

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF HAWAIIAN  
AIRLINES REGARDING H.B. NO. 2948, RELATING TO AGRICULTURE**

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February 3, 2010

To: Chairman Cliff Tsuji and Members of the House Committee on Agriculture:

My name is Bob Toyofuku and I am presenting this testimony on behalf of Hawaiian Airlines regarding H.B. No. 2948.

Hawaiian Airlines is very much aware of the need to prevent and reduce the spread of invasive species and other pests into and among our islands. We support the protection of our islands but want to raise some serious concerns and questions regarding the provisions of this bill.

The primary concern is that requiring written notification of all interisland shipments will put a tremendous strain on the interisland operation and especially the cargo operation in terms of both labor needs as well as revenue. There are daily shipments of flowers and foliage from Hilo to Honolulu and produce from Honolulu to all of the neighbor islands for market. With over 160 interisland departures daily a written notification for each shipment would have an adverse impact on all the parties concerned.

Further, because of the economic situation, there has been a reduction of agricultural inspectors at all airports which already impact the transpac operations of the airline and the additional requirements under this bill for interisland transportation of agricultural products will undoubtedly cause more strain on the operations.

These are some of the issues that are of concern to Hawaiian Airlines and at this time it cannot support the written notification per shipment for interisland movement of

these products. We will be more than willing to work to find a more reasonable and less onerous solution to the invasive species/pests issue.

Thank you for the opportunity to present the airline's comments and concerns on this measure.

LINDA LINGLE  
Governor



SANDRA LEE KUNIMOTO  
Chairperson, Board of Agriculture

DUANE K. OKAMOTO  
Deputy to the Chairperson

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 Fax: (808) 973-9613

TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE  
WEDNESDAY, FEBRUARY 3, 2010  
8:30 A.M.

HOUSE BILL NO. 2948  
RELATING TO AGRICULTURE

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Chairperson Tsuji and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2948. The purpose of this bill is to 1) establish restrictions on the interisland movement of certain agricultural and nonagricultural articles; 2) amend requirements related to the notification of arrival, labeling, authority to inspect, and importation of certain agricultural and nonagricultural articles; and, establish a misdemeanor offense and increases the fine applicable to violators.

The department strongly supports this measure.

Invasive species threatens Hawaii's economy, agriculture industry, its people, and environment. Preventing the entry of invasive species is the primary mission of the Hawaii Department of Agriculture, and we are trying to fill the gaps in the invasive species prevention system with the implementation of the Hawaii Biosecurity Program. A key component is the timely and proper notification of the movement of goods and the expansion of existing authorities to include nonagricultural commodities. It is imperative for the department to be aware of what is entering the State in order to make sound decisions when determining what would require a closer inspection and to be able to take action on pests regardless of whether they appear on agricultural commodities or on other types of cargo.

In 2007, the Legislature provided much needed funding through the Hawaii Department of Transportation to develop an electronic manifest system, which will provide a more comprehensive understanding of the various port activities throughout the State. It will also

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improve workflow management and allow for a more efficient scheduling of resources through advance notification of a shipment arrival with the determination of the risk of that cargo ahead of time. With 500,000 containers moving into the State each year and another 500,000 containers moving from one island to another, every container cannot be inspected; however, due to the increased concern about health, environment, and economic impacts of invasive species, the department must be able to screen and inspect high-risk shipments, as well as be given the ability to treat or destroy a pest before it becomes established in Hawaii's farms, homes, and forests.

It has been stated that the transportation infrastructure is critical to an island state, but there must be provisions for safeguards to prevent the introduction of invasive species into the state and between neighboring islands. The passage of this measure is an important mitigation step and key to the success of the Hawaii Biosecurity Program.

For example in 2008, a rock shipment imported from China was found to be infested with spiders; and yet another shipment containing dried reeds from Africa, which was to be used for home construction, was found to be carrying weed seeds and other insect pests. These experiences emphasized the need for the expansion of HDOA's authority from agricultural commodities to all articles destined to Hawaii. As the ever-increasing threat from the Brown Treesnake and red imported fire ant looms, we must be able to respond effectively and efficiently. Household goods from Guam pose a high risk for the brown treesnake, while frozen chicken and soil-moving equipment are a high risk for the red imported fire ant. These articles are not adequately covered under current authorities, and therefore, the department's authorities must be expanded to provide adequate protection.

We would also request that Section 2 of this measure be deleted from this bill since another current measure, now referred to as H.B. 1684, H.D. 2, which had recently passed out of the House Judiciary Committee, also references subsection (b) of Section 150A-14.

Thank you for your continued support of the Hawaii Biosecurity Program and allowing us the opportunity to testify on this very important measure.

HOUSE COMMITTEE ON AGRICULTURE

THE HONORABLE CLIFT TSUJI, CHAIR  
THE HONORABLE JESSICA WOOLSEY, VICE CHAIR

HOUSE BILL NO. 2948 scheduled for hearing on February 3, 2010

Testimony of Roy Catalani,  
Vice President of Strategic Planning and Government Affairs,  
Young Brothers, Limited

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Chair Tsuji, Vice Chair Woolsey, and Members of the House Agriculture Committee:

Thank you for the opportunity to testify on House Bill No. 2948 (*HB 2948*).

