
A BILL FOR AN ACT

RELATING TO AGRICULTURAL INSPECTIONS.

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

1 SECTION 1. The purpose of this Act is to address the issue
2 of agriculture in Hawaii. More specifically, this Act includes
3 the following 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 expands the purposes for which funds may
9 be expended from the pest inspection, quarantine, and
10 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;

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



1 (5) Directs the department of agriculture to adopt or
2 amend rules to impose or increase fees under chapter
3 150A, and sets a fee schedule to go into effect if the
4 department fails to do so in a timely manner.

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

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

13 (1) A person responsible for paying the freight charges to
14 the transportation company who fails to pay the fee;
15 or

16 (2) A transportation company that fails to:

17 (A) Bill the fee, within fifteen days of the delivery
18 of the freight, to the person responsible for
19 paying the freight charges to the transportation
20 company; or

21 (B) Remit the fee to the department within forty-five
22 days of collecting the fee from the person



1 responsible for paying the freight charges to the
2 transportation company,
3 shall pay a fine of two times the amount of the
4 inspection, quarantine, and eradication service
5 fee or \$50, whichever is higher.

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

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

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

18 "Cement bulk freight" means unpackaged, homogenous cement,
19 without mark or count, that is usually free-flowing and bought
20 and sold by weight or volume.



1 "Coal bulk freight" means unpackaged, homogenous coal,
2 without mark or count, that is usually free-flowing, bought and
3 sold by weight or volume, and used as a fuel.

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

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

11 "§150A-4.5 Pest inspection, quarantine, and eradication
12 fund. (a) There is established in the state treasury the pest
13 inspection, quarantine, and eradication fund, into which shall
14 be deposited:

- 15 (1) Legislative appropriations for biosecurity and pest
16 inspection, quarantine, and eradication services;
- 17 (2) Service fees, charges, and penalties collected under
18 section 150A-5.3 [7];
- 19 (3) Fees imposed for services pursuant to this chapter or
20 rules adopted under this chapter;
- 21 (4) Fines for violations of this chapter;



1 [~~3~~] (5) Federal funds received for biosecurity, pest
2 inspection, control, management, quarantine, and eradication
3 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 (b) The moneys in the pest inspection, quarantine, and
9 eradication fund shall be expended by the department for the
10 operation of biosecurity and pest inspection, quarantine,
11 eradication, [~~biosecurity,~~] and monitoring programs, related
12 facilities, [~~and~~] the execution of emergency remedial measures
13 when pests are detected in the course of inspection and
14 quarantine activities by the department [~~-~~], training of
15 inspectors, education of the agricultural industry, permit and
16 certificate holders, and the general public as to import
17 requirements, and for any other purposes deemed necessary to
18 carry out the purposes of this chapter. In addition, the moneys
19 shall be expended to facilitate the processing and issuance of
20 permits and microorganism import documents and for the
21 operations, activities, and monitoring of permitted and
22 certified plants, animals, and microorganisms."



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

3 "§150A-5.3 Inspection, quarantine, and eradication service
4 fee and charge. (a) There is imposed a fee for the inspection,
5 quarantine, and eradication of invasive species contained in any
6 freight, including [~~but not limited to~~] marine commercial
7 container shipment, air freight, or any other means of
8 transporting freight, foreign or domestic, but not including
9 aggregate bulk freight, cement bulk freight, coal bulk freight,
10 or liquid bulk freight, that is brought into the [~~State-~~] state.
11 The transportation company shall bill the fee to the person
12 responsible for paying the freight charges to the transportation
13 company within fifteen days of the delivery of the freight. The
14 fee shall be paid by the person responsible for paying the
15 freight charges to the transportation company [~~, who~~] within
16 forty-five days of receipt of the bill. The transportation
17 company shall collect the fee from the person responsible and
18 forward the payment to the department at the port of
19 disembarkation[+] within forty-five days of receipt of the fee;
20 provided that the transportation company shall not be liable for
21 any fee that is not paid by the person responsible for paying
22 the freight charges to the transportation company.



1 The department shall deposit the fee into the pest
2 inspection, quarantine, and eradication fund under section 150A-
3 4.5.

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

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

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

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

18 "~~[§]~~ §150A-23 ~~[§]~~ Nursery stock certificate. The department
19 may issue and authorize the use of nursery stock certificates by
20 any shipper complying with its regulation for nursery
21 inspection. Shipments accompanied by these certificates may
22 move to other localities within the county or to other counties



1 without inspection at destination. Nursery stock certificates
2 may be issued for interstate shipments. Fees may be charged for
3 nursery certification~~[-]~~ and shall be deposited into the pest
4 inspection, quarantine, and eradication fund. Nursery stock
5 certificates shall not be altered or misused.

6 The department may revoke or suspend the right to use any
7 nursery stock certificate which is issued to any person who
8 fails to comply with requirements for ~~[their]~~ use of the
9 certificate."

