
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) Exempts aggregate bulk freight, cement bulk freight,
5 coal bulk freight, and liquid bulk freight from the
6 pest inspection, quarantine, and eradication service
7 fee;
- 8 (2) Clarifies and increases the purposes for which funds
9 may be expended from the pest inspection, quarantine,
10 and eradication fund;
- 11 (3) Requires the deposit of fees and fines relating to
12 agricultural inspections into the pest inspection,
13 quarantine, and eradication fund; and
- 14 (4) Repeals the permit revolving fund and microorganism
15 revolving fund and transfers moneys in those funds
16 into the pest inspection, quarantine, and eradication
17 fund.



1 SECTION 2. Chapter 150A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and read as follows:

4 "§150A- Failure to pay or remit the inspection
5 quarantine, and eradication service fee; fines. (a) The
6 following fines shall be imposed for failure to pay, bill, or
7 remit the inspection, quarantine, and eradication service fee as
8 provided for in section 150A-5.3:

9 (1) A person responsible for paying the freight charges to
10 the transportation company who does not pay the fee
11 shall be assessed a fine of \$ _____ for every one
12 thousand pounds of freight or part thereof; and

13 (2) A transportation company that does not:
14 (A) Bill the fee to the person responsible for paying
15 the freight charges to the transportation company
16 within fifteen days of the delivery of the
17 freight; or

18 (B) Remit the fee to the department within forty-five
19 days of collecting the fee from the person
20 responsible for paying the freight charges to the
21 transportation company,



1 shall pay a fine of \$ for every one thousand
2 pounds of freight or part thereof.

3 (b) All fines shall be paid to the department and
4 deposited into the pest inspection, quarantine, and eradication
5 fund under section 150A-4.5."

6 SECTION 3. Section 150A-2, Hawaii Revised Statutes, is
7 amended by adding four new definitions to be appropriately
8 inserted and to read:

9 "Aggregate bulk freight" means man-made, unpackaged, pre-
10 processed, inspected and certified, homogenous particulate
11 material used in construction, without mark or count and usually
12 free-flowing, bought and sold by weight or volume, such as clean
13 sand, gravel, crushed stone, slag, recycled concrete, and
14 geosynthetic aggregates.

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

18 "Coal bulk freight" means unpackaged, homogenous coal,
19 without mark or count and usually free-flowing, bought and sold
20 by weight or volume, used as a fuel.



1 "Liquid bulk freight" means unpackaged, homogenous liquid
2 goods, without mark or count, that are usually free-flowing
3 bought and sold by weight or volume, such as oil, or other
4 complex mixture of petroleum hydrocarbons, bituminous liquids
5 such as asphalt, gasoline, and fuel oils."

6 SECTION 4. Section 150A-4.5, Hawaii Revised Statutes, is
7 amended to read as follows:

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

- 11 (1) Legislative appropriations for inspection, quarantine,
12 biosecurity, and eradication services;
- 13 (2) Service fees, charges, and penalties collected under
14 section 150A-5.3[+] and section 150A-23;
- 15 (3) Fees imposed for services pursuant to this chapter or
16 rule adopted under this chapter;
- 17 (4) Fines for violations of this chapter;
- 18 [(-3)] (5) Federal funds received for biosecurity, pest
19 inspection, control, management, quarantine, and
20 eradication programs;
- 21 [(-4)] (6) Grants and gifts;



1 ~~[(5)]~~ (7) All interest earned or accrued on moneys
2 deposited in the fund; and
3 ~~[(6)]~~ (8) Any other moneys made available to the fund.
4 (b) The moneys in the pest inspection, quarantine, and
5 eradication fund shall be expended by the department for the
6 operation of pest inspection, quarantine, eradication,
7 biosecurity, and monitoring programs, related facilities, ~~[and]~~
8 training and education of inspectors and agricultural industry,
9 permit and certificate holders and the general public, the
10 execution of emergency remedial measures when pests are detected
11 in the course of inspection and quarantine activities by the
12 department[-], and for any other purposes deemed necessary to
13 carry out the purposes of this part. In addition, the moneys
14 shall be expended to facilitate the processing and issuance of
15 permits and microorganism certificates, the operation,
16 activities and monitoring of permitted and certified plants,
17 animals and microorganisms."

18 SECTION 5. Section 150A-5.3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§150A-5.3 Inspection, quarantine, and eradication service**
21 **fee and charge.** (a) There is imposed a fee for the inspection,



1 quarantine, and eradication of invasive species contained in any
2 freight, including but not limited to marine commercial
3 container shipment, air freight, or any other means of
4 transporting freight, foreign or domestic, not including
5 aggregate bulk freight, cement bulk freight, coal bulk freight,
6 or liquid bulk freight, that is brought into the [State.] state.
7 The transportation company shall bill the fee to the person
8 responsible for paying the freight charges to the transportation
9 company within fifteen days of the delivery of the freight. The
10 fee shall be paid by the person responsible for paying the
11 freight charges to the transportation company [~~who~~] within
12 forty-five days of receipt of the bill. The transportation
13 company shall collect the fee from the person responsible and
14 forward the payment to the department at the port of
15 disembarkation [~~+~~] within forty-five days of receipt of the fee;
16 provided that the transportation company shall not be liable for
17 any fee that is not paid by the person responsible for paying
18 the freight charges to the transportation company.

