
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Section 150A-5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§150A-5 Conditions of importation[+] or interisland
4 movement. The importation into the [State] state or movement
5 from one island within the state to another island therein of
6 any of the following articles, viz.:, nursery-stock, tree, shrub,
7 herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf,
8 root, or rhizome; nut, fruit, or vegetable; grain, cereal, or
9 legume in the natural or raw state; moss, hay, straw, dry-grass,
10 or other forage; unmanufactured log, limb, or timber, or any
11 other plant-growth or plant-product, unprocessed or in the raw
12 state; soil; microorganisms; live bird, reptile, nematode,
13 insect, or any other animal in any stage of development (that is
14 in addition to the so-called domestic animal, the quarantine of
15 which is provided for in chapter 142); box, vehicle, baggage, or
16 any other container in which such articles have been transported
17 or any packing material used in connection therewith, or any
18 nonagricultural article capable of harboring pests, including



1 but not limited to rocks, building materials, or furniture,

2 shall be made in the manner hereinafter set forth:

3 (1) Notification of arrival. [~~Any~~] Except as provided in
4 paragraph (2), any person who receives for transport
5 or brings or causes to be brought to the [~~State~~] state
6 or transports between islands, as freight, air
7 freight, baggage, or otherwise, for the purpose of
8 debarkation or entry therein, or as ship's stores, any
9 of the foregoing articles, shall, [~~immediately upon~~
10 the arrival thereof,] no less than twenty-four hours
11 prior to arrival thereof for an overseas or foreign
12 marine vessel, or no less than four hours prior to
13 arrival thereof for an overseas or foreign aircraft,
14 or upon request for an interisland marine vessel or
15 interisland aircraft, notify the department, in
16 writing, of the arrival, giving the waybill number,
17 container number, name and address of the consignor,
18 name and address of the consignee or the consignee's
19 agent in the [~~State,~~] state, marks, number of
20 packages, description of contents of each package,
21 country, state, or territory and locality therein of
22 the contents' origin, port at which laden, and any



1 other information that may be necessary to locate or
2 identify the same, and shall hold such articles from
3 an overseas or foreign marine vessel or aircraft at
4 the pier, airport, or any other place where they are
5 first received or discharged, in such a manner that
6 they will not spread or be likely to spread any
7 infestation or infection of insects or diseases that
8 may be present until inspection and examination can be
9 made by the inspector to determine whether or not any
10 article, or any portion thereof, is infested or
11 infected with or contains any pest. [~~The department~~
12 ~~may adopt rules to require identification of specific~~
13 ~~articles on negotiable and non negotiable warehouse~~
14 ~~receipts, bills of lading, or other documents of title~~
15 ~~for inspection of pests. In addition, the department~~
16 ~~shall adopt rules to designate restricted articles~~
17 ~~that shall require:~~
18 ~~(A) A permit from the department in advance of~~
19 ~~importation; or~~
20 ~~(B) A department letter of authorization or~~
21 ~~registration in advance of importation.]~~



1 A department inspector may order the quarantine of, or
2 hold for examination any freight, air freight, or
3 baggage, transported for the purpose of debarkation or
4 entry, or as ship's stores, when any person fails to
5 comply with any of the notification requirements of
6 this paragraph. In addition, the department shall
7 adopt rules to designate restricted articles that
8 shall require a permit from the department in advance
9 of importation and shall designate other articles that
10 shall require a department letter of authorization or
11 registration in advance of importation. The
12 restricted articles shall include [~~but not be limited~~
13 ~~to~~] certain microorganisms or living insects. Failure
14 to obtain the permit, letter of authorization, or
15 registration in advance is a violation of this
16 section;

17 (2) Individual passengers, officers, and crew.

18 (A) It shall be the responsibility of the
19 transportation company to distribute, prior to
20 the debarkation of passengers and baggage, the
21 State of Hawaii plant and animal declaration form
22 to each passenger, officer, and crew member of



1 any aircraft or vessel originating in the
2 continental United States or its possessions or
3 from any other area not under the jurisdiction of
4 the appropriate federal agency [~~in order~~] that
5 the passenger, officer, or crew member can comply
6 with the directions and requirements appearing
7 thereon. All passengers, officers, and crew
8 members, whether or not they are bringing or
9 causing to be brought for entry into the [State]
10 state the articles listed on the form, shall
11 complete the declaration, except that one adult
12 member of a family may complete the declaration
13 for other family members. Any person who defaces
14 the declaration form required under this section,
15 gives false information, fails to declare
16 restricted articles in the person's possession or
17 baggage, or fails to declare in cargo manifests
18 is in violation of this section;

