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## A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. The purpose of this Act is to address  
2 agriculture. More specifically, this Act includes the following  
3 major amendments:

4           (1) Changes the designation of the pest inspection,  
5 quarantine, and eradication service fee to a "tax" to  
6 be deposited into the pest inspection, quarantine, and  
7 eradication fund;

8           (2) Makes the department of taxation responsible for  
9 collecting that tax;

10          (3) Requires the deposit of fees and fines relating to  
11 agricultural inspections into the pest inspection,  
12 quarantine, and eradication fund; and

13          (4) Repeals the certification services revolving fund,  
14 permit revolving fund, and microorganism revolving  
15 fund and transfers moneys in those funds into the pest  
16 inspection, quarantine, and eradication fund.

17          SECTION 2. Section 150A-2, Hawaii Revised Statutes, is  
18 amended as follows:



1           1. By adding two new definitions to be appropriately  
2 inserted and to read:

3           "Cement bulk freight" means unpackaged, homogenous cement  
4 that has no mark or count and is usually free-flowing and bought  
5 and sold by weight or volume.

6           "Liquid bulk freight" means unpackaged, homogenous liquid  
7 goods that has no mark or count that is usually free-flowing and  
8 bought and sold by weight or volume, such as oil."

9           2. By amending the definition of "department" to read:

10           "Department" means the department of agriculture[-],  
11 unless otherwise specified."

12           SECTION 3. Section 150A-4.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) There is established in the state treasury the pest  
15 inspection, quarantine, and eradication fund, into which shall  
16 be deposited:

17           (1) Legislative appropriations for inspection, quarantine,  
18 and eradication services;

19           (2) [~~Service fees, charges, and penalties~~] Taxes collected  
20 under section 150A-5.3;

21           (3) Fees imposed for services pursuant to this chapter or  
22 rule adopted under this chapter;



- 1        (4) Fines for violations of this chapter;
- 2        [~~(3)~~] (5) Federal funds received for pest inspection,
- 3                quarantine, and eradication programs;
- 4        [~~(4)~~] (6) Grants and gifts;
- 5        [~~(5)~~] (7) All interest earned or accrued on moneys
- 6                deposited in the fund; and
- 7        [~~(6)~~] (8) Any other moneys made available to the fund."

8        SECTION 4. Section 150A-5.3, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10        "**§150A-5.3 Inspection, quarantine, and eradication service**

11 [~~fee and charge.~~] tax. (a) There is imposed a [fee] tax for  
 12 the inspection, quarantine, and eradication of invasive species  
 13 contained in any freight, including but not limited to marine  
 14 commercial container shipment, air freight, or any other means  
 15 of transporting freight, foreign or domestic, not including  
 16 liquid bulk freight or cement bulk freight, that is brought into  
 17 the State. The [fee] tax shall be paid by the person  
 18 responsible for paying the freight charges to the transportation  
 19 company, who shall collect the [fee] tax from the person  
 20 responsible within fifteen days of delivery of the freight to  
 21 that person and forward the payment to the department [~~at the~~  
 22 ~~port of disembarkation;~~] of taxation within forty-five days of

1 receipt; provided that the transportation company shall not be  
2 liable for any [~~fee~~] tax that is not paid by the person  
3 responsible for paying the freight charges to the transportation  
4 company.

5 The department of taxation shall [~~deposit the fee~~] transmit  
6 the taxes collected to the director of finance for deposit into  
7 the pest inspection, quarantine, and eradication fund under  
8 section 150A-4.5. Chapters 231 and 232 shall apply for the  
9 purpose of collecting the tax, enforcing payment by the person  
10 responsible for paying the tax, and appealing an assessment of  
11 the tax.

12 (b) The [~~fee~~] tax shall be assessed and collected on the  
13 net weight of the imported freight computed on the basis of 50  
14 cents for every one thousand pounds of freight brought into the  
15 State, or part thereof."

16 SECTION 5. Section 150A-21, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 ~~[+]~~§150A-21~~[+]~~ **Certification for shipment.** The department  
19 may certify as to the pest condition or post treatment of  
20 shipments when officially required. Fees may be charged for  
21 certificates in certain instances~~[-]~~; provided that the fees



1 shall be deposited into the pest inspection, quarantine, and  
2 eradication fund."

3 SECTION 6. Section 150A-31, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 ~~[-]~~§150A-31~~[+]~~ **Certificate for shipment.** The department  
6 may certify as to the pest condition of honey bee shipments when  
7 health certificates are officially required. Fees to cover the  
8 department's certification costs may be charged for health  
9 certificates as provided by rule~~[-]~~; provided that the fees  
10 shall be deposited into the pest inspection, quarantine, and  
11 eradication fund. Health certificates shall not be altered or  
12 misused."