19 The department shall deposit the fee into the pest
20 inspection, quarantine, and eradication fund under section 150A-
21 4.5.



1 (b) The fee shall be assessed and collected on the net
2 weight of the imported freight computed on the basis of 50 cents
3 for every one thousand pounds of freight brought into the
4 [~~State,~~] state, or part thereof."

5 SECTION 6. Section 150A-21, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+] §150A-21 [+] Certification for shipment. The
8 department may certify as to the pest condition or post
9 treatment of shipments when officially required. Fees may be
10 charged for certificates in certain instances [-]; provided that
11 the fees shall be deposited into the pest inspection,
12 quarantine, and eradication fund."

13 SECTION 7. Section 150A-23, Hawaii Revised Statutes is
14 amended to read as follows:

15 "[+] §150A-23 [+] Nursery stock certificate. The department
16 may issue and authorize the use of nursery stock certificates by
17 any shipper complying with its regulation for nursery
18 inspection. Shipments accompanied by these certificates may
19 move to other localities within the county or to other counties
20 without inspection at destination. Nursery stock certificates
21 may be issued for interstate shipments. Fees may be charged for



1 nursery certification~~[-]~~ and shall be deposited into the pest
2 inspection, quarantine, and eradication fund. Nursery stock
3 certificates shall not be altered or misused.

4 The department may revoke or suspend the right to use any
5 nursery stock certificate which is issued to any person who
6 fails to comply with requirements for their use."

7 SECTION 8. Section 150A-31, Hawaii Revised Statutes, is
8 amended to read as follows:

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

17 SECTION 9. Section 150A-42, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Fees may be assessed for the processing and issuance
20 of a certificate and for inspections related to the certificate,
21 as established by rule. Fees may vary according to the type of



1 certification issued and the costs incurred for inspections[-];
2 provided that the fees shall be deposited into the pest
3 inspection, quarantine, and eradication fund."

4 SECTION 10. Section 150A-6.7, Hawaii Revised Statutes, is
5 repealed.

6 [~~"§150A-6.7 Permit revolving fund. (a) There is~~
7 ~~established in the state treasury a revolving fund to be known~~
8 ~~as the permit revolving fund to be administered by the~~
9 ~~department. The permit revolving fund shall consist of:~~

- 10 ~~(1) Legislative appropriations;~~
11 ~~(2) User fees as authorized by rule;~~
12 ~~(3) All interest earned on or accrued to moneys deposited~~
13 ~~in the permit revolving fund;~~
14 ~~(4) Grants and gifts; and~~
15 ~~(5) Any other moneys made available to the permit~~
16 ~~revolving fund from other sources.~~

17 ~~(b) The department shall expend moneys in the permit~~
18 ~~revolving fund to:~~

- 19 ~~(1) Facilitate the processing and issuance of permits;~~
20 ~~(2) Amend lists of creatures prohibited or allowed for~~
21 ~~import;~~



- 1 ~~(3) Comply with monitoring activities;~~
- 2 ~~(4) Train personnel, and provide educational workshops,~~
- 3 ~~materials, and equipment; and~~
- 4 ~~(5) For any other purpose deemed necessary to carry out~~
- 5 ~~the purposes of this part."]~~

6 SECTION 11. Section 150A-48, Hawaii Revised Statutes, is
7 repealed.

8 ["~~§150A-48~~ ~~Microorganism import certification revolving~~
9 ~~fund.~~ (a) ~~There is established in the state treasury the~~
10 ~~microorganism import certification revolving fund which shall be~~
11 ~~administered by the department for the purposes of this section.~~
12 ~~The microorganism import certification revolving fund shall~~
13 ~~consist of:~~

- 14 ~~(1) Legislative appropriations to the microorganism import~~
- 15 ~~certification revolving fund;~~
- 16 ~~(2) Certification and inspection fees, as authorized by~~
- 17 ~~rule;~~
- 18 ~~(3) All fines collected pursuant to this part;~~
- 19 ~~(4) Reimbursements for any costs paid by the department to~~
- 20 ~~remediate any impending danger or actual emergencies~~



- 1 ~~involving microorganisms imported pursuant to~~
2 ~~certificate;~~
- 3 ~~(5) All interest earned on or accrued to moneys deposited~~
4 ~~in the microorganism import certification revolving~~
5 ~~fund;~~
- 6 ~~(6) Grants and gifts to the microorganism import~~
7 ~~certification revolving fund; and~~
- 8 ~~(7) Any other moneys made available to the microorganism~~
9 ~~import certification revolving fund from other~~
10 ~~sources.~~
- 11 ~~(b) The balance in the microorganism import certification~~
12 ~~revolving fund shall not exceed \$500,000. All amounts in excess~~
13 ~~of \$500,000 shall be deposited to the credit of the state~~
14 ~~general fund.~~
- 15 ~~(c) The department shall expend moneys in the~~
16 ~~microorganism import certification revolving fund for the~~
17 ~~development, administration, and operation of the microorganism~~
18 ~~import certification program, including but not limited to~~
19 ~~personnel, training, materials and equipment, compliance~~
20 ~~monitoring activities, educational workshops for certified~~
21 ~~importers and applicants for certification, evaluation and~~