19 (B) Completed forms shall be collected by the
20 transportation company and be delivered,
21 immediately upon arrival, to the inspector at the
22 first airport or seaport of arrival. Failure to



1 distribute or collect declaration forms or to
2 immediately deliver completed forms is a
3 violation of this section; and

4 (C) It shall be the responsibility of the officers
5 and crew of an aircraft or vessel originating in
6 the continental United States or its possessions
7 or from any other area not under the jurisdiction
8 of the appropriate federal agency to immediately
9 report all sightings of any plants and animals to
10 the plant quarantine branch. Failure to comply
11 with this requirement is a violation of this
12 section;

13 (3) Plant and animal declaration form. The form shall
14 include directions for declaring domestic and other
15 animals cited in chapter 142, in addition to the
16 articles enumerated in this chapter;

17 (4) Labels. Each container in which any of the above-
18 mentioned articles are imported into the [State] state
19 shall be plainly and legibly marked, in a conspicuous
20 manner and place, with the name and address of the
21 shipper or owner forwarding or shipping the same, the
22 name or mark of the person to whom the same is



1 forwarded or shipped or the person's agent, the name
2 of the country, state, or territory and locality
3 therein where the product was grown or produced[~~7~~] or
4 where the nonagricultural article was manufactured or
5 originated, and a statement of the contents of the
6 container. Upon failure to comply with this
7 paragraph, the importer or carrier [~~is~~] shall be in
8 violation of this section;

9 (5) Authority to inspect. Whenever the inspector has good
10 cause to believe that the provisions of this chapter
11 are being violated, the inspector may:

12 (A) Enter and inspect any aircraft, vessel, or other
13 carrier at any time after its arrival within the
14 boundaries of the [~~State,~~] state, whether
15 offshore, at the pier, or at the airport, for the
16 purpose of determining whether any of the
17 articles or pests enumerated in this chapter or
18 rules adopted thereto, is present;

19 (B) Enter into or upon any pier, warehouse, airport,
20 or any other place in the [~~State~~] state where any
21 of the above-mentioned articles are moved or
22 stored, for the purpose of ascertaining, by



1 inspection and examination, whether or not any of
2 the articles is infested or infected with any
3 pest or disease or contaminated with soil or
4 contains prohibited plants or animals; and
5 (C) Inspect any baggage or personal effects of
6 disembarking passengers, officers, and crew
7 members on aircraft or vessels arriving in the
8 [~~State~~] state to ascertain if they contain any of
9 the articles or pests enumerated in this chapter.

10 No baggage or other personal effects of the
11 passengers or crew members shall be released
12 until the baggage or effects have been passed.

13 Baggage or cargo inspection shall be made at the
14 discretion of the inspector, on the pier, vessel, or
15 aircraft or in any quarantine or inspection area.

16 Whenever the inspector has good cause to believe
17 that the provisions of this chapter are being
18 violated, the inspector may require that any box,
19 package, suitcase, or any other container carried as
20 ship's stores, cargo, or otherwise by any vessel or
21 aircraft moving between the continental United States
22 and Hawaii or between the Hawaiian Islands, be opened



1 for inspection to determine whether any article
2 prohibited or restricted by or any pest prohibited by
3 this chapter or by rules adopted pursuant thereto is
4 present. It is a violation of this section if any
5 prohibited article or any restricted article without a
6 permit, or any pest or any plant, fruit, or vegetable
7 infested with plant pests is found;

8 (6) Request for importation and inspection. In addition
9 to requirements of the United States customs
10 authorities concerning invoices or other formalities
11 incident to importations into the [~~State,~~] state, the
12 importer shall be required to file a written statement
13 with the department, signed by the importer or the
14 importer's agent, setting forth the importer's desire
15 to import certain of the above-mentioned articles into
16 the [~~State~~] state and:

17 (A) Giving the following additional information:

18 (i) The kind (scientific name), if applicable,
19 quantity, and description;

20 (ii) The country, state, or territory and
21 locality therein where same were grown or



- 1 produced[+] or where the nonagricultural
2 article was manufactured or originated;
- 3 (iii) Certification that all animals to be
4 imported are the progeny of captive
5 populations or have been held in captivity
6 for a period of one year immediately prior
7 to importation or have been specifically
8 approved for importation by the board;
- 9 (iv) The port from which the same were last
10 shipped;
- 11 (v) The name of the shipper; and
- 12 (vi) The name of the consignee; and
- 13 (B) Containing:
- 14 (i) A request that the department, by its duly
15 authorized agent, examine the articles
16 described;
- 17 (ii) An agreement by the importer to be
18 responsible for all costs, charges, or
19 expenses; and
- 20 (iii) A waiver of all claims for damages incident
21 to the inspection or the fumigation,
22 disinfection, quarantine, or destruction of



1 the articles, or any of them, as hereinafter
2 provided, if any treatment is deemed
3 necessary.