13 SECTION 7. Section 150A-42, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) Fees may be assessed for the processing and issuance  
16 of a certificate and for inspections related to the certificate,  
17 as established by rule. Fees may vary according to the type of  
18 certification issued and the costs incurred for inspections~~[-]~~;  
19 provided that the fees shall be deposited into the pest  
20 inspection, quarantine, and eradication fund."

21 SECTION 8. Section 150A-6.7, Hawaii Revised Statutes, is  
22 repealed.



1           ~~["§150A-6.7 Permit revolving fund. (a) There is~~  
2 ~~established in the state treasury a revolving fund to be known~~  
3 ~~as the permit revolving fund to be administered by the~~  
4 ~~department. The permit revolving fund shall consist of:~~  
5           ~~(1) Legislative appropriations;~~  
6           ~~(2) User fees as authorized by rule;~~  
7           ~~(3) All interest earned on or accrued to moneys deposited~~  
8           ~~in the permit revolving fund;~~  
9           ~~(4) Grants and gifts; and~~  
10           ~~(5) Any other moneys made available to the permit~~  
11           ~~revolving fund from other sources.~~  
12           ~~(b) The department shall expend moneys in the permit~~  
13 ~~revolving fund to:~~  
14           ~~(1) Facilitate the processing and issuance of permits;~~  
15           ~~(2) Amend lists of creatures prohibited or allowed for~~  
16           ~~import;~~  
17           ~~(3) Comply with monitoring activities;~~  
18           ~~(4) Train personnel, and provide educational workshops,~~  
19           ~~materials, and equipment; and~~  
20           ~~(5) For any other purpose deemed necessary to carry out~~  
21           ~~the purposes of this part." ]~~



1 SECTION 9. Section 150A-48, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§150A-48] Microorganism import certification revolving~~  
4 ~~fund. (a) There is established in the state treasury the~~  
5 ~~microorganism import certification revolving fund which shall be~~  
6 ~~administered by the department for the purposes of this section.~~  
7 ~~The microorganism import certification revolving fund shall~~  
8 ~~consist of:~~

9 ~~(1) Legislative appropriations to the microorganism import~~  
10 ~~certification revolving fund;~~

11 ~~(2) Certification and inspection fees, as authorized by~~  
12 ~~rule;~~

13 ~~(3) All fines collected pursuant to this part;~~

14 ~~(4) Reimbursements for any costs paid by the department to~~  
15 ~~remediate any impending danger or actual emergencies~~  
16 ~~involving microorganisms imported pursuant to~~  
17 ~~certificate;~~

18 ~~(5) All interest earned on or accrued to moneys deposited~~  
19 ~~in the microorganism import certification revolving~~  
20 ~~fund;~~

21 ~~(6) Grants and gifts to the microorganism import~~  
22 ~~certification revolving fund; and~~



1       ~~(7) Any other moneys made available to the microorganism~~  
2           ~~import certification revolving fund from other~~  
3           ~~sources.~~

4       ~~(b) The balance in the microorganism import certification~~  
5 ~~revolving fund shall not exceed \$500,000. All amounts in excess~~  
6 ~~of \$500,000 shall be deposited to the credit of the state~~  
7 ~~general fund.~~

8       ~~(c) The department shall expend moneys in the~~  
9 ~~microorganism import certification revolving fund for the~~  
10 ~~development, administration, and operation of the microorganism~~  
11 ~~import certification program, including but not limited to~~  
12 ~~personnel, training, materials and equipment, compliance~~  
13 ~~monitoring activities, educational workshops for certified~~  
14 ~~importers and applicants for certification, evaluation and~~  
15 ~~remediation of impending threat or actual emergencies related to~~  
16 ~~microorganisms imported pursuant to certificate, and for any~~  
17 ~~other purpose deemed necessary to carry out the purposes of this~~  
18 ~~part.~~

19       ~~(d) The department may set fees, by rule, for educational~~  
20 ~~workshops for certified importers or applicants for~~  
21 ~~certification." ]~~





1 SECTION 10. (a) The repeal of section 150A-6.7 and  
2 section 150A-48, Hawaii Revised Statutes, shall not rescind any  
3 fees authorized or imposed under those sections that would have  
4 been deposited into the permit revolving fund or the  
5 microorganism import certification revolving fund. From July 1,  
6 2010, the fees under those sections shall be deposited into the  
7 pest inspection, quarantine, and eradication fund.

