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# A BILL FOR AN ACT

RELATING TO DRY BULK FREIGHT.

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

1           SECTION 1. The legislature finds that fees for the  
2 inspection of certain dry bulk freight for invasive species are  
3 unnecessary since the United States Department of Agriculture  
4 currently performs this task. Duplication of this inspection is  
5 unnecessary and not an appropriate expenditure of limited state  
6 funds and personnel resources.

7           Furthermore, this duplication violates the commerce clause  
8 and supremacy clause, and is inconsistent with federal law.  
9 Section 436 of the Federal Plant Protection Act, 7 United States  
10 Code 7756, prohibits states from regulating foreign and  
11 interstate commerce to control, eradicate, or prevent  
12 dissemination of any plant, biological control organism, plant  
13 pest, noxious weed, or plant product, with limited exceptions.  
14 This preemption was recognized in Senate Concurrent Resolution  
15 No. 72, H.D. 1, 2009, which stated that "the [Agricultural] Risk  
16 Protection Act of 2000, expressly preempted states from  
17 controlling, eradicating, or preventing the introduction or  
18 dissemination of a plant pest from any foreign origin."



1 Finally, pre-inspected and pre-processed dry bulk freight  
2 from foreign sources, specifically coal, cement, and fine and  
3 coarse aggregate are different from other types of freight.  
4 Chapter 150A, Hawaii Revised Statutes, was created to protect  
5 Hawaii from the brown tree snake, coqui frog, *Miconia calvescens*  
6 A.P. de Candolle, *Salvinia molesta* D.S. Mitchell, and other  
7 types of invasive species that travel in incoming cargo,  
8 including containerized and non-containerized general freight.  
9 Pre-inspected and pre-processed dry bulk freight from foreign  
10 sources is not a transporter for such invasive species, and to  
11 date, no such invasive species have been found in dry bulk  
12 freight.

13 Accordingly, the legislature believes that the current fee  
14 schedule should not apply to the transport of dry bulk freight  
15 from foreign sources that is inspected pursuant to the United  
16 States Department of Agriculture's Animal and Plant Health  
17 Inspection Service rules and regulations. The purpose of this  
18 Act, therefore, is to exempt dry bulk freight brought into the  
19 state from foreign sources from the inspection, quarantine, and  
20 eradication service fee and charge.

21 SECTION 2. Section 150A-5.3, Hawaii Revised Statutes, is  
22 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-~~] state, except for dry bulk freight. The fee shall  
8 be paid by the person responsible for paying the freight charges  
9 to the transportation company, who shall collect the fee and  
10 forward the payment to the department at the port of  
11 disembarkation; provided that the transportation company shall  
12 not be liable for any fee that is not paid by the person  
13 responsible for paying the freight charges to the transportation  
14 company. The department shall deposit the fee into the pest  
15 inspection, quarantine, and eradication fund under section 150A-  
16 4.5.

17           The fee shall be assessed on the net weight of the imported  
18 freight computed on the basis of 50 cents for every one thousand  
19 pounds of freight brought into the [~~State-~~] state, or part  
20 thereof.

21           Notwithstanding the foregoing no fee shall be assessed on  
22 dry bulk freight. As used in this chapter, "dry bulk freight"



1 means unpackaged, pre-processed, and pre-inspected homogenous  
2 cement, coal, and quarry products including aggregate, gravel,  
3 and sand, from foreign countries that is inspected pursuant to  
4 the United States Department of Agriculture's Animal and Plant  
5 Health Inspection Service rules and regulations, without mark or  
6 count and usually free-flowing, bought and sold by weight or  
7 volume.

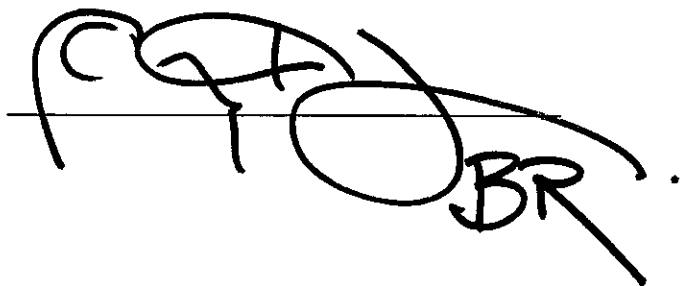
8 All fees which may have been previously due for the  
9 importation of dry bulk freight under this section are repealed  
10 as they relate to dry bulk freight."

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

13 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "R. T. A. BR". The signature is written over a horizontal line that extends from the "INTRODUCED BY:" text.

JAN 26 2010



**Report Title:**

Dry Bulk Freight; Fees

**Description:**

Exempts all dry bulk freight from the inspection, quarantine, and eradication service fee and charge.

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

