, or at any time or place within the  
5           state of any invasive species, article, or means of  
6           conveyance, to carry out and effectuate the purposes  
7           of this chapter;
- 8           (11) Adopt emergency remedial measures developed with the  
9           advisory committee, using the best available  
10          technology in a manner consistent with state and  
11          federal law, to be executed when new invasive species  
12          are detected, to contain and minimize the damage  
13          caused by the invasive species or prevent the  
14          permanent establishment of the invasive species;
- 15          (12) Establish a procedure to expedite interagency  
16          communications, problem solving, and decision making  
17          and coordinate the efforts of agencies toward invasive  
18          species prevention and control;
- 19          (13) Improve the effectiveness of inspections through the  
20          coordination of planning and staffing of interagency  
21          inspection programs and sharing of inspection findings  
22          and information;



- 1       (14)   Develop educational material and information to make
- 2           airline and ship crews and passengers aware of
- 3           invasive species prohibitions of this State;
- 4       (15)   Develop and implement a public education program to
- 5           inform the public of the impact of invasive species on
- 6           Hawaii and of the importance of the public's
- 7           assistance to the success of invasive species
- 8           surveillance, prevention, control, and eradication
- 9           programs;
- 10       (16)   Conduct special training programs for employees of
- 11           carriers handling cargo and baggage that may contain
- 12           invasive species;
- 13       (17)   Develop a schedule of fees for permits and inspection,
- 14           quarantine, and eradication services at ports of
- 15           entry; and
- 16       (18)   Establish a central reporting system for the public to
- 17           report invasive species.

18       §   -4   **Advisory committee on invasive species.**   (a)   There

19 shall be an advisory committee on invasive species composed of

20 seven members, with expertise in biology, botany, zoology,

21 microbiology, ecology, or any other discipline relating to the

22 protection of natural resources as evidenced by an academic

1 degree or other special experience. The members shall be  
2 appointed by the governor as provided in section 26-34. The  
3 chairperson shall be elected from among the members of the  
4 advisory committee. The advisory committee shall:

5 (1) Advise the council in matters relating to the listing,  
6 introduction, confinement, or release of plants,  
7 animals, and microorganisms; and

8 (2) Work with the council in preparing plans and  
9 strategies for emergency remedial measures to be  
10 executed when new invasive species are detected.

11 (b) The chairperson of the advisory committee may create  
12 ad hoc subcommittees with special expertise to advise the  
13 council on the movement of any plant, plant product,  
14 microorganism, or animal that is not listed pursuant to this  
15 chapter.

16 **PART II. INVASIVE SPECIES LISTS**

17 **§ -11 Plant lists.** (a) The council shall maintain:

18 (1) A list of plants and plant products prohibited entry  
19 into the state except by permit for educational or  
20 research purposes, to be referenced as the "noxious  
21 weed list";



1           (2) A list of plants and plant products that are  
2           prohibited from being moved from one island to another  
3           island within the state or from one locality to  
4           another on the same island except by permit for  
5           educational and research purposes, including a list of  
6           the islands or localities to which the plants or plant  
7           products are restricted, to be referenced as the  
8           "restricted list of plants and plant products"; and

9           (3) A list of plants and plant products that may be  
10          imported into the state, to be referenced as the  
11          "allowed list of plants and plant products".

12          (b) The council shall establish criteria for the  
13          evaluation of the attributes of plants and plant products, such  
14          as documented distribution, documented weediness, noxious  
15          traits, and reproduction and dispersal, to guide the placement  
16          of plants and plant products on the plant lists.

17          § -12 **Plant pests list.** The council shall maintain a  
18          list of plant pests that are prohibited entry into the state.

19          § -13 **Animal lists.** (a) The council shall maintain:

20          (1) A list of animals that are prohibited entry into the  
21          state except by permit for educational or research  
22          purposes;



1 (2) A list of restricted animals that may not be imported  
2 into, possessed, or moved within the state without a  
3 permit; and

4 (3) A list of conditionally approved animals that may not  
5 be imported into the state without a permit,  
6 provided that the council shall maintain sublists for each of  
7 these categories for aquatic life.

8 (b) The list of animals that are prohibited entry into the  
9 state shall include any live snake, flying fox, fruit bat, Gila  
10 monster, injurious insect, or eels of the order Anguilliformes.

11 (c) The list of conditionally approved animals shall  
12 include any live or dead honey bees, or used bee equipment,  
13 certified by the council to be free of pests; provided that  
14 nothing in this subsection shall be construed to prohibit the  
15 importation of bee semen.

16 § -14 **Microorganism lists.** The council shall maintain:

17 (1) A list of restricted microorganisms that may not be  
18 imported into or possessed in the state without a  
19 permit;

20 (2) A list of microorganisms that are select human  
21 pathogens that may be imported into the state without  
22 a permit but for which the council must provide the



1 department of health with notice of the importation of  
2 the microorganism into the state to allow possible  
3 department of health inspection and monitoring; and

4 (3) A list of nonrestricted microorganisms that may be  
5 imported into the state without a permit.

6 § -15 **Biological control organism lists.** The council  
7 shall maintain a list of biological control organisms that are  
8 not prohibited or restricted under the Agricultural Risk  
9 Protection Act, along with a list of biological control  
10 organisms that the department has petitioned the Secretary to  
11 add to the list.

12 § -16 **Lists; additions and deletions.** The council may  
13 make additions to or deletions from the lists required by this  
14 part without regard to the notice and public hearing  
15 requirements of chapter 91; provided that the council shall  
16 adopt rules pursuant to chapter 91 to establish methods of  
17 obtaining public input and notifying the public of those  
18 additions and deletions.

19 **PART III. REGULATION OF IMPORTATION OR MOVEMENT**  
20 **OF PLANTS AND ANIMALS**

21 § -21 **Permits; issuance; conditions.** Permits under this  
22 chapter shall be issued pursuant to rules adopted by the council





1 and shall be subject to any conditions established by the  
2 council to protect the agricultural, horticultural,  
3 aquacultural, livestock, or poultry industry, public health,  
4 natural resources of the state, or environment.

5 § -22 Plant or plant products; prohibitions. (a) No  
6 person shall:

7 (1) Import into, possess, or move in the state any plant  
8 or plant product that is:

9 (A) On the list of noxious weeds under section -  
10 11(a)(1); or

11 (B) Not listed under section -11;

12 or

13 (2) Move a plant or plant product from one island to  
14 another island within the state, or from one locality  
15 to another on the same island, in violation of  
16 restrictions in the list of restricted plants and  
17 plant products established under section -11(a)(2),  
18 without a permit or in violation of the conditions of a permit  
19 issued by the council pursuant to this chapter.

20 (b) No person shall move any plant or plant product beyond  
21 the island or locality within the state to which the plant is  
22 restricted under section -11(a)(2), without a permit or in



1 violation of the conditions of a permit issued by the council  
2 pursuant to this chapter.

3 § -23 Plant or plant products; permit application. (a)

4 Any person who desires to import into or move within the state a  
5 plant or plant product for which a permit is required under  
6 section -22 shall apply to the council for a permit.

7 (b) An applicant for a permit to import or move any plant  
8 or plant product on the restricted list of plant or plant  
9 products into or about the state, in addition to any other  
10 information the council may require, shall provide:

- 11 (1) A description (scientific name) and the quantity of  
12 plant or plant product to be imported;
- 13 (2) The country, state, and locality where the plant or  
14 plant product was produced or located;
- 15 (3) The documented distribution of the plant or plant  
16 product;
- 17 (4) The characteristics of the plant or plant product such  
18 as documented weediness, noxious traits, and  
19 reproduction and dispersal; and
- 20 (5) The port from which the plant or plant product is to  
21 be shipped.



1           (c) The council shall make a pre-entry assessment of a  
2 plant or plant product that is not listed under section       -11  
3 before issuing a permit or denying entry into the state. The  
4 council may request that the applicant provide additional  
5 information, and may also request that the advisory committee  
6 establish an ad hoc committee of experts to assist the council  
7 in placing the plant or plant product on one of the plant lists  
8 under section       -11. A plant or plant product that is not  
9 listed under section       -11 shall be prohibited from entry  
10 into the state until the council has reviewed the  
11 characteristics of the plant or plant product and made a  
12 determination for placement on one of the lists.

