

JAN 27 2010

A BILL FOR AN ACT

RELATING TO AGRICULTURAL INSPECTION FEES.

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

1 SECTION 1. The legislature finds that Act 9, Special
2 Session Laws of Hawaii 2007, enacted the current law on service
3 fees and charges for agricultural inspection, quarantine, and
4 eradication. Act 3, Special Session Laws of Hawaii 2008,
5 amended Act 9 to clarify the liability for paying the fee as
6 well as the amount of the fee. Section 1 of Act 3 stated the
7 legislature's intent concerning the importance of adequate
8 inspections:

9 The legislature finds that the unchecked spread of
10 invasive species is the single greatest threat to Hawaii's
11 economy, natural environment, and the health and lifestyle
12 of Hawaii's people. Invasive pests can cause millions of
13 dollars in crop losses, the extinction of native species,
14 the destruction of native forests, the spread of diseases,
15 and the quarantine of exported agricultural crops.

16 Island ecosystems are particularly vulnerable to the
17 destructive power of invasive pests. In Guam, the
18 accidental introduction of the brown tree snake has



1 resulted in widespread devastation. Without natural
2 predators or competition for food, brown tree snake
3 populations have grown exponentially, causing mass
4 extinctions of endemic birds. Where there were once bird
5 songs, the silent forests of Guam are now home to as many
6 as fifteen thousand snakes per square mile. Just one new
7 pest like the brown tree snake could forever change the
8 character of the Hawaiian islands.

9 Despite our ongoing efforts to detect and eradicate
10 invasive species, our fragile island ecosystems are
11 constantly at risk from insects, disease-bearing organisms,
12 snakes, weeds, and other invasive pests.

13 Conference Committee Report No. 142-08 to Act 3 reiterated
14 the importance and urgency of protecting Hawaii's fragile
15 ecosystem and environment through assessment and collection of
16 inspection fees:

17 Your Committee on Conference recognizes the potential
18 difficulties in implementing the provision requiring the
19 transportation companies to collect the inspection fee and
20 forward the payments to DOA (Department of Agriculture).
21 To provide additional time for DOA to work with the
22 transportation companies in planning and designing a



1 feasible collection system, your Committee on Conference
2 has allowed additional time before this measure takes
3 effect.

4 In spite of the foregoing, the legislature finds that most
5 airlines are not paying the inspection, quarantine, and
6 eradication service fee and charge, and the department of
7 agriculture reportedly is having a difficult time collecting the
8 fees. In a time of depressed state tax revenue and a shrinking
9 state budget, the revenues derived from the fees would have
10 avoided the elimination of agricultural inspector positions to
11 balance the budget. The legislature finds that more stringent
12 measures are necessary to force the airlines to pay these
13 statutorily-required fees.

14 The purpose of this Act is to provide for revocation of
15 operation and use privileges of any carrier of air freight that
16 has not been issued a certificate of clearance from the
17 department of agriculture that certifies the carrier to be
18 current in the payment of the inspection, quarantine, and
19 eradication service fee and charge.

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



1 **"§150A-5.3 Inspection, quarantine, and eradication service**
2 **fee and charge.** (a) 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. The fee shall be paid by the person responsible for
8 paying the freight charges to the transportation company, who
9 shall collect the fee and forward the payment to the department
10 at the port of disembarkation; provided that the transportation
11 company shall not be liable for any fee that is not paid by the
12 person responsible for paying the freight charges to the
13 transportation company. The department shall deposit the fee
14 into the pest inspection, quarantine, and eradication fund under
15 section 150A-4.5.

16 The fee shall be assessed on the net weight of the imported
17 freight computed on the basis of 50 cents for every one thousand
18 pounds of freight brought into the State, or part thereof.

19 (b) A carrier of air freight that is not current in the
20 payment of the inspection, quarantine, and eradication service
21 fee to the department under subsection (a) shall be subject to
22 the revocation of the operation and use privilege under section



1 261-7. Beginning December 31, 2010, upon request of a carrier
2 of air freight, the department shall issue an annual certificate
3 of clearance to the carrier, if the carrier is current in the
4 payment of inspection fees. The department shall transmit a
5 copy of the certificate of clearance to the department of
6 transportation for purposes of section 261-7."

7 SECTION 3. Section 261-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) In operating an airport or air navigation facility
10 owned or controlled by the department of transportation, or in
11 which it has a right or interest, the department may enter into
12 contracts, leases, licenses, and other arrangements with any
13 person:

14 (1) Granting the privilege of using or improving the
15 airport or air navigation facility or any portion or
16 facility thereof or space therein for commercial
17 purposes; provided that the department may revoke the
18 privilege if a carrier of air freight has not been
19 issued an annual certificate of clearance as provided
20 in section 150A-5.3;



- 1 (2) Conferring the privilege of supplying goods,
2 commodities, things, services, or facilities at the
3 airport or air navigation facility;
- 4 (3) Making available services, facilities, goods,
5 commodities, or other things to be furnished by the
6 department or its agents at the airport or air
7 navigation facility; or
- 8 (4) Granting the use and occupancy on a temporary basis by
9 license or otherwise any portion of the land under its
10 jurisdiction which for the time being may not be
11 required by the department so that it may put the area
12 to economic use and thereby derive revenue therefrom.

13 All the arrangements shall contain a clause that the land
14 may be repossessed by the department when needed for aeronautics
15 purposes upon giving the tenant temporarily occupying the same
16 not less than thirty days' notice in writing of intention to
17 repossess."

18 SECTION 4. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Agriculture; Inspection Fee; Air Carriers

Description:

Provides for revocation of operation and use privileges of any carrier of air freight that has not been issued a certificate of clearance from the department of agriculture that certifies the carrier to be current in the payment of the agricultural inspection fee.

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