8 (b) On the effective date of this Act:

9 (1) All moneys in the permit revolving fund and  
10 microorganism import certification revolving fund on  
11 June 30, 2010, shall be transferred to the pest  
12 inspection, quarantine, and eradication fund;

13 (2) All unpaid obligations of the permit revolving fund  
14 and microorganism import certification revolving fund  
15 on June 30, 2010, shall become payable from the pest  
16 inspection, quarantine, and eradication fund; and

17 (3) The permit revolving fund and microorganism import  
18 certification revolving fund shall cease to exist.

19 SECTION 11. (a) Between July 1, 2010 and September 30,  
20 2010, the department of agriculture shall adopt new or amend  
21 existing rules to impose or increase fees authorized to be  
22 charged under chapter 150A, Hawaii Revised Statutes, without



1 regard to the public notice and public hearing requirements of  
2 section 91-3, Hawaii Revised Statutes, the small business impact  
3 review requirements of chapter 201M, Hawaii Revised Statutes, or  
4 the limit on fee increases under section 92-28, Hawaii Revised  
5 Statutes. The department shall set the fees at amounts intended  
6 to generate, together with the pest inspection, quarantine, and  
7 eradication tax, sufficient revenues to pay the operation and  
8 maintenance costs of implementing the agriculture inspection and  
9 biosecurity programs of chapter 150A, Hawaii Revised Statutes,  
10 and central services and departmental administrative expense  
11 assessments of section 36-27 and section 36-30, Hawaii Revised  
12 Statutes.

13 (b) If, by September 30, 2010, the department of  
14 agriculture has not complied with subsection (a), then the fee  
15 charged for each inspection conducted under authority of chapter  
16 150A shall be \$ commencing October 1, 2010.

17 (c) Any subsequent amendments to the rules adopted or  
18 amended pursuant to subsection (a) or the fees established under  
19 subsection (b) shall be subject to all applicable provisions of  
20 chapter 91, chapter 201M, and section 92-28, Hawaii Revised  
21 Statutes.

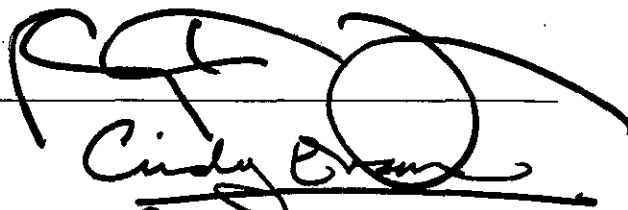
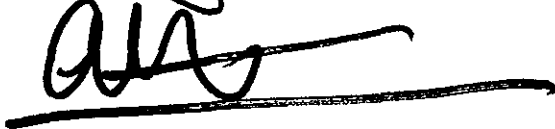
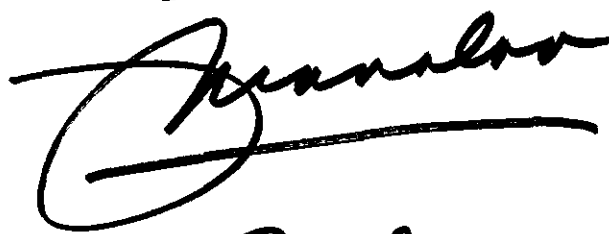
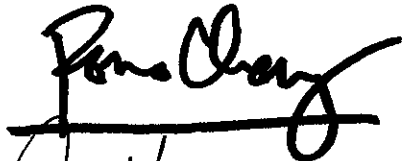

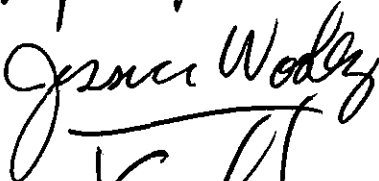

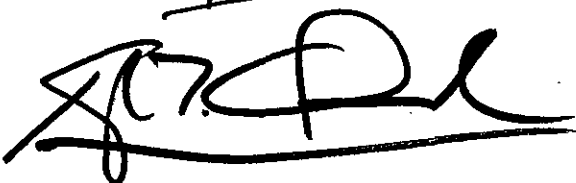


1 SECTION 12. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect on July 1, 2010.

4

INTRODUCED BY:

JAN 21 2010



**Report Title:**

Pest Inspection, Quarantine, and Eradication Service Tax

**Description:**

Makes various amendments to the agricultural inspection and biosecurity laws, including the following: (1) changes the designation of the pest inspection, quarantine, and eradication service fee to a "tax", (2) makes the department of taxation responsible for collecting that tax, (3) requires the deposit of fees and fines relating to agricultural inspections into the pest inspection, quarantine, and eradication fund, and (4) repeals the certification services revolving fund, permit revolving fund, and microorganism revolving fund and transfers the moneys in those funds into the pest inspection, quarantine, and eradication fund.

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