4 Failure or refusal to file a statement, including
5 the agreement and waiver, is a violation of this
6 section and may, in the discretion of the department,
7 be sufficient cause for refusing to permit the entry
8 of the articles into the [~~State,~~] state;

9 (7) Place of inspection. If, in the judgment of the
10 inspector, it is deemed necessary or advisable to move
11 any of the above-mentioned articles, or any portion
12 thereof, to a place more suitable for inspection than
13 the pier, airport, or any other place where they are
14 first received or discharged, the inspector is
15 authorized to do so. All costs and expenses incident
16 to the movement and transportation of the articles to
17 such place shall be borne by the importer or the
18 importer's agent. If the importer, importer's agent,
19 or transportation company requests inspection of
20 sealed containers of the above-mentioned articles at
21 locations other than where the articles are first
22 received or discharged and the department determines



1 that inspection at such place is appropriate, the
2 department may require payment of costs necessitated
3 by these inspections, including overtime costs;

- 4 (8) Disinfection or quarantine. If, upon inspection, any
5 article received or brought into the [State] state for
6 the purpose of debarkation or entry therein is found
7 to be infested or infected or there is reasonable
8 cause to presume that it is infested or infected and
9 the infestation or infection can, in the judgment of
10 the inspector, be eradicated, a treatment shall be
11 given such article. The treatment shall be at the
12 expense of the owner or the owner's agent, and the
13 treatment shall be as prescribed by the department.
14 The article shall be held in quarantine at the expense
15 of the owner or the owner's agent at a satisfactory
16 place approved by the department for a sufficient
17 length of time to determine that eradication has been
18 accomplished. If the infestation or infection is of
19 such nature or extent that it cannot be effectively
20 and completely eradicated, or if it is a potentially
21 destructive pest or it is not widespread in the
22 [~~State,~~] state, or after treatment it is determined



1 that the infestation or infection is not completely
2 eradicated, or if the owner or the owner's agent
3 refuses to allow the article to be treated or to be
4 responsible for the cost of treatment and quarantine,
5 the article, or any portion thereof, together with all
6 packing and containers, may, at the discretion of the
7 inspector, be destroyed or sent out of the [State]
8 state at the expense of the owner or the owner's
9 agent. Such destruction or exclusion shall not be
10 made the basis of a claim against the department or
11 the inspector for damage or loss incurred;

12 (9) Disposition. Upon completion of inspection, either at
13 the time of arrival or at any time thereafter should
14 any article be held for inspection, treatment, or
15 quarantine, the inspector shall affix to the article
16 or the container or to the delivery order in a
17 conspicuous place thereon, a tag, label, or stamp to
18 indicate that the article has been inspected and
19 passed. This action shall constitute a permit to
20 bring the article into the [~~State,~~] state; and

21 (10) Ports of entry. None of the articles mentioned in
22 this section shall be allowed entry into the [State]



1 state except through the airports and seaports in the
2 [State] state designated and approved by the board."

3 SECTION 2. Section 150A-14, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Any person who violates section 150A-5 shall be
6 guilty of a misdemeanor and fined not less than [~~\$100 and not~~
7 ~~more than \$10,000.] \$1,000.~~ The provisions of section 706-640
8 notwithstanding, the maximum fine shall be \$10,000. For a
9 second violation committed within five years of a prior
10 violation, the person may be fined not less than [~~\$500] \$5,000~~
11 and not more than \$25,000."

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

14 SECTION 4. This Act shall take effect on January 20, 2020.



Report Title:

Agriculture; Interisland Movement; Freight; Fine

Description:

Establishes restrictions on the interisland movement of certain agricultural and nonagricultural articles; amends requirements related to the notification of arrival, labeling, authority to inspect, and importation of certain agricultural and nonagricultural articles; establishes a misdemeanor offense and increases the fine applicable to violators. Effective January 20, 2020. (HB2948 HD1)

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

