

JAN 26 2009

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

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

6 (1) Legislative appropriations for inspection, quarantine,  
7 and eradication services;

8 (2) Service fees, charges, and penalties collected under  
9 section 150A-5.3[+] and specified penalties collected  
10 under section 150A-14;

11 (3) Federal funds received for pest inspection,  
12 quarantine, and eradication programs;

13 (4) Grants and gifts;

14 (5) All interest earned or accrued on moneys deposited in  
15 the fund; and

16 (6) Any other moneys made available to the fund."

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

1           **"§150A-5.3 Inspection, quarantine, and eradication service**  
2 **fee and charge.** There is imposed a fee for the inspection,  
3 quarantine, and eradication of invasive species contained in any  
4 freight, including but not limited to marine commercial  
5 container shipment, air freight, or any other means of  
6 transporting freight, foreign or domestic, that is brought into  
7 the State[-], provided that bulk cargo of petroleum, concrete,  
8 ethanol, naphtha, and pasteurized milk, and bulk cargo with  
9 similar or related products shall be exempt. The fee shall be  
10 paid by the person responsible for paying the freight charges to  
11 the transportation company, who shall collect the fee and  
12 forward the payment to the department at the port of  
13 disembarkation; provided that the transportation company shall  
14 not be liable for any fee that is not paid by the person  
15 responsible for paying the freight charges to the transportation  
16 company. The department shall deposit the fee into the pest  
17 inspection, quarantine, and eradication fund under section 150A-  
18 4.5.

19           ~~[The]~~Effective July 2, 2009, the fee shall be assessed on  
20 the net weight of the imported freight computed on the basis of  
21 ~~[50]~~ 20 cents for every one thousand pounds of freight in excess

1 of the first one thousand pounds of freight per shipment brought  
2 into the State, or part thereof."

3 SECTION 3. Section 150A-14, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

16 (b) Any person who violates section 150A-5 shall be fined  
17 not less than \$100 and not more than \$10,000. For a second  
18 violation committed within five years of a prior violation, the  
19 person may be fined not less than \$500 and not more than  
20 \$25,000.

21 (c) Notwithstanding section 706-640:

1           (1) Any person or organization that violates section 150A-  
2           6(3) or 150A-6(4), or owns or intentionally  
3           transports, possesses, harbors, transfers, or causes  
4           the importation of any snake or other prohibited  
5           animal seized under section 150A-7(b), or whose  
6           violation involves an animal that is prohibited or a  
7           plant, animal, or microorganism that is restricted,  
8           without a permit, shall be guilty of a misdemeanor and  
9           subject to a fine of not less than \$5,000, but not  
10          more than \$20,000; and

11          (2) Any person or organization who intentionally  
12          transports, harbors, or imports with the intent to  
13          propagate, sell, or release any animal that is  
14          prohibited or any plant, animal, or microorganism that  
15          is restricted, without a permit, shall be guilty of a  
16          class C felony and subject to a fine of not less than  
17          \$50,000, but not more than \$200,000.

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

1 person or organization pay to the [~~state-general~~] pest  
2 inspection, quarantine, and eradication fund an amount of money  
3 to be determined in the discretion of the court upon advice of  
4 the department, based upon the cost of the development and  
5 implementation of the program.

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

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

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

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

9 (h) Except for fines collected pursuant to part V of this  
10 chapter, all penalties collected under this section for  
11 violations of the provisions of this chapter shall be deposited  
12 in the pest inspection, quarantine, and eradication fund under  
13 section 150A-4.5."

14 SECTION 4. Section 706-643, Hawaii Revised Statutes, is  
15 amended by amending subsection (2) to read as follows:

16 "(2) All fines and other final payments received by a  
17 clerk or other officer of a court shall be accounted for, with  
18 the names of persons making payment, and the amount and date  
19 thereof, being recorded. All such funds shall be deposited with  
20 the director of finance to the credit of the general fund of the  
21 State. With respect to fines and bail forfeitures which are  
22 proceeds of the wildlife revolving fund under section 183D-10.5,

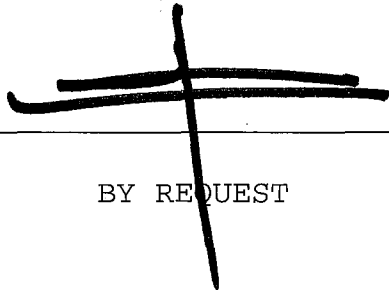
1 or the pest inspection, quarantine, and eradication fund under  
2 section 150A-4.5, the director of finance shall transmit the  
3 fines and forfeitures to [~~that~~] the appropriate fund."

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

6 SECTION 6. This Act shall take effect on July 2, 2009.

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INTRODUCED BY: \_\_\_\_\_



BY REQUEST

**Report Title:**

Invasive Species.

**Description:**

Amends chapter 150A by reducing the inspection, quarantine and eradication fee to 20 cents per thousand pounds effective July 2, 2009 and exempt from the fee the first one thousand pounds of freight in a shipment, as well as certain types of bulk cargo. Provides that certain fines collected under chapter 150A shall be deposited in the pest inspection, quarantine, and eradication fund.



SB 904

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO INVASIVE SPECIES.

PURPOSE: The purpose of this bill is to protect Hawaii's agricultural industry and environment while reducing the economic impact that inspection, quarantine, and eradication of invasive species imposes on farmers and consumers.

MEANS: Amend sections 150A-4.5, 150A-5.3, 150A-14, and 706-643(2), Hawaii Revised Statutes.

JUSTIFICATION: Act 3, Special Session 2008, was enacted despite its potential for adversely impacting the cost of living in Hawaii. While recognizing the importance of controlling the threat of invasive species, the amount and the calculation methodology of the fee represented a disproportionate increase over the previously enacted fee based on the size of the shipping container. There was also concern about the disproportionate treatment of industries and the example it might set with California as it considered establishing its own container fee.

Act 3 has been in affect since August 1, 2008. The world has changed and the cost of living is an even greater issue now. This bill seeks a compromise. Rather than continue to impose the same fee per thousand pounds of cargo, established when the State's economy was much stronger, this bill proposes to roll back the fee to 20 cents per thousand pounds in excess of the first one thousand pounds of freight per shipment. This rollback will still provide sufficient funds for the Department of Agriculture to continue its work of protecting the state from invasive species and controlling or

eradicating those that have become established.

Impact on the public: Shipping products into Hawaii is a necessity because many items cannot be produced locally. As such, it remains in the State's best interest to ensure that products can be brought into the State with minimum costs to consumers. Farmers and the general public will continue to benefit from protection and eradication efforts.

Impact on the department and other agencies: This bill will challenge the Department of Agriculture to work even closer with its industry partners so that transportation companies collect and pay the fee to the department from their customers.

GENERAL FUND: None.

OTHER FUNDS: Pest Inspection, Quarantine, and Eradication Fund.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of Agriculture, Department of Land and Natural Resources, and Department of Budget and Finance.

EFFECTIVE DATE: July 2, 2009.