

TESTIMONY
HB 2775 HD2
LATE

LINDA LINGLE
Governor



LATE TESTIMONY

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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS
Wednesday, March 10, 2010
2:45 P.M.

HOUSE BILL NO. 2775, H.D. 2
RELATING TO AGRICULTURE

*Support
w/ proposed
amendments*

Chairperson Hee and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2775, H.D. 2. The purpose of this bill is to establish fees for processing of permits for plants and animals allowed entry into the State, as well as for permits, letters of authorization, and registration for microorganisms allowed entry into the State. The department supports this bill and would like to take this opportunity to provide general comments and some suggested revisions for your consideration which are detailed in a HB2775, HD2 amended version which is attached. All underlined portions comprise our suggested amendment.

Under its current administrative rules for import of animals, and microorganisms, the department charges user fees for the processing and issuance of permits, as well as for issuance of a letter of authorization for certain types of microorganisms or the registration of microbial products. However, only certain animals or microorganisms are currently assessed these user fees under Hawaii Administrative Rules Chapter 4-71 (Non-Domestic Animal Import Rules) and Chapter 4-71A (Microorganism Import Rules). This bill will expand the assessment of a user fee to include plants as well as any request for a permit for plants, animals, or microorganisms that requires a rule change

LATE TESTIMONY

to change the listing of an organism for importation or possession. The proposed user fees will provide additional funding support to the department for evaluating import requests based upon available information on the organism requested for import, its intended use, and adequate safeguards and protocols to prevent escape or theft of the allowed species.

The department recognizes that this bill's requirement that the user fees collected shall be deposited into the pest inspection, quarantine, and eradication fund will strengthen the department's ability to (1) facilitate the processing and issuance of permits; (2) conduct post-entry monitoring activities; (3) train personnel and provide for workshops, educational materials, and equipment; and (4) carry out other purposes deemed necessary to accomplish the departmental goals with regard to the processing and issuance of permits, letters of authorization, or registration.

The department would like to offer a number of revisions to the bill that will: (1) correct the Section 2 language of proposed §150A- __ (a) to reflect that, under the chapter, the methods of import referenced other than permits are available only for microorganisms; (2) reflect the need to preserve the department's discretion regarding the number of shipments allowed by permit for certain types of imports; (3) clarify that the user fee at subsection 150A-__ (c)(9) will be applicable to a permit that requires a rule amendment to change the listing of an organism to either allow importation or possession of the organism or otherwise accommodate the permit request, for example to accommodate a use not previously authorized; (4) clarify that certain kinds of permit requests, such as those that require board review or involve consideration of chapter 343, Hawaii Revised Statutes, are not eligible for expedited processing proposed at §150A- __ (d) because such requests cannot be processed in thirty days or less; and (5) provide for the transfer of any moneys in the permit revolving fund under §150A-6.7, Hawaii Revised Statutes, which is proposed for repeal at Section 4, to the pest inspection, quarantine, and eradication fund under §150A-4.5, Hawaii Revised Statutes, consistent with Section 2's requirement regarding deposit of user fees to be established. These proposed revisions are included in the attachment to the department's testimony.

(Attachment – HB2775, HD2, AMENDED)

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

SECTION 1. The legislature finds that the safe introduction of plants, non-domestic animals (such as fish, birds, amphibians, and insects), microorganisms, (such as algae, bacteria, fungi, protozoa, and viruses), and soil is managed through permits, letters of authorization, and registrations issued by the department of agriculture.

The framework for permit and other approvals was developed with the concept that plants and domestic animals (e.g., cats, dogs, horses, sheep, and cattle) are generally considered desirable and that non-domestic animals (e.g., snakes, tigers, mosquitoes, and piranha), microorganisms (pathogens), and soil are generally considered undesirable. While mindful of the potential harm that can result from these undesirable introductions, some introductions benefit the state for purposes such as

scientific research, commerce, and other important state interests.

To determine whether a plant, animal, microorganism, or soil is safe or harmful, the department of agriculture evaluates applications based upon available information, the intended use, and the availability of adequate safeguards and protocols. The department also evaluates the reliability of the individual responsible and the risks and benefits associated with the particular introduction. The evaluation also requires a science-based risk analysis of scientific data with respect to the plant, animal, microorganism, or soil, in a thorough, consistent, and logical manner.

The department of agriculture has one permit specialist in each of the fields of plants, insects, land vertebrates, aquatic biota, and microorganisms. Due to the current general fund budget conditions in the state, the department has incurred drastic reductions in its inspection and permitting sections. The reinstatement of twenty-two of the plant inspection positions has temporarily postponed the termination of a portion of the permit section. However, the department's inspection capacity has dropped to such a low level that the permit

specialists must now perform inspection duties in addition to their permitting duties.

The purpose of this Act is to establish fees for the review and processing of permits and other requests for the importation or possession of plants, animals, microorganisms, or soil into the state, or transfer within the state, in order to provide stable funding for the department's permit specialists and additional resources to allow appropriate review of import requests and more timely processing of permits and related authorizations under this chapter.

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

"§150A- Processing fees for importation and possession requests. (a) There is imposed a fee for the processing of requests for the importation or possession of plants, animals, or soil, that require a permit, or for the importation or possession of microorganisms that require a permit, letter of authorization, or registration under this chapter. The fee shall be paid in full at the time of the submission of the request.