13           (d) The council may impose conditions on the permit to  
14 protect the state from plant and plant product invasive species,  
15 including:

- 16           (1) Requiring the imported plant or plant product to be  
17 accompanied by a certificate of inspection or  
18 phytosanitary treatment issued by the appropriate  
19 officials of the state or country from which the plant  
20 or plant product is shipped;
- 21           (2) Requiring the plant or plant product to be kept under  
22 post-entry quarantine by or under the supervision of



1 the council for the purpose of determining whether the  
2 plant or plant product:

3 (A) Is infested with an invasive species;

4 (B) May pose a significant risk of causing injury or  
5 damage to, or disease in any plant or plant  
6 product; or

7 (C) May be a noxious weed;

8 and

9 (3) Subjecting the plant or plant product to remedial  
10 measures necessary to prevent the spread of plant  
11 pests.

12 § -24 Permitted plant or plant products; pre-importation  
13 requirements. (a) A person with a permit issued by the council  
14 under this chapter or the Secretary pursuant to section 411 of  
15 the Agricultural Risk Protection Act, may import plant or plant  
16 products as authorized by the permit. The person shall notify  
17 the council prior to the shipment of the plant or plant product  
18 and provide the following information:

19 (1) A description (scientific name) and the quantity of  
20 the plant or plant product to be imported;

21 (2) The means of conveyance of the plant or plant product;



- 1           (3) The country, state, or locality where the plant or  
2           plant product was produced or located;
- 3           (4) The port from which the plant or plant product is to  
4           be shipped;
- 5           (5) The name of the shipper and anticipated date of  
6           arrival; and
- 7           (6) The name of the owner or the owner's agent.
- 8           (b) The person shall also submit a request to the council  
9 that shall contain:
- 10          (1) A request that the council inspect upon arrival the  
11          plants or plant products described;
- 12          (2) An agreement that the owner, owner's agent, or person  
13          importing or moving the plants or plant products shall  
14          be responsible for all costs, charges, and expenses  
15          relating to the inspection; and
- 16          (3) A waiver of all claims for damages incident to the  
17          inspection or the fumigation, disinfection,  
18          quarantine, or destruction of the plant or plant  
19          products, if any treatment is deemed necessary.
- 20          (c) Failure to submit the written request for inspection,  
21 including the agreement and waiver, shall be sufficient cause



1 for the council to revoke the permit or refuse to permit the  
2 entry of the plant or plant products into the state.

3       § -25 **Animals; prohibitions.** (a) No person shall  
4 import into, possess, or move within the state any living animal  
5 on the list of prohibited animals established under section  
6 -13(a)(1); provided that the council may bring into and  
7 maintain in the state one live, sterile brown tree snake of the  
8 male sex for the purpose of research or training of snake  
9 detector dogs, and a single government agency may bring into and  
10 maintain in the state not more than two live nonvenomous snakes  
11 of the male sex solely for the purpose of exhibition in a  
12 government zoo; provided that:

13       (1) Prior to importation, the agency presents the council  
14 with satisfactory evidence that the snakes are male;  
15 and

16       (2) The council gives written approval of the importation  
17 upon conditions deemed necessary by the council, that  
18 shall include measures to prevent the escape of the  
19 snakes, maintain continuing supervision and control by  
20 the council of any importation under this paragraph,  
21 and control the disposal and destruction of the  
22 snakes;



1 provided further that in case of the death of one or more snakes  
2 imported under this subsection, the council or government agency  
3 may import and maintain replacements pursuant to the conditions  
4 in this subsection.

5 (b) No person shall import into, possess, or move within  
6 the state any living animal:

7 (1) On the list of restricted animals under section -  
8 13(a)(2);

9 (2) On the list of conditionally approved animals under  
10 section -13(a)(3); or

11 (3) That is not listed under section -13,  
12 without a permit or in violation of the conditions of a permit  
13 issued by the council pursuant to this chapter.

14 (c) No person shall release any live aquatic life held in  
15 an aquarium or other confinement for scientific study,  
16 exhibition, display, sale, or any other purpose, into any waters  
17 of the state, except as provided in section 187A-2(4).

18 § -26 **Animals; permit application.** (a) Any person who  
19 desires to import into or move within the state an animal for  
20 which a permit is required under section -25 shall apply  
21 to the council for a permit.



1           (b) The council shall make a pre-entry assessment of an  
2 animal that is not listed under section           -13 before issuing  
3 a permit or denying entry into the state. The council may  
4 request that the applicant provide additional information, and  
5 may also request that the advisory committee establish an ad hoc  
6 committee of experts to assist the council in placing the animal  
7 on one of the animal lists under section           -13. An animal  
8 that is not listed under section           -13 shall be prohibited  
9 until the council has reviewed the characteristics of the animal  
10 and made a determination for placement on one of the lists;  
11 provided that:

12           (1) The council may issue a special permit on a case-by-  
13 case basis for the importation and possession of an  
14 animal that is not listed under section           -13, for  
15 the purpose of remediating medical emergencies or  
16 agricultural or ecological disasters, or conducting  
17 medical or scientific research in a manner that the  
18 animal will not be detrimental to agriculture, the  
19 environment, or humans if the importer of the animal  
20 can meet any conditions of the permit as determined by  
21 the council; and





1           (2) The council may issue a short-term special permit on a  
2           case-by-case basis not to exceed ninety days for the  
3           importation and possession of an animal that is not  
4           listed under section           -13, for the purpose of  
5           filming, performance, or exhibition, and upon any  
6           conditions deemed necessary by the council, if the  
7           importer can meet the conditions of the permit,  
8           including any bonding requirements that the council  
9           may impose.

10           (c) When the council suspects that the lineage of an  
11           animal is not as stated by the owner or on other official  
12           documents, the council may request the chairperson of the  
13           advisory committee to establish an ad hoc subcommittee of not  
14           less than three members with applicable expertise in vertebrate  
15           biology to determine whether an animal is a prohibited animal.

16           §   -27   **Microorganisms; prohibitions.** No person shall  
17           import into, possess, or move within the state:

18           (1) Any microorganism on the restricted list of  
19           microorganisms under section   -14(1);

20           (2) Any microbial products containing certain strains of  
21           microorganisms on the nonrestricted list of  
22           microorganisms under section   -14(3); or



1           (3) Any microbial products not listed under section       -  
2                   14,  
3 without a permit or in violation of the conditions of a permit  
4 issued by the council pursuant to this chapter.

5           §   -28   **Microorganisms; permit application.**   (a) Any  
6 person who desires to import into or move within the state a  
7 microorganism or microbial product for which a permit is  
8 required under section       -27 shall apply to the council for a  
9 permit.

10           (b) If a permit is requested for a microorganism that the  
11 council determines may directly or indirectly injure or cause  
12 damage to the agricultural, horticultural, aquacultural,  
13 livestock, or poultry industry, public health, natural resources  
14 of the state, or environment, approval of the permit application  
15 shall be subject to review by the advisory committee and the  
16 determination that the importer is able to comply with any  
17 conditions established by the council.

18           (c) If a microorganism is not listed on any microorganism  
19 list under section       -14, the council shall make a pre-entry  
20 assessment of the microorganism before issuing a permit or  
21 denying entry into the state. The council may request that the  
22 applicant provide additional information, including the proposed



1 use of the microorganism, and request that the advisory  
2 committee establish an ad hoc committee of experts to place the  
3 microorganism on one of the microorganism lists under section  
4 -14. A permit for a microorganism shall not be issued  
5 under this subsection unless the importer is able to comply with  
6 all of the conditions of the permit.

7 (d) A microorganism that is not listed under section  
8 -14 shall be prohibited until the council has reviewed the  
9 characteristics of the animal and made a determination for  
10 placement on one of the lists; provided that the council may  
11 issue an emergency permit on a case-by-case basis to a state or  
12 federal agency or state university to allow import and  
13 possession of a microorganism on the list of restricted  
14 microorganisms or an unlisted microorganism for the purpose of  
15 remediating any emergency or disaster affecting agriculture,  
16 horticulture, the environment, or animal or public health;  
17 provided further that:

18 (1) The council first obtains advice from an ad hoc  
19 committee of qualified persons established by the  
20 chairperson of the advisory committee;

21 (2) The council determines that importation in less time  
22 than is required for issuance of a permit under



1 subsection (a) or (b) is necessary to remediate the  
2 emergency or disaster; and

3 (3) The importer is able to meet the conditions  
4 established by the council.

5 § -29 **Rocks and soil.** No person shall import into the  
6 state, any soil, rocks, or any article with soil adhering  
7 thereto; provided that limited quantities of soil may be  
8 imported into the state for experimental or other scientific  
9 purposes by permit.

