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## A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1           SECTION 1. The legislature finds that the unchecked spread  
2 of invasive species is one of the greatest threats to Hawaii's  
3 economy, natural environment, and the health and lifestyle of  
4 Hawaii's people. Invasive pests can cause millions of dollars  
5 in crop losses, the extinction of native species, the  
6 destruction of native forests, the spread of disease, and the  
7 quarantine of exported agricultural crops.

8           Despite our ongoing efforts to detect and eradicate  
9 invasive species, our fragile island ecosystems are constantly  
10 at risk from insects, disease-bearing organisms, weeds, and  
11 other invasive pests. The coqui frog, giant salvinia, miconia,  
12 ohia rust, nettle caterpillar, and little fire ant are all  
13 present in Hawaii, disrupting the delicate balance of our  
14 ecosystems, crowding out native species, and reducing the  
15 biodiversity of our islands. Other harmful species like the  
16 papaya mealybug, erythrina gall wasp, Asian citrus psyllid, and  
17 the varroa mite have the potential to devastate Hawaii's



1 environment and agriculture if allowed to become widespread and  
2 remain unchecked by natural predators.

3       The purpose of this Act is to prevent and reduce the  
4 intentional introduction and spread of invasive species by  
5 establishing severe penalties appropriate to the harm the  
6 intentional introduction and spread of pests causes to the  
7 economy, natural environment, and the health and lifestyle of  
8 Hawaii's people.

9       SECTION 2. Section 150A-14, Hawaii Revised Statutes, is  
10 amended to read as follows:

11       "**§150A-14 Penalty.** (a) Any person who violates any  
12 provision of this chapter other than sections 150A-5, 150A-6(3),  
13 and 150A-6(4) or who violates any rule adopted under this  
14 chapter other than those rules involving an animal that is  
15 prohibited or a plant, animal, or microorganism that is  
16 restricted, without a permit, shall be guilty of a misdemeanor  
17 and fined not less than \$100. The provisions of section 706-640  
18 notwithstanding, the maximum fine shall be \$10,000. For a  
19 second offense committed within five years of a prior offense,  
20 the person or organization shall be fined not less than \$500 and  
21 not more than \$25,000.



1       ~~[(b) Any person who violates section 150A-5 shall be fined~~  
2 ~~not less than \$100 and not more than \$10,000. For a second~~  
3 ~~violation committed within five years of a prior violation, the~~  
4 ~~person may be fined not less than \$500 and not more than~~  
5 ~~\$25,000.]~~

6       (b) Any transportation company that violates section  
7 150A-5 shall be guilty of a petty misdemeanor and fined not less  
8 than \$100. The provisions of section 706-640 notwithstanding,  
9 the maximum fine shall be \$10,000. For a second offense  
10 committed within five years of a prior offense, the company may  
11 be fined not less than \$500 and not more than \$25,000.

12       (c) Notwithstanding section 706-640:

13       (1) Any person or organization that violates section  
14       150A-6(3) or 150A-6(4), or owns or intentionally  
15       transports, possesses, harbors, transfers, or causes  
16       the importation of any snake or other prohibited  
17       animal seized under section 150A-7(b), or whose  
18       violation involves an animal that is prohibited or a  
19       plant, animal, or microorganism that is restricted,  
20       without a permit, shall be guilty of a misdemeanor and  
21       subject to a fine of not less than \$5,000, but not  
22       more than \$20,000; [and]



1           (2) Any person or organization who intentionally  
2           transports, harbors, or imports with the intent to  
3           propagate, sell, or release any animal that is  
4           prohibited or any plant, animal, or microorganism that  
5           is restricted, without a permit, 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[-]; and

8           (3) Any person or organization who intentionally imports,  
9           possesses, harbors, transfers, or transports,  
10           including the interisland or intraisland movement of  
11           any prohibited or restricted plant, animal, or  
12           microorganism without a permit, with the intent to  
13           propagate, sell, or release that plant, animal, or  
14           microorganism, unless otherwise allowed by law, shall  
15           be guilty of a class C felony and subject to a fine of  
16           not less than \$100,000, but not more than \$400,000.

17           (d) Whenever a court sentences a person or organization  
18           pursuant to subsection (a) or (c) for an offense which has  
19           resulted in the escape or establishment of any pest and caused  
20           the department to initiate a program to capture, control, or  
21           eradicate that pest, the court shall also require that the  
22           person or organization pay to the state general fund an amount



1 of money to be determined in the discretion of the court upon  
2 advice of the department, based upon the cost of the development  
3 and implementation of the program.

4 (e) The department may, at its discretion, refuse entry,  
5 confiscate, or destroy any prohibited articles or restricted  
6 articles that are brought into the State without a permit issued  
7 by the department, or order the return of any plant, fruit,  
8 vegetable, or any other article infested with pests to its place  
9 of origin or otherwise dispose of it or such part thereof as may  
10 be necessary to comply with this chapter. Any expense or loss  
11 in connection therewith shall be borne by the owner or the  
12 owner's agent.

13 (f) Any person or organization that voluntarily surrenders  
14 any prohibited animal or any restricted plant, animal, or  
15 microorganism without a permit issued by the department, prior  
16 to the initiation of any seizure action by the department, shall  
17 be exempt from the penalties of this section.

18 (g) For purposes of this section "intent to propagate"  
19 shall be presumed when the person or organization in question is  
20 found to possess, transport, harbor, or import:



- 1 (1) Any two or more animal specimens of the opposite sex
- 2 that are designated a pest, or are prohibited or
- 3 restricted, without a permit;
- 4 (2) Any three or more animal specimens of either sex that
- 5 are designated a pest, or are prohibited or
- 6 restricted, without a permit;
- 7 (3) Any plant or microorganism having the inherent
- 8 capability to reproduce that is restricted, without a
- 9 permit; or
- 10 (4) Any specimen that is in the process of reproduction."

11 SECTION 3. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

*[Handwritten signatures and initials including: KLF, JET, Denny Coffey, Karen Luana, Andy Evans, John M. Magro, Mary B. Lee, Jessica Wooley, and others.]*

H.B. NO.

1684

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JAN 28 2009

**Report Title:**

Invasive Species; Penalties

**Description:**

Prevents and reduces the intentional introduction and spread of invasive species by establishing severe penalties appropriate to the harm caused by the intentional introduction and spread of invasive species to the economy, natural environment, and the health and lifestyle of Hawaii's people.