(b) The fees collected under this section shall be deposited into the pest inspection, quarantine, and eradication fund established under section 150A-4.5.

(c) The fee to process requests for importation and possession shall be as follows:

- (1) \$ _____ for a permit for a single shipment of restricted plants;
- (2) \$ _____ for a permit for up to an unlimited number of shipments of restricted plants, as provided by permit, occurring within one year of the date of issuance;
- (3) \$ _____ for a permit for a single shipment of conditionally approved animals;
- (4) \$ _____ for a permit for up to an unlimited number of shipments of conditionally approved animals, as provided by permit, occurring within one year of the date of issuance;
- (5) \$ _____ for a permit for a single shipment of restricted animals that require permits for both importation and possession;
- (6) \$ _____ for a permit for up to an unlimited number of shipments of restricted animals that require permits for both importation and possession, as

provided by permit, occurring within one year of
the date of issuance;

- (7) \$ _____ for a special permit for an unlisted
animal in an emergency or disaster situation or
for conducting medical or scientific research;
- (8) \$ _____ for a short-term special permit for an
unlisted animal for a film production,
performance, or exhibition;
- (9) \$ _____ for a permit for plants, animals, or
microorganisms, that requires rule amendment to
change a list maintained by the board pursuant to
sections 150A-6.1, 150A-6.2, or 150A-6.3 in order
to allow importation or possession of the
organism or to otherwise accommodate the request
for import or possession;
- (10) \$ _____ for a permit for a single shipment of
listed or unlisted microorganisms that require
permits for both importation and possession;
- (11) \$ _____ for a permit for up to an unlimited number
of shipments of listed or unlisted microorganisms
that require a permit for both importation or
possession, as provided by permit, occurring
within one year of the date of issuance or within
a specified calendar year;

- (12) \$ _____ for a letter of authorization for import of unlisted microorganisms;
- (13) \$ _____ for an emergency permit of an unlisted microorganism or a microorganism on the list of restricted microorganisms in an emergency or disaster situation;
- (14) \$ _____ for registration to import a microbial product; and
- (15) \$ _____ for registration of a laboratory described in section 150A-6.3(f)(2).

(d) In addition to any fee under subsection (c), a fee of \$ _____ shall be charged for the expedited processing of a permit, letter of authorization, or registration application. Expedited processing shall take no more than thirty days and shall not be available for a permit for importation or possession of plants, animals, or microorganisms that requires an amendment to the rules to change the listing of the organism, that requires board review, or that requires review as to the requirements of chapter 343, Hawaii Revised Statutes.

SECTION 3. Section 150A-4.5, Hawaii Revised Statutes, is amended to read as follows:

"§150A-4.5 Pest inspection, quarantine, and eradication fund. (a) There is established in the state

treasury the pest inspection, quarantine, and eradication fund, into which shall be deposited:

- (1) Legislative appropriations for inspection, quarantine, and eradication services;
- (2) [~~Service fees,~~] Fees, charges, and penalties collected under [~~section~~] sections 150A-5.3[+] and 150A-___;
- (3) Federal funds received for pest inspection, quarantine, and eradication programs;
- (4) Grants and gifts;
- (5) All interest earned or accrued on moneys deposited in the fund; and
- (6) Any other moneys made available to the fund.

(b) The moneys in the pest inspection, quarantine, and eradication fund shall be expended by the department for the operation of pest inspection, quarantine, eradication, biosecurity, and monitoring programs, related facilities, and the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department. The department shall also expend moneys in the fund to:

- (1) Facilitate the processing and issuance of permits;

- (2) Amend lists of plants, animals, and other organisms prohibited or allowed for import;
- (3) Conduct compliance monitoring activities;
- (4) Train personnel and provide educational workshops, materials, and equipment for the purposes of this section; and
- (5) Accomplish any other purpose deemed necessary to carry out the purposes of this chapter."

SECTION 4. Section 150A-6.7, Hawaii Revised Statutes, is repealed.

~~["§150A-6.7 Permit revolving fund. (a) There is established in the state treasury a revolving fund to be known as the permit revolving fund to be administered by the department. The permit revolving fund shall consist of:~~

- ~~(1) Legislative appropriations;~~
- ~~(2) User fees as authorized by rule;~~
- ~~(3) All interest earned on or accrued to moneys deposited in the permit revolving fund;~~
- ~~(4) Grants and gifts; and~~
- ~~(5) Any other moneys made available to the permit revolving fund from other sources.~~

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

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

SECTION 5: (a) The repeal of section 150A-6.7, Hawaii Revised Statutes, shall not rescind any fees authorized or imposed under that section that would have been deposited into the permit revolving fund. From July 1, 2010, the fees under that section shall be deposited into the pest inspection, quarantine, and eradication fund.

(b) On the effective date of this Act:

- (1) All the moneys in the permit revolving fund on June 30, 2010, shall be transferred to the pest inspection, quarantine, and eradication fund;
- (2) All unpaid obligations of the permit revolving fund on June 30, 2010, shall become payable from the pest inspection, quarantine, and eradication fund; and
- (3) The permit revolving fund shall cease to exist.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2020.

Report Title:

Department of Agriculture; Plants; Animals; Microorganisms;
Fee

Description:

Establishes fees for processing of permits, letters, and
the registration of plants, animals, and microorganisms
allowed entry into the state. Effective July 1, 2020.
(HB2775 HD2)

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

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(END)