10 § -30 **Notification of arrival.** Any person who imports  
11 or moves any plant, plant product, plant pest, biological  
12 control organism, microorganism, article, or means of conveyance  
13 that requires a permit under this chapter or section 411 or 412  
14 of the Agricultural Risk Protection Act, shall notify the  
15 council, in writing or by electronic methods, as soon as  
16 possible after the arrival of the plant, plant product,  
17 biological control organism, microorganism, article, or means of  
18 conveyance at the port of entry and before the plant, plant  
19 product, plant pest, biological control organism, microorganism,  
20 article, or means of conveyance is moved from the port of entry.

21 § -31 **Responsibilities of passengers and crew.** (a) It  
22 shall be the responsibility of the company transporting



1 passengers and baggage to distribute, prior to debarkation of  
2 passengers and baggage, the State of Hawaii plant and animal  
3 declaration form to each passenger, officer, and crew member of  
4 any aircraft and vessel arriving from outside the state in order  
5 that the passenger, officer, or crew member can comply with the  
6 directions and requirements appearing on the plant and animal  
7 declaration form. All passengers, officers, and crew members,  
8 whether or not they are importing or moving into the state the  
9 plant, plant product, plant pest, biological control organism,  
10 microorganism, article, or means of conveyance listed on the  
11 form into the state, shall complete the declaration form, except  
12 that one adult member of a family may complete the declaration  
13 form for other family members.

14 The completed forms shall be collected by the  
15 transportation company and delivered immediately upon arrival to  
16 the inspector at the first port of entry.

17 (b) The declaration form required by subsection (a) shall  
18 include and require the person making the declaration to  
19 specify:

20 (1) The nature and quantity of any plant, plant product,  
21 biological control organism, plant pest, noxious weed,



1 animal, article, or means of conveyance proposed to be  
2 brought into state;

3 (2) The name and address of the owner or consignee; and

4 (3) The country and locality where the plant, plant  
5 product, plant pest, biological control organism,  
6 microorganism, article, or means of conveyance was  
7 grown, produced, or located.

8 (c) The officers or crew of an aircraft or vessel arriving  
9 from outside the state shall report all sightings of any plants  
10 or animals to the inspector at the first port of entry.

11 (d) No person shall conceal any of the plants, plant  
12 products, plant pests, biological control organisms,  
13 microorganisms, articles, or means of conveyance listed on a  
14 declaration form from any inspector, or to fail to present the  
15 listed item to an inspector upon arrival of the aircraft or  
16 vessel.

17 § -32 Labels for importation or intrastate movement.

18 Each article or means of conveyance in which any plant, plant  
19 product, microorganism is imported into or moved within the  
20 state shall be plainly and legibly marked, in a conspicuous  
21 manner with the following information:

22 (1) The name and address of the shipper;



- 1           (2) The name and address of the owner or owner's agent;
- 2           (3) The nature and quantity of the plant, plant product,
- 3                   or microorganism being imported or moved into the
- 4                   state;
- 5           (4) The country, state, and locality where the plant,
- 6                   plant product, or microorganism was grown, produced,
- 7                   or located; and
- 8           (5) The port from which the plant, plant product, or
- 9                   microorganism was shipped.

10           §   -33   **Intrastate movement.** (a) The council may declare  
11 the entire state, an island in the state, or a portion of an  
12 island as free or reasonably free of an invasive species. The  
13 council shall restrict the introduction and establishment of a  
14 specific invasive species in areas declared to be free or  
15 reasonably free of the invasive species.

16           (b) The council may require a plant or plant product to be  
17 accompanied by a certificate of inspection or phytosanitary  
18 treatment issued by the council prior to being moved from one  
19 island to another island within the state or from one locality  
20 to another on the same island.

21                   **PART IV.   INSPECTION, TREATMENT, AND ENFORCEMENT**



1           §   -41   **Inspection required.** No person shall move from a  
2 port of entry any imported plant, plant product, plant pest,  
3 biological control organism, microorganism, article, or means of  
4 conveyance, unless it has been inspected and authorized for  
5 entry into the state as provided in this chapter.

6           §   -42   **Plant and plant products; inspection and**  
7 **treatment.** (a) The council shall establish and maintain a  
8 program for the phytosanitary treatment of plants and plant  
9 products for shipment from one locality to another on the same  
10 island or to another island within the state, and to meet the  
11 inspection and disinfestation standards of any other state or  
12 country to which the plants or plant products are being shipped.

13           (b) The council shall certify plant and plant products  
14 that meet the phytosanitary treatment requirements for shipment  
15 from one locality to another on the same island or to another  
16 island within the state, and the import requirements of the  
17 state or foreign country of destination.

18           (c) The council shall establish fees for the certification  
19 program.

20           §   -43   **Responsibility for treatment costs.** The  
21 phytosanitary treatment of plant or plant products under this





1 part shall be conducted at the risk and at the expense of the  
2 owner or owner's agent at the time of treatment.

3       **§ -44 Commercial plant nursery certification.** (a) The  
4 council may authorize a commercial plant nursery to certify its  
5 own intrastate and interstate shipments of plants and plant  
6 products that are grown under specific conditions and subjected  
7 to the phytosanitary treatment requirements set forth in an  
8 agreement with the council.

9       (b) The council shall inspect the operations and  
10 facilities of the commercial plant nursery prior to authorizing  
11 the nursery to certify its own shipments. The council shall  
12 thereafter regularly inspect the operations and facilities of  
13 the nursery for compliance with the conditions of the agreement  
14 with the council.

15       (c) Shipments of plants or plant products accompanied by a  
16 certificate may move from one locality to another on the same  
17 island or to another island within the state without inspection  
18 at the destination.

19       (d) The council may revoke or suspend the right of a  
20 nursery to certify its plants or plant products for any  
21 unauthorized use of the certificate, for refusing the inspection  
22 of the nursery facilities, or the nonpayment of certification



1 fees. Commercial plant nursery certificates shall not be  
2 altered or misused.

3 (e) The council shall establish a fee for the inspection  
4 and authorization of a commercial plant nursery to certify its  
5 plants and plant products.

6 § -45 **Inspectors.** (a) Inspectors shall enforce this  
7 chapter and the Agricultural Risk Protection Act, as authorized  
8 by the Secretary.

9 (b) Inspectors shall be provided with suitable badges or  
10 insignia of office by the council, and shall have the power to  
11 serve and execute warrants and to issue citations for any  
12 violation of this chapter or the Agricultural Risk Protection  
13 Act, and to seize any invasive species, article, or means of  
14 conveyance found in violation of this chapter or the  
15 Agricultural Risk Protection Act.

16 § -46 **Authority to inspect; seizures and warrants.** (a)  
17 Whenever an inspector has good cause to believe this chapter or  
18 the Agricultural Risk Protection Act is being violated, the  
19 inspector as authorized by this chapter or by the Secretary  
20 under the Agricultural Risk Protection Act, may:

21 (1) Stop and inspect, without warrant, any person,  
22 article, or means of conveyance moving into the state



1 to determine whether the person, article, or means of  
2 conveyance is carrying any invasive species regulated  
3 by this chapter; and

4 (2) Stop and inspect, without warrant, any person,  
5 article, or means of conveyance moving from one island  
6 to another island within the state or from one  
7 locality to another on the same island where  
8 quarantine areas have been declared, upon probable  
9 cause to believe that the person, article, or means of  
10 conveyance is carrying any invasive species regulated  
11 by this chapter.

12 (b) An inspector may enter, with a warrant applied for and  
13 executed by the Secretary or any United States Marshal under the  
14 Agricultural Risk Protection Act, any premises to conduct any  
15 investigation or make any inspection or seizure of any invasive  
16 species, article, or means of conveyance regulated by this  
17 chapter.

18 (c) Whenever an inspector has good cause to believe that  
19 it is necessary for the protection of animal or public health,  
20 agriculture, horticulture, aquaculture, natural resources of the  
21 state, or the environment, to enter any land, building, vessel,  
22 or aircraft for the purpose of seizing, capturing, or



1 confiscating or removing any invasive species that is prohibited  
2 or restricted and without a permit, the inspector may make a  
3 complaint to the district judge in the circuit in which the  
4 violation is occurring. The district judge may issue a warrant,  
5 directed to any police officer in the circuit, directing the  
6 police officer to take sufficient aid, and accompany the  
7 inspector to the place described in the complaint to seize,  
8 capture, confiscate, or remove the invasive species under the  
9 direction of the inspector.