1 ~~remediation of impending threat or actual emergencies related to~~
2 ~~microorganisms imported pursuant to certificate, and for any~~
3 ~~other purpose deemed necessary to carry out the purposes of this~~
4 ~~part.~~

5 ~~(d) The department may set fees, by rule, for educational~~
6 ~~workshops for certified importers or applicants for~~
7 ~~certification."]~~

8 SECTION 12. (a) The repeal of section 150A-6.7 and
9 section 150A-48, Hawaii Revised Statutes, shall not rescind any
10 fees authorized or imposed under those sections that would have
11 been deposited into the permit revolving fund or the
12 microorganism import certification revolving fund. From July 1,
13 2010, the fees under those sections shall be deposited into the
14 pest inspection, quarantine, and eradication fund.

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

16 (1) All moneys in the permit revolving fund and
17 microorganism import certification revolving fund on
18 June 30, 2010, shall be transferred to the pest
19 inspection, quarantine, and eradication fund;

20 (2) All unpaid obligations of the permit revolving fund
21 and microorganism import certification revolving fund



1 on June 30, 2010, shall become payable from the pest
2 inspection, quarantine, and eradication fund; and

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

5 SECTION 13. (a) Between July 1, 2010 and September 30,
6 2010, the department of agriculture shall adopt new or amend
7 existing rules to impose or increase fees authorized to be
8 charged under chapter 150A, Hawaii Revised Statutes, without
9 regard to the public notice and public hearing requirements of
10 section 91-3, Hawaii Revised Statutes, the small business impact
11 review requirements of chapter 201M, Hawaii Revised Statutes, or
12 the limit on fee increases under section 92-28, Hawaii Revised
13 Statutes. The department shall set the fees at amounts intended
14 to generate, together with the pest inspection, quarantine, and
15 eradication fee, sufficient revenues to pay the operation and
16 maintenance costs of implementing the agriculture inspection and
17 biosecurity programs of chapter 150A, Hawaii Revised Statutes,
18 and central services and departmental administrative expense
19 assessments of section 36-27 and section 36-30, Hawaii Revised
20 Statutes.



1 (b) If, by September 30, 2010, the department of
2 agriculture has not complied with subsection (a), then the fee
3 charged for each inspection or certification conducted under
4 authority of chapter 150A shall be as follows commencing October
5 1, 2010:

6 (1) A fee for inspection, safeguarding, witnessing
7 departure, witnessing treatment, or certification
8 requiring the services of personnel beyond regular
9 work hours, including pre-shift, post-shift, holidays,
10 or days off, and an additional fee shall be assessed,
11 which shall include applicable charges for overtime
12 wages, fixed charges for personnel services, and
13 meals;

14 (2) A fee for inspection during regular work hours
15 conducted away from the port or office shall be \$50
16 dollars per hour plus mileage reimbursement;

17 (3) An annual fee for nursery certification shall be \$100
18 dollars;

19 (4) A fee for follow-up inspections required to correct
20 deficiencies found in a certification inspection or



1 inspections to remedy out-of-state rejections shall be
2 \$50 dollars per hour plus mileage reimbursement;

3 (5) A fee for treatment or destruction of infested
4 commodities performed by the branch shall be \$50
5 dollars per parcel;

6 (6) A fee for the use of a quarantine house operated by
7 the branch shall be \$50 dollars per room per month;
8 and

9 (7) A storage fee of \$5 dollars per day shall be charged
10 for commodities stored at any branch office, forty-
11 eight hours after written notification.

12 The fee shall be deposited into the pest inspection,
13 quarantine and eradication fund.

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

19 SECTION 14. There is appropriated out of the pest
20 inspection, quarantine, and eradication fund the sum of
21 \$10,000,000, or so much thereof as may be necessary for fiscal



1 year 2010-2011, and shall be expended by the department of
2 agriculture for the purposes of the fund.

3 SECTION 15. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 16. This Act shall take effect on July 1, 2010.



Report Title:

Pest Inspection, Quarantine, and Eradication Service Fee

Description:

Makes various amendments to the agricultural inspection and biosecurity laws, including the following: (1) Exempts aggregate bulk freight, cement bulk freight, coal bulk freight, and liquid bulk freight from the Pest Inspection, Quarantine, and Eradication Service fee; (2) Increases the purposes for expenditures from the Pest Inspection, Quarantine, and Eradication Fund; (3) Requires the deposit of fees and fines relating to agricultural inspections into the Pest Inspection, Quarantine, and Eradication Fund; and (4) Repeals the Permit Revolving Fund, and Microorganism Import Certification Revolving Fund and transfers the moneys in those funds into the Pest Inspection, Quarantine, and Eradication Fund. (HB2294 HD1)

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