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

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

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

21 "(b) Fees may be assessed for the processing and issuance
22 of a certificate and for inspections related to the certificate,



1 as established by rule and shall be deposited into the pest
2 inspection, quarantine, and eradication fund. Fees may vary
3 according to the type of certification issued and the costs
4 incurred for inspections[-]; provided that the fees shall be
5 deposited into the pest inspection, quarantine, and eradication
6 fund."

7 SECTION 10. Section 150A-6.7, Hawaii Revised Statutes, is
8 repealed.

9 [~~"§150A-6.7 Permit revolving fund. (a) There is~~
10 ~~established in the state treasury a revolving fund to be known~~
11 ~~as the permit revolving fund to be administered by the~~
12 ~~department. The permit revolving fund shall consist of:~~
13 ~~(1) Legislative appropriations;~~
14 ~~(2) User fees as authorized by rule;~~
15 ~~(3) All interest earned on or accrued to moneys deposited~~
16 ~~in the permit revolving fund;~~
17 ~~(4) Grants and gifts; and~~
18 ~~(5) Any other moneys made available to the permit~~
19 ~~revolving fund from other sources.~~

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

22 ~~(1) Facilitate the processing and issuance of permits;~~



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

8 SECTION 11. Section 150A-48, Hawaii Revised Statutes, is
9 repealed.

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

- 16 ~~(1) Legislative appropriations to the microorganism import~~
17 ~~certification revolving fund;~~
- 18 ~~(2) Certification and inspection fees, as authorized by~~
19 ~~rule;~~
- 20 ~~(3) All fines collected pursuant to this part;~~
- 21 ~~(4) Reimbursements for any costs paid by the department to~~
22 ~~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~~
22 ~~remediation of impending threat or actual emergencies related to~~



1 ~~microorganisms imported pursuant to certificate, and for any~~
2 ~~other purpose deemed necessary to carry out the purposes of this~~
3 ~~part.~~

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

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

14 (b) On July 1, 2010:

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

19 (2) All unpaid obligations of the permit revolving fund
20 and microorganism import certification revolving fund
21 as of June 30, 2010, shall become payable from the
22 pest inspection, quarantine, and eradication fund; and



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

3 SECTION 13. (a) Between July 1, 2010, and September 30,
4 2010, the department of agriculture shall adopt new or amend
5 existing rules to impose or increase the fees authorized to be
6 charged under chapter 150A, Hawaii Revised Statutes, without
7 regard to the public notice and public hearing requirements of
8 section 91-3, Hawaii Revised Statutes, the small business impact
9 review requirements of chapter 201M, Hawaii Revised Statutes, or
10 the limit on fee increases under section 92-28, Hawaii Revised
11 Statutes. The department shall set the fees at amounts intended
12 to generate, together with the inspection, quarantine, and
13 eradication service fee, sufficient revenues to pay the
14 operation and maintenance costs of implementing the agriculture
15 inspection and biosecurity programs of chapter 150A, Hawaii
16 Revised Statutes, and the central services and departmental
17 administrative expense assessments of section 36-27 and section
18 36-30, Hawaii Revised Statutes.

19 (b) If, by September 30, 2010, the department of
20 agriculture has not complied with subsection (a), then the fee
21 charged for each inspection or certification conducted under



1 authority of chapter 150A shall be as follows, effective October
2 1, 2010:

- 3 (1) A fee for inspection, safeguarding, witnessing
4 departure, witnessing treatment, or certification
5 requiring the services of personnel beyond regular
6 work hours, including pre-shift, post-shift, holidays,
7 or days off shall be \$50 plus mileage reimbursement,
8 and an additional fee shall be assessed, which shall
9 include applicable charges for overtime wages, fixed
10 charges for personnel services, and meals;
- 11 (2) A fee for any inspection during regular work hours
12 conducted away from the port or office, including an
13 inspection for safeguarding, witnessing departure,
14 witnessing treatment, or certification, but excluding
15 those inspections subject to the inspection,
16 quarantine, and eradication service fee under section
17 150A-5.3, Hawaii Revised Statutes, shall be \$50 per
18 hour plus mileage reimbursement;
- 19 (3) An annual fee for nursery certification shall be \$100;
- 20 (4) A fee for follow-up inspections required to correct
21 deficiencies found in a certification inspection or



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

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

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

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

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

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

18 SECTION 14. All inspection, quarantine, and eradication
19 fees that have accrued prior to the effective date of this Act
20 and have been exempted by this Act shall be waived.

21 SECTION 15. There is appropriated out of the pest
22 inspection, quarantine, and eradication fund the sum of \$



1 or so much thereof as may be necessary for fiscal year 2010-
2 2011, and shall be expended by the department of agriculture for
3 the purposes of the fund.

4 SECTION 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect on July 1, 2010;
7 provided that sections 2 and 3, upon approval, shall take effect
8 retroactive to July 1, 2007.



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) Expands 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 in the Pest Inspection, Quarantine, and Eradication Fund. (5) Waives exempted fees. Effective July 1, 2010. (SB2523 HD1)

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