10 (d) An inspector may refuse entry, confiscate, or destroy  
11 any invasive species, article, or means of conveyance that is  
12 imported or moved into the state without a permit issued by the  
13 council or by the Secretary pursuant to the Agricultural Risk  
14 Protection Act.

15 § -47 **Place of inspection.** Whenever an inspector  
16 determines that it is necessary or advisable to move any article  
17 or means of conveyance to a more suitable place for inspection  
18 than the pier, airport, or any other place where the article or  
19 means of conveyance is first received or discharged, the  
20 inspector may have the article or means of conveyance moved.  
21 All costs and expenses incident to the moving or transporting of  
22 the article or means of conveyance to the place of inspection



1 shall be borne by the owner or owner's agent. If the owner,  
2 owner's agent, or transportation company requests inspection of  
3 articles or means of conveyance at locations other than where  
4 the articles or means of conveyance are first received or  
5 discharged, and the council determines that inspection at the  
6 location is appropriate, the council may require payment of  
7 costs in connection with the inspections, including overtime  
8 costs.

9 § -48 **Inspection protocols for aquatic invasive species.**

10 The council shall coordinate the establishment of inspection  
11 protocols with the United States Coast Guard to prevent the  
12 moving into the state of aquatic invasive species through the  
13 ballast water or as hull fouling organisms on vessels and  
14 floating structures, such as barges, dry docks, drilling rigs,  
15 and cranes.

16 **PART V. CONTROL AND ERADICATION**

17 § -51 **Disposition of plant pest or noxious weed. (a)**

18 Whenever an inspector considers it necessary to prevent the  
19 dissemination of a plant pest or noxious weed that is new or not  
20 known to be widely prevalent or distributed within the state,  
21 the inspector as authorized by this chapter or by the Secretary  
22 under the Agricultural Risk Protection Act, may hold, seize,



1 quarantine, treat, apply other remedial measures to, destroy, or  
2 otherwise dispose of any plant, plant product, plant pest,  
3 article, or means of conveyance that:

4 (1) Is moving into or through the state and the inspector  
5 has reason to believe that it is a plant pest or  
6 noxious weed or is infested with a plant pest or  
7 noxious weed at the time of the movement;

8 (2) Has not been maintained in compliance with a post-  
9 entry quarantine requirement required by this chapter;  
10 or

11 (3) Is the progeny of any plant, plant product, or plant  
12 pest that is moving into or through the state in  
13 violation of this chapter or the Agricultural Risk  
14 Protection Act.

15 (b) If the inspector takes any action authorized by  
16 subsection (a), any cost or expense in connection with the  
17 action shall be borne by the owner or the owner's agent.

18 (c) No plant, plant product, plant pest, article, or means  
19 of conveyance shall be destroyed, exported, or returned to the  
20 shipping point of origin if the council determines that a less  
21 drastic action is feasible and would be adequate to prevent the  
22 dissemination of any new plant pest or noxious weed.



1           §   -52   Disposition of prohibited or restricted animal.

2   (a) Any animal imported into or moved within the state in  
3 violation of this chapter shall constitute contraband and shall  
4 be seized immediately upon discovery whenever found. The  
5 council may destroy the animal, donate the animal to a  
6 government zoo, or send the animal out of the state. Any  
7 expense or loss in connection therewith shall be borne by the  
8 owner or the owner's agent.

9           (b) Whenever any animal authorized by permit under this  
10 chapter to be imported into the state escapes, or is found to be  
11 free from confinement, the council may confiscate or capture it  
12 and any of its progeny and, after five days, the council may  
13 destroy the animal, donate it to a government zoo, or send the  
14 animal out of the state, and any expense or loss in connection  
15 therewith shall be borne by the owner or the owner's agent.

16           §   -53   Inspection, quarantine, and eradication service  
17 charge. (a) The council shall prescribe and collect from any  
18 person who imports any article or means of conveyance, a service  
19 charge for invasive species inspection, quarantine, and  
20 eradication services. The council shall establish a service  
21 charge to ensure that the amount of the service charge is  
22 commensurate with the costs of inspection, quarantine, and



1 eradication services; provided that if the article is moved in  
2 any marine commercial container shipment, the service charge  
3 shall not be less than \$7 for each twenty-foot equivalent unit  
4 per container.

5 (b) Any person who imports an article or means of  
6 conveyance shall pay the service charge to the council before  
7 the article or means of conveyance is moved from a port of  
8 entry.

9 (c) If a person subject to the service charge under this  
10 section fails to pay the service charge when due, the council  
11 shall assess a late payment penalty.

12 (d) The service charges collected by the council under  
13 this section shall be deposited in the invasive species  
14 inspection, quarantine, and eradication fund established under  
15 section -81.

16 § -54 **Infestations of restricted aquatic life.** The  
17 council or its agents may seize, confiscate, or destroy, as a  
18 public nuisance, any aquatic life listed under section -13  
19 and found in any waters of the state.

20 § -55 **Infestations of noxious weeds.** (a) When the  
21 council determines that an incipient infestation of a noxious  
22 weed exists on an island declared free or reasonably free of the





1 weed, the council shall immediately conduct investigations and  
2 surveys to determine the extent of the infestation and the  
3 feasibility and practicability of eradicating the infestation.

4 (b) The council shall also conduct investigations and  
5 surveys of established widespread noxious weed infestations to  
6 determine the feasibility and practicability of controlling or  
7 eradicating those widespread infestations.

8 (c) The council shall designate noxious weeds for control  
9 or eradication and develop priorities, strategies, and action  
10 plans for the control or eradication of the designated noxious  
11 weed infestations.

12 **§ -56 Infestations of invasive animal species.** (a)  
13 When an invasive animal species not known to exist in the state  
14 is detected or intercepted, the council shall immediately  
15 conduct investigations and surveys to determine the extent of  
16 the infestation and execute a program to control the spread of  
17 or eradicate the invasive animal species.

18 (b) The council shall also conduct investigations and  
19 surveys of established widespread invasive animal species  
20 infestations to determine the feasibility and practicability of  
21 controlling or eradicating those widespread infestations.



1 (c) The council shall designate invasive animal species  
2 for control or eradication and develop priorities, strategies,  
3 and action plans for the control or eradication of the  
4 designated invasive animal species.

5 § -57 Control or eradication programs. (a) The council  
6 shall develop and implement a detailed control or eradication  
7 program for any invasive species designated as noxious weeds  
8 under to section -11 or as prohibited, restricted, or  
9 conditionally approved animals under section -13, using the  
10 best available technology in a manner consistent with state and  
11 federal law.

12 (b) When an invasive animal species not known to exist in  
13 the state is discovered or detected, or the incipient  
14 introduction or infestation of a noxious weed is discovered in  
15 an area that is free or reasonably free of the weed, the council  
16 may execute any emergency remedial measure pursuant to section  
17 -60 for the capture and disposition of the invasive animal  
18 species or the control or eradication of the incipient noxious  
19 weed introduction.

20 § -58 Control or eradication programs; notice,  
21 execution. (a) When the council determines that the control or  
22 eradication of an invasive species is practicable and feasible,



1 and has developed a control or eradication program for the  
2 designated invasive species, the council shall give at least  
3 five days' written notice to the landowner of the property and  
4 occupant of the property on which the infestations exist.  
5 Written notice shall be sent to the landowner's address last  
6 known to the council by certified mail, postage prepaid, return  
7 receipt requested. In the event that certified mail is  
8 impractical because the council, despite diligent efforts,  
9 cannot determine land ownership or because of an urgent need to  
10 initiate control or eradication measures, notice given once in a  
11 daily or weekly publication of general circulation, in the  
12 county where any action or proposed action will be taken, or  
13 notice made as otherwise provided by law, shall be deemed  
14 sufficient notice. The notice shall include all pertinent  
15 information on the infestation and shall notify the landowner  
16 and the land occupier of the procedure and methods of control or  
17 eradication to be executed.

18 (b) After giving notice pursuant to subsection (a), the  
19 council may enter into a cooperative agreement with the  
20 landowner and the land occupier for the control or eradication  
21 of the invasive species infestation. The procedures and



1 conditions for executing the cooperative agreement shall be as  
2 provided in rules adopted by the council.

3 (c) After giving notice pursuant to subsection (a), the  
4 council may entirely undertake the eradication or control  
5 program when it determines that the landowner or land occupier  
6 of the land on which the invasive species infestation is located  
7 will not benefit materially or financially by the control or  
8 eradication of the invasive species, or when the invasive  
9 species infestation is on state-owned land not leased or under  
10 the control of private interest.

11 § -59 **Entry on private property to control or eradicate**  
12 **any pests.** (a) The council shall give notice to the landowner  
13 and the occupier of any private property of its intention to  
14 enter the property for the control or eradication of an invasive  
15 species as provided in section -58(a).

16 (b) After notice as required by section -58(a), any  
17 employee of the council or any agent authorized by the council  
18 may enter at reasonable times any private property other than  
19 dwelling places to maintain an invasive species control or  
20 eradication program, being liable only for damage caused by acts  
21 beyond the scope of the person's authority, or the person's  
22 negligence, gross negligence, or intentional misconduct. If



1 entry is refused, the council employee or agent may apply to the  
2 district court in the circuit in which the property is located  
3 for a warrant to enter on the premises to effectuate the  
4 purposes of this chapter. The district court may issue a  
5 warrant directing a police officer of the circuit to assist the  
6 council employee or agent in gaining entry onto the premises  
7 during regular working hours or at other reasonable times.

8       **§ -60 Emergencies; emergency remedial measures; interim**  
9 **rules.** (a) If the council declares that an emergency exists  
10 because of the presence of an invasive species that is new or  
11 not known to be widely distributed in the state, which creates a  
12 situation that is immediately dangerous to the public health and  
13 safety, or to the ecological health of flora and fauna in the  
14 state, the council may execute any emergency remedial measures  
15 that have been adopted by rule by the council to respond to the  
16 situation.

17       (b) The council may proceed without prior notice to the  
18 owner of any private property affected to execute emergency  
19 remedial measures for the eradication of the invasive species to  
20 be effective for a period of not longer than one hundred eighty  
21 days after the discovery of the emergency situation without  
22 renewal.



1 (c) If no emergency remedial measures have been adopted by  
2 rule that can address the situation, the council may establish,  
3 implement, and enforce interim rules, which shall be effective  
4 for a period of not longer than one hundred eighty days, to:

5 (1) Hold, seize, quarantine, treat, apply other remedial  
6 measures to, destroy, or otherwise dispose of, any  
7 invasive species, articles, or means of conveyance;

8 (2) Quarantine, treat, or apply other remedial measures to  
9 any premises, that are believed to be infested with an  
10 invasive species;

11 (3) Quarantine any portion of the state in which is found  
12 any invasive species or any article or means of  
13 conveyance that the council has reason to believe is  
14 infested with an invasive species; or

15 (4) Prohibit or restrict the movement within the state of  
16 any plant, plant product, animal, article, or means of  
17 conveyance that the council has determined is  
18 necessary to prevent the dissemination of an invasive  
19 species or to eradicate the invasive species.

20 (d) If entry to private property is refused, any employee  
21 of the council or agent authorized by the council shall obtain a  
22 warrant from the district court in the circuit in which the



1 property is located to enter the property to execute any  
2 emergency remedial measures for the capture and disposition of  
3 the invasive animal species or for the control or eradication of  
4 a noxious weed.

5 (e) In emergencies where the measures being taken by the  
6 State are inadequate to eradicate an invasive species, the  
7 council may request assistance from the Secretary pursuant to  
8 the Agricultural Risk Protection Act.

9 **PART VI. CERTIFIED IMPORTERS OF MICROORGANISMS**

10 **§ -71 Importers of microorganisms; certification. (a)**

11 The council may certify an importer of microorganisms to import  
12 and possess microorganisms other than microorganisms on the  
13 lists of restricted or nonrestricted microorganisms listed  
14 pursuant to section -14, provided that:

- 15 (1) The importation and possession is for medical or  
16 scientific purposes;
- 17 (2) The microorganisms are contained in a laboratory or  
18 other contained system approved by the council;
- 19 (3) The microorganisms are used in a manner that will not  
20 be detrimental to the agricultural, horticultural,  
21 aquacultural, livestock, or poultry industry, public



1 health, natural resources of the state, or the  
2 environment; and

3 (4) The importer is able to meet any conditions  
4 established by the council, as further verified  
5 through site inspection by the council.

6 (b) The importation of microorganisms by a certified  
7 importer of microorganisms other than those listed in the  
8 importer's certificate or for uses other than specified for each  
9 type of microorganism listed in the certificate shall be  
10 pursuant to sections -22 and -23.

11 (c) A certified importer importing microorganisms pursuant  
12 to a certificate shall comply with the provisions of part II.

13 § -72 Certificate. (a) An importer requesting  
14 certification under this part shall submit an application to the  
15 council providing the information required by rules of the  
16 council.

17 (b) The council shall establish a schedule of fees to be  
18 charged for the processing of an application, the issuance of a  
19 certificate, and for any inspection of facilities related to the  
20 certificate. Fees may vary according to the type of  
21 certification issued and the costs incurred for inspection.





1           (c) A certificate issued under this part shall be valid  
2 for not more than two years from the date of issuance. A  
3 certified importer may reapply for certification pursuant to  
4 subsection (a).

5           § -73 **Suspension or revocation of certificate.** Any  
6 certificate issued pursuant to this part may be suspended or  
7 revoked by the council, after hearing, for violation of any  
8 certificate requirement or condition or any provision of this  
9 chapter or rule adopted under this part. Any order made by the  
10 council for the suspension or revocation of a certificate shall  
11 be in writing and shall set forth the reasons for the suspension  
12 or revocation. The action of the council in suspending or  
13 revoking a certificate may be reviewed in the manner provided in  
14 chapter 91.

15           § -74 **Summary suspension.** (a) Notwithstanding any law  
16 to the contrary, the council shall suspend the certificate of an  
17 importer, subject to subsequent notice and hearing or other  
18 adequate procedures, upon the council's determination that there  
19 is an impending danger of escape or release of, or contamination  
20 from or exposure to microorganisms imported under the importer's  
21 certificate so as to present a threat to:

22           (1) Public health or safety;



1           (2) Animal health;  
2           (3) The agricultural, horticultural, aquacultural,  
3           livestock, or poultry industry;  
4           (4) The natural resources of the state; or  
5           (5) The environment,  
6 or in the event of a medical emergency or ecological disaster  
7 resulting from escape or release of, or contamination from or  
8 exposure to microorganisms imported pursuant to the importer's  
9 certificate.

10           (b) The summary suspension of an importer's certificate  
11 shall be for a period not to exceed twenty days. The council  
12 shall give notice at the time of the suspension of the  
13 importer's certificate for a hearing on the extending of the  
14 suspension or revocation of the certificate. The hearing shall  
15 be scheduled prior to the expiration of the twenty-day period of  
16 summary suspension unless the importer submits a request for a  
17 reasonable continuance to adequately prepare a defense.

18           (c) The certificate of an importer who continues the  
19 certified activity while the certificate has been summarily  
20 suspended shall be permanently revoked and the importer shall be  
21 subject to the penalties prescribed by this chapter.



1           §   -75 **Emergency remediation.** When the council orders  
2 the summary suspension of an importer's certificate as provided  
3 in section       -74, the council shall, at the expense of the  
4 importer, seize, quarantine, remediate, condemn, or destroy the  
5 imported microorganisms, any contaminated material, containment  
6 equipment, and laboratory or other contained system of the  
7 importer, as the council determines is necessary to address the  
8 threat, emergency, or disaster.

9           §   -76 **Conditions of importation under certification.**

10 (a) A certificate issued to an importer under this part is  
11 nontransferable.

12 (b) Every importer issued a certificate shall comply with  
13 the conditions of the certificate.

14 (c) An inspector may enter the premises under  
15 certification at any reasonable time to examine and inspect any  
16 microorganism, records, laboratory or other contained system  
17 approved by the council, equipment, procedures, manuals, and  
18 other related materials pertaining to the microorganism imported  
19 under the certificate, and may conduct tests, collect samples,  
20 or perform any other activity for the purpose of carrying out  
21 and effectuating the purposes of this chapter.



1           §   -77   **Certified importers of microorganisms; penalties.**

2   In addition to penalties that may be applicable under section  
3       -82, certified importers of microorganisms are subject to  
4   penalties as follows:

- 5       (1)   A certified importer of microorganisms who violates  
6           any of the provisions of parts III and VII, shall be  
7           guilty of a petty misdemeanor and, notwithstanding  
8           section 706-640, shall be subject to a fine of not  
9           less than \$1,000 and not more than \$10,000; and
- 10      (2)   A certified importer of microorganisms who  
11           intentionally imports a microorganism not allowed by  
12           the importer's certification with the intent to  
13           propagate, sell, or release the microorganism shall be  
14           guilty of a class C felony and, notwithstanding  
15           section 760-640, shall be subject to a fine of not  
16           less than \$50,000 but not more than \$200,000.

17                           **PART VII. MISCELLANEOUS PROVISIONS**

18       §   -81   **Invasive species inspection, quarantine, and**  
19   **eradication fund.** (a) There is established in the state  
20   treasury the invasive species inspection, quarantine, and  
21   eradication fund, into which shall be deposited:



- 1           (1) Legislative appropriations for inspection, quarantine,  
2           and eradication services;
- 3           (2) Service charges collected under section       -53;
- 4           (3) Fees for permits, inspections, and certifications;
- 5           (4) Fines and penalties collected for violations of this  
6           chapter;
- 7           (5) Federal funds received for inspection, quarantine, and  
8           eradication programs;
- 9           (6) All interest accrued on moneys deposited in the fund;  
10          and
- 11          (7) Any other moneys made available to the fund.
- 12          (b) The moneys in the invasive species inspection,  
13 quarantine, and eradication fund shall be expended for:
  - 14           (1) The operation of inspection, monitoring, and  
15           quarantine facilities at ports of entry;
  - 16           (2) The execution of emergency remedial measures when  
17           invasive species are detected; and
  - 18           (3) The operations of the council.

19          §   -82 Penalties. (a) Any person who violates any  
20 provision of this chapter or any rule adopted under this chapter  
21 shall be guilty of a misdemeanor and fined not less than \$100.  
22 Notwithstanding section 706-640, the maximum fine shall be



1 \$10,000. For a second offense, the person shall be fined not  
2 less than \$500 and not more than \$25,000.

3 (b) Any transportation company that violates section  
4 -22, -25, or -27 shall be guilty of a  
5 misdemeanor and fined not less than \$100. Notwithstanding  
6 section 706-640, the maximum fine shall be \$10,000. For a  
7 second offense, the company may be fined not less than \$500 and  
8 not more than \$25,000.

9 (c) Notwithstanding section 706-640:

10 (1) Any person who violates section -25(a), or  
11 intentionally imports, moves, possesses, harbors,  
12 transfers, or causes the importation of any snake or  
13 other prohibited animal seized under section -52,  
14 or whose violation involves an invasive species  
15 without a permit that is prohibited or restricted  
16 shall be guilty of a petty misdemeanor and subject to  
17 a fine of not less than \$5,000, but not more than  
18 \$20,000;

19 (2) Any person who intentionally imports, moves, harbors,  
20 or transfers with the intent to propagate, sell, or  
21 release any invasive species that is prohibited or  
22 restricted without a permit shall be guilty of a class



1 C felony and subject to a fine of not less than  
2 \$50,000, but not more than \$200,000; and

3 (3) Any person who, without a permit, conceals for the  
4 purpose of moving into the state any invasive species  
5 that is prohibited or restricted shall be guilty of a  
6 class C felony and subject to a fine of not less than  
7 \$50,000, but not more than \$200,000.

8 (d) The owner of any cargo who in violation of section -  
9 22, -25, or -27, intentionally, recklessly, or negligently  
10 imports, moves, transfers, or causes the importation of invasive  
11 species in the cargo, or in any article, or means of conveyance  
12 used to transport the cargo shall be subject to a fine of not  
13 less than \$ , but not more than \$ .

14 (e) Whenever a court sentences a person pursuant to  
15 subsection (a) or (c) for an offense that has resulted in the  
16 escape or establishment of an invasive species, and that caused  
17 the council to initiate emergency remediation measures to  
18 capture, control, or eradicate the invasive species, the court  
19 shall also require the person to pay into the invasive species  
20 inspection, quarantine, and eradication fund an amount of money  
21 to be determined in the discretion of the court upon the advice



1 of the council, based upon the cost of the execution of the  
2 emergency remedial measures.

3 (f) Any person that possesses within the state a  
4 restricted plant, plant product, plant pest, biological control  
5 organism, or microorganism without a permit issued by the  
6 council or by the Secretary pursuant to the Agricultural Risk  
7 Protection Act, and voluntarily surrenders the plant, plant  
8 product, plant pest, biological control organism, or  
9 microorganism prior to the initiation of any seizure action by  
10 the council, shall be exempt from the penalties of this  
11 section."

12 SECTION 2. Section 141-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§141-1 Duties in general. The department of agriculture  
15 shall:

16 (1) Gather, compile, and tabulate, from time to time,  
17 information and statistics concerning:

18 (A) Entomology and plant pathology: Insects, scales,  
19 blights, and diseases injurious, or liable to  
20 become injurious, to trees, plants, or other  
21 agricultural vegetation, and the ways and means  
22 of exterminating pests and diseases already in





1           the [~~State and preventing the introduction of~~  
2           ~~those not yet here,~~] state; and

3           (B) General agriculture: Fruits, fibres, and useful  
4           or ornamental plants and their introduction,  
5           development, care, and manufacture or  
6           exportation, with a view to introducing,  
7           establishing, and fostering new and valuable  
8           plants and industries;

9           (2) Encourage and cooperate with the agricultural  
10           extension service and agricultural experiment station  
11           of the University of Hawaii and all private persons  
12           and organizations doing work of an experimental or  
13           educational character coming within the scope of the  
14           subject matter of chapters 141, 142, and 144 to  
15           [~~150A,~~] 150, and avoid, as far as practicable,  
16           duplicating the work of those persons and  
17           organizations;

18           (3) Enter into contracts, cooperative agreements, or other  
19           transactions with any person, agency, or organization,  
20           public or private, as may be necessary in the conduct  
21           of the department's business and on such terms as the  
22           department may deem appropriate; provided that the



1 department shall not obligate any funds of the State,  
2 except the funds that have been appropriated to the  
3 department. Pursuant to cooperative agreement with  
4 any authorized federal agency, employees of the  
5 cooperative agency may be designated to carry out, on  
6 behalf of the State the same as department personnel,  
7 specific duties and responsibilities under chapters  
8 141, 142, [~~150A,~~] 150, and rules adopted pursuant to  
9 those chapters, for the effective prosecution of pest  
10 control, and animal disease control [~~, and regulation~~  
11 ~~of import into the State and intrastate movement of~~  
12 ~~regulated articles];~~

13 (4) Secure copies of the laws of other states,  
14 territories, and countries, and other publications  
15 germane to the subject matters of chapters 141, 142,  
16 and 144 to [~~150A,~~] 150, and make laws and publications  
17 available for public information and consultation;

18 [~~(5) Provide buildings, grounds, apparatus, and~~  
19 ~~appurtenances necessary for the examination,~~  
20 ~~quarantine, inspection, and fumigation provided for by~~  
21 ~~chapters 141, 142, and 144 to 150A; for the obtaining,~~  
22 ~~propagation, study, and distribution of beneficial~~



1 ~~insects, growths, and antidotes for the eradication of~~  
2 ~~insects, blights, scales, or diseases injurious to~~  
3 ~~vegetation of value and for the destruction of~~  
4 ~~injurious vegetation; and for carrying out any other~~  
5 ~~purposes of chapters 141, 142, and 144 to 150A;~~

6 ~~(6)~~ (5) Formulate and recommend to the governor and  
7 legislature additional legislation necessary or  
8 desirable for carrying out the purposes of chapters  
9 141, 142, and 144 to ~~[150A,]~~ 150;

10 ~~[(7)]~~ (6) Publish at the end of each year a report of the  
11 expenditures and proceedings of the department and of  
12 the results achieved by the department, together with  
13 other matters germane to chapters 141, 142, and 144 to  
14 ~~[150A,]~~ 150, and which the department may deem proper;

15 ~~[(8)]~~ (7) Administer a program of agricultural planning and  
16 development, including the formulation and  
17 implementation of general and special plans, including  
18 but not limited to the functional plan for  
19 agriculture; administer the planning, development, and  
20 management of the agricultural park program; plan,  
21 construct, operate, and maintain the state irrigation  
22 water systems; review, interpret, and make



1            recommendations with respect to public policies and  
2            actions relating to agricultural land and water use;  
3            assist in research, evaluation, development,  
4            enhancement, and expansion of local agricultural  
5            industries; and serve as liaison with other public  
6            agencies and private organizations for the above  
7            purposes. In the foregoing, the department of  
8            agriculture shall act to conserve and protect  
9            agricultural lands and irrigation water systems,  
10           promote diversified agriculture, increase agricultural  
11           self-sufficiency, and ensure the availability of  
12           agriculturally suitable lands."

13           SECTION 3. Section 141-2, Hawaii Revised Statutes, is  
14           amended to read as follows:

15           "**§141-2 Rules.** Subject to chapter 91 the department of  
16           agriculture shall adopt, amend, and repeal rules not  
17           inconsistent with law, for and concerning:

18           [~~(1) The introduction, transportation, and propagation of~~

19           ~~trees, shrubs, herbs, and other plants;~~

20           ~~(2) The quarantine, inspection, fumigation, disinfection,~~

21           ~~destruction, or exclusion, either upon introduction~~

22           ~~into the State, or at any time or place within the~~



1 ~~State, of any nursery stock, tree, shrub, herb, vine,~~  
2 ~~cut flower, cutting, graft, scion, bud, seed, leaf,~~  
3 ~~root, or rhizome; any nut, fruit, or vegetable; any~~  
4 ~~grain, cereal, or legume in the natural or raw state;~~  
5 ~~any moss, hay, straw, dry grass, or other forage; any~~  
6 ~~unmanufactured log, limb, or timber; or any other~~  
7 ~~plant growth or plant product unprocessed or in the~~  
8 ~~raw state; any sand, soil, or earth; any live bird,~~  
9 ~~reptile, insect, or other animal, in any stage of~~  
10 ~~development, that is in addition to the so-called~~  
11 ~~domestic animals, which are provided for in section~~  
12 ~~142-2; and any box, barrel, crate, or other containers~~  
13 ~~in which the articles, substances, or objects have~~  
14 ~~been transported or contained, and any packing~~  
15 ~~material used in connection therewith, which is or may~~  
16 ~~be diseased or infested with insects or likely to~~  
17 ~~assist in the transmission or dissemination of any~~  
18 ~~insect or plant disease injurious, harmful, or~~  
19 ~~detrimental, or likely to become injurious, harmful,~~  
20 ~~or detrimental to the agricultural or horticultural~~  
21 ~~industries or the forests of the State, or which is or~~  
22 ~~may be in itself injurious, harmful, or detrimental to~~



1           ~~the same (included therein may be rules governing the~~  
2           ~~shipping of any of the articles, substances, or~~  
3           ~~objects enumerated above in this section between~~  
4           ~~different localities on any one of the islands within~~  
5           ~~the State);~~

6           ~~(3) The prohibition of importation into the State, from~~  
7           ~~any or all foreign countries, or from other parts of~~  
8           ~~the United States, or the shipment from one island~~  
9           ~~within the State to another island therein, or the~~  
10           ~~transportation from one part or locality of any island~~  
11           ~~to another part or locality of the same island, of any~~  
12           ~~specific article, substance, or object or class of~~  
13           ~~articles, substances or objects, among those~~  
14           ~~enumerated above in this section, which is diseased or~~  
15           ~~infested with insects or likely to assist in the~~  
16           ~~transmission or dissemination of any insect or plant~~  
17           ~~disease injurious, harmful, or detrimental or likely~~  
18           ~~to be injurious, harmful, or detrimental to the~~  
19           ~~agricultural or horticultural industries, or the~~  
20           ~~forests of the State, or which is or may be in itself~~  
21           ~~injurious, harmful, or detrimental to the same;~~



1       ~~(4)]~~ (1) The manner in which agricultural product  
2                   promotion and research activities may be undertaken,  
3                   after coordinating with the agribusiness development  
4                   corporation~~[-]~~; and

5       (2) The advertising of fresh fruit, fresh vegetables, or  
6                   coffee, including a requirement for specifying size,  
7                   grade, geographic origin, or quality, in conjunction  
8                   with price.

9       The department shall consult with appropriate state and  
10      federal agencies and with appropriate industry or trade  
11      organizations in establishing rules to protect the interest of  
12      the general public.

13       All rules adopted under this section shall have the force  
14      and effect of law."

15       SECTION 4. Section 183D-35, Hawaii Revised Statutes, is  
16      amended by amending subsection (a) to read as follows:

17       "(a) Any responsible resident of good character who is a  
18      holder of the license defined in section 183D-34 may bring  
19      within the [~~State~~] state and have the custody of, for the  
20      purpose of conducting a private and commercial shooting  
21      preserve, domestication, propagation, or selling, as provided in



1 this chapter, any game bird, except those prohibited by [~~section~~  
2 ~~150A-6.~~] chapter \_\_\_\_\_."

3 SECTION 5. Section 514A-82.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Whenever the bylaws do not forbid apartment owners from  
6 keeping animals as pets in their apartments, the bylaws shall not  
7 forbid the tenants of the apartment owners from keeping pets in  
8 the apartments rented or leased from the owners; provided that:

9 (1) The apartment owner agrees in writing to allow the  
10 apartment owner's tenant to keep a pet in the  
11 apartment;

12 (2) The tenants may keep only those types of pets which  
13 may be kept by apartment owners;

14 (3) The bylaws may allow each owner or tenant to keep only  
15 one pet in the apartment;

16 (4) The animals shall not include those described as pests  
17 [~~under section 150A-2,~~] or animals prohibited from  
18 importation under [~~section 141-2, 150A-5, or 150A-6;~~]  
19 chapter \_\_\_\_\_;

20 (5) The bylaws may include reasonable restrictions or  
21 prohibitions against excessive noise or other problems  
22 caused by pets on the property; and





1           (6) The bylaws may reasonably restrict or prohibit the  
2           running of pets at large in the common areas of the  
3           property."

4           SECTION 6. Section 514B-156, Hawaii Revised Statutes, is  
5           amended by amending subsection (c) to read as follows:

6           "(c) The bylaws may include reasonable restrictions or  
7           prohibitions against excessive noise or other problems caused by  
8           pets on the property and the running of pets at large in the  
9           common areas of the property. No animals described as pests  
10          ~~[under section 150A-2,]~~ or animals prohibited from importation  
11          under ~~[section 141-2, 150A-5, or 150A-6]~~ chapter shall be  
12          permitted."

13          SECTION 7. Section 141-3, Hawaii Revised Statutes, is  
14          repealed.

15          ~~["§141-3 Designation of pests; control or eradication of~~  
16          ~~pests; emergency power. (a) The department of agriculture~~  
17          ~~shall designate the coqui frog as a pest. All other pest~~  
18          ~~designations shall be established by rule, including the~~  
19          ~~criteria and procedures for the designation of pests for control~~  
20          ~~or eradication.~~

21          ~~(b) The department of agriculture shall, so far as~~  
22          ~~reasonably practicable, assist, free of cost to individuals, in~~



1 ~~the control or eradication of insects, mites, diseases, noxious~~  
2 ~~weeds, or other pests injurious to the environment or vegetation~~  
3 ~~of value; and in the investigation, suppression, and eradication~~  
4 ~~of contagious, infectious, and communicable diseases among~~  
5 ~~domestic animals; and shall in like manner distribute to points~~  
6 ~~where needed, beneficial insects, or pathogens and other~~  
7 ~~antidotes for the control of insects, mites, diseases, or other~~  
8 ~~pests injurious to the environment or vegetation of value, and~~  
9 ~~for the control or eradication of vegetation of a noxious~~  
10 ~~character.~~

11 ~~(c) Notwithstanding subsection (a), if the department~~  
12 ~~finds the incipient infestation of a pest that has an adverse~~  
13 ~~effect on the environment or that is injurious or deleterious or~~  
14 ~~that is likely to become injurious or deleterious to the~~  
15 ~~agricultural, horticultural, aquacultural, or livestock~~  
16 ~~industries of the State without immediate action, it may proceed~~  
17 ~~without prior notice or upon a minimum of forty eight hours~~  
18 ~~notice and hearing to adopt an emergency rule for the~~  
19 ~~eradication of the pest to be effective for a period of not~~  
20 ~~longer than one hundred eighty days without renewal." ]~~

21 SECTION 8. Section 141-3.5, Hawaii Revised Statutes, is  
22 repealed.



1           ~~["§141-3.5] Control or eradication programs. (a) The~~  
2   ~~department of agriculture shall develop and implement a detailed~~  
3   ~~control or eradication program for any pest designated in~~  
4   ~~section 141-3, using the best available technology in a manner~~  
5   ~~consistent with state and federal law.~~

6           ~~(b) For any pest designated by emergency rule as provided~~  
7   ~~in section 141-3, the department shall implement an emergency~~  
8   ~~program using the best available technology in a manner~~  
9   ~~consistent with state and federal law."]~~

10           SECTION 9. Section 141-3.6, Hawaii Revised Statutes, is  
11   repealed.

12           ~~["§141-3.6 Entry of private property to control or~~  
13   ~~eradicate any pests. (a) The department of agriculture shall~~  
14   ~~give at least five days notice to the landowner and the occupier~~  
15   ~~of any private property of its intention to enter the property~~  
16   ~~for the control or eradication of a pest. Written notice sent~~  
17   ~~to the landowner's last known address by certified mail, postage~~  
18   ~~prepaid, return receipt requested, shall be deemed sufficient~~  
19   ~~notice. In the event that certified mail is impractical because~~  
20   ~~the department, despite diligent efforts, cannot determine land~~  
21   ~~ownership or because of urgent need to initiate control or~~  
22   ~~eradication measures, notice given once in a daily or weekly~~



1 ~~publication of general circulation, in the county where any~~  
2 ~~action or proposed action will be taken, or notice made as~~  
3 ~~otherwise provided by law, shall be deemed sufficient notice.~~  
4 ~~The notice shall set forth all pertinent information on the pest~~  
5 ~~control program and the procedures and methods to be used for~~  
6 ~~control or eradication.~~

7 ~~(b) After notice as required by subsection (a), any member~~  
8 ~~of the department or any agent authorized by the department may~~  
9 ~~enter at reasonable times any private property other than~~  
10 ~~dwelling places to maintain a pest control or eradication~~  
11 ~~program, being liable only for damage caused by acts beyond the~~  
12 ~~scope of the person's authority, or the person's negligence,~~  
13 ~~gross negligence, or intentional misconduct. If entry is~~  
14 ~~refused, the department member or agent may apply to the~~  
15 ~~district court in the circuit in which the property is located~~  
16 ~~for a warrant to enter on the premises to effectuate the~~  
17 ~~purposes of this chapter. The district court may issue a~~  
18 ~~warrant directing a police officer of the circuit to assist the~~  
19 ~~department member or agent in gaining entry onto the premises~~  
20 ~~during regular working hours or at other reasonable times." ]~~

21 SECTION 10. Section 141-7, Hawaii Revised Statutes, is  
22 repealed.



1           ~~["§141-7 General penalty. (a) Any person violating any~~  
2 ~~of the provisions of chapters 141, 142, or 144 to 149A, for~~  
3 ~~which violation a penalty is not otherwise provided, or~~  
4 ~~violating any rule of the department of agriculture, or any~~  
5 ~~master of any vessel which brings into the State any article~~  
6 ~~which the department at any time shall prohibit from being~~  
7 ~~imported into the State, or the master of any vessel from which~~  
8 ~~is landed any article required in chapters 141, 142, or 144 to~~  
9 ~~149A to be inspected, before the master has received a permit to~~  
10 ~~land the articles from the department or its officer or~~  
11 ~~inspector, as provided by chapters 141, 142, and 144 to 149A,~~  
12 ~~shall be fined not more than \$500.~~

13           ~~(b) When any landowner or land occupier fails to cooperate~~  
14 ~~with the department in its pest control or eradication programs,~~  
15 ~~the department may proceed with its program at the expense of~~  
16 ~~the landowner or land occupier. Any person who violates this~~  
17 ~~chapter or any rule adopted by the department pursuant to~~  
18 ~~section 141-3 shall be fined not less than \$100 nor more than~~  
19 ~~\$500 for the first offense, and not less than \$1,000 nor more~~  
20 ~~than \$5,000 for each offense thereafter." ]~~

21           SECTION 11. Section 187A-6.5, Hawaii Revised Statutes, is  
22 repealed.





1 much thereof as may be necessary for fiscal year 2008-2009 to  
2 carry out the operations of the invasive species council,  
3 including the hiring of necessary staff.

4 The sum appropriated shall be expended by the invasive  
5 species council.

6 SECTION 17. All rights, powers, functions, and duties of  
7 the department of agriculture under chapters 150A and 152, and  
8 the department of land and natural resources under chapter 187A,  
9 part III, are transferred to the invasive species council.

10 All officers and employees whose functions are transferred  
11 by this Act shall be transferred with their functions and shall  
12 continue to perform their regular duties upon their transfer,  
13 subject to the state personnel laws and this Act.

14 No officer or employee of the State having tenure shall  
15 suffer any loss of salary, seniority, prior service credit,  
16 vacation, sick leave, or other employee benefit or privilege as  
17 a consequence of this Act, and such officer or employee may be  
18 transferred or appointed to a civil service position without the  
19 necessity of examination; provided that the officer or employee  
20 possesses the minimum qualifications for the position to which  
21 transferred or appointed; and provided that subsequent changes  
22 in status may be made pursuant to applicable civil service laws.



1           An officer or employee of the State who does not have  
2 tenure and who may be transferred or appointed to a civil  
3 service position as a consequence of this Act shall become a  
4 civil service employee without the loss of salary, seniority,  
5 prior service credit, vacation, sick leave, or other employee  
6 benefits of privileges and without the necessity of examination;  
7 provided that such officer or employee possesses the minimum  
8 qualifications for the position to which transferred or  
9 appointed.

10           If an office or position held by an officer or employee  
11 having tenure is abolished, the officer or employee shall not  
12 thereby be separated from public employment, but shall remain in  
13 the employment of the State with the same pay and classification  
14 and shall be transferred to some other office or position for  
15 which the officer or employee is eligible under the personnel  
16 laws of the State as determined by the head of the department or  
17 the governor.

18           All rules, policies, procedures, guidelines, and other  
19 material adopted by the department of agriculture to implement  
20 the provisions of chapters 150A and 152, Hawaii Revised  
21 Statutes, or adopted by the department of land and natural  
22 resources to implement the provisions of chapter 187A, part III,





1 Hawaii Revised Statutes, which are made applicable to the  
2 invasive species council by this Act, shall remain in full force  
3 and effect until amended or repealed by the invasive species  
4 council pursuant to chapter 91, Hawaii Revised Statutes. In the  
5 interim, every reference to the department of agriculture, board  
6 of agriculture, or chairperson of the board of agriculture, or  
7 the department of land and natural resources, board of land and  
8 natural resources, or chairperson of the board of land and  
9 natural resources in those rules, policies, procedures,  
10 guidelines, and other material is amended to refer to the  
11 invasive species council.

12 All appropriations, records, equipment, machines, files,  
13 supplies, contracts, books, papers, documents, maps, and other  
14 personal property heretofore made, used, acquired, or held by  
15 the department of agriculture and the department of land and  
16 natural resources relating to the functions transferred to the  
17 invasive species council shall be transferred with the functions  
18 to which they relate.

19 SECTION 18. If any part of this Act is found to be in  
20 conflict with federal requirements that are a prescribed  
21 condition for the allocation of federal funds to the State, the  
22 conflicting part of this Act is inoperative solely to the extent



1 of the conflict and with respect to the agencies directly  
 2 affected, and this finding does not affect the operation of the  
 3 remainder of this Act in its application to the agencies  
 4 concerned. The rules under this Act shall meet federal  
 5 requirements that are a necessary condition to the receipt of  
 6 federal funds by the State.

7 SECTION 19. If any provision of this Act, or the  
 8 application thereof to any person or circumstance is held  
 9 invalid, the invalidity does not affect other provisions or  
 10 applications of the Act which can be given effect without the  
 11 invalid provision or application, and to this end the provisions  
 12 of this Act are severable.

13 SECTION 20. This Act does not affect rights and duties  
 14 that matured, penalties that were incurred, and proceedings that  
 15 were begun, before its effective date.

16 SECTION 21. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 22. This Act shall take effect upon its approval;  
 19 provided that section 16 shall take effect on July 1, 2008.

20

INTRODUCED BY:


 A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and appears to be the name of a representative.


**Report Title:**

Invasive Species Council

**Description:**

Expands the duties of the Invasive Species Council to cover all quarantine, inspection, and control and eradication functions relating to invasive species; transfers departmental authority from the Department of Agriculture to the Council; appropriates funds.