**Young Brothers, Limited (*Young Brothers*) supports the intent of the bill**, which we view as the State's important and continuing efforts to ensure that Hawaii is protected from invasive species (pests) regardless of their point of origin or means of transportation. As described at the end of this testimony, Young Brothers, on its own initiative, has taken many steps in this regard.

The bill proposes to expand the Department of Agriculture's current inspection and quarantine authority over certain agricultural articles to include non-agricultural articles that may harbor pests. The bill requires transporters of such articles to provide the Department of Agriculture (the *DOA*) with notification no less than 24 hours prior to arrival of an overseas or foreign marine vessel. The notification is to include, among other things, the identification and point of origin of these articles, whether agricultural or non-agricultural. As required under current law, the transporter is then required to hold such articles where they are first received or discharge until inspection and examination can be made by a State inspector. The bill further proposes to extend a similar 4-hour notification and holding requirement and other conditions currently required by law, on the *interisland* movement of such articles, whether by marine vessel or aircraft.

We believe that all concerned parties would agree that, given the importance of this issue and the limited resources of both the public and private sectors, we need to be especially careful to expend resources in an effective manner. The bill poses certain operational and practical issues. Young Brothers offers an interisland carrier's perspective on these issues:

- **Not Practical for Young Brothers to Report and the DOA to respond to Hundreds of Individual Shipments Per Sailing.** Young Brothers has twelve regulated sailings weekly upon which neighbor island communities depend. On each sailing, there are several hundred bills of lading. With respect to non-containerized cargo, there may be one hundred or more bills of lading that may fall into the legislation's subject categories. With respect to containerized cargo, the majority may be shipped in the traditional shipping category "freight all kinds" and include no

cargo description. (Please note that, as a carrier, Young Brothers receives these containers sealed and delivers them sealed unless there is a reason to notify the appropriate authorities that there may be a need to open a container.) Since shipments to the neighbor islands leave Honolulu in the late afternoon and early evening and, typically, arrive at their destination ports and commence discharge prior to 8 a.m., it is difficult to determine the pragmatic use of this costly and burdensome notification procedure.

- **Procedure Does Not Isolate High Risk Cargo.** Notification of the DOA of hundreds of individual shipments in the subject categories does not isolate truly high-risk cargo for inspection by a limited number of inspectors. Moreover, in our experience, the categories delineated in the bill do not necessarily identify the most high-risk shipments, such as cargo (such as water or other beverages) shipped on pallets from high infestation areas where the pallets are left outdoors, particularly overnight.
- **Lack of Adequate Harbor Space and DOA Inspectors to Support Program.** Under the bill, cargo requiring inspection would have to be held at each of Young Brothers' piers and, in essence, part of the facility would have to serve as a quarantine facility. Depending on the timing and duration of inspections and the volume of cargo requiring inspection, pier space and movement of other cargo may be compromised severely. The overriding questions are whether the Department has the resources to perform efficient and effective inspections and whether the infrastructure at each of Young Brothers' facilities can accommodate the inspections. A related question is what happens to commerce and shipper's cargo and customers if the DOA does not have an adequate number of inspectors to undertake and complete timely inspection?
- **Numerous Operational and Definitional Problems.** We have had only a single day to review this bill, but in our first pass-through we find numerous operational and definitional problems. For example, the language of HB 2948 does not clearly identify the "person" who is responsible for notifying the Department about cargo that may be infested or infected with or contain any pest. Is a freight forwarder a "person who receives for transport" cargo that contain articles covered by the bill? Would the notification requirement extend to this "person"? Similarly, it is not clear what a person receiving such cargo is required to do under the bill, *i.e.*, the bill states that the person receiving cargo for transport "shall hold such articles at the pier, airport, or any other place where they are first received or discharged" – does this requirement to hold cargo apply to the port at which cargo is "first received" and/or the port at which it is "discharged"? In addition, without standards or guidelines, such "person" would not know how to and would have difficulty training its employees to identify a "non-agricultural article capable of harboring pests, including but not limited to, rocks, building material, or furniture." As a last example, the requirement to identify point-of-origin of an article in inter-island movement may be virtually impossible for an inter-island carrier or an inter-island customer to fulfill.

Young Brothers fully supports the prevention of the introduction and spread of invasive species in our island state; however, we believe it is imperative to undertake costly programs in a considered manner. As we have previously stated, we believe what makes the most sense is for the Legislature to state the outcomes it seeks to accomplish and direct the DOA to work with farming industry groups and the transportation industry, among others, under rule-making or another process, to develop a cost-effective and feasible inspection regime.

We believe that the operational and practical problems associated with the bill could best be addressed by giving the DOA broad authority to inspect and quarantine cargo with high risk of carrying pests and leaving the specific details of implementation to rule-making. Young Brothers would be very willing to work with the DOA and other interested parties in this process.

We have undertaken, and continue to undertake, cooperative actions with DOA. For example, Young Brothers:

- 1) Educated all Company employees with the DOA's Invasive Species presentation; worked with the DOA's Plant Quarantine Education Specialist to develop and disseminate an educational video for Young Brothers employees to raise awareness about invasive species and their potential risks, propagative plant parts, and the DOA's inspection certificate requirements.
- 2) Held invasive species educational sessions for all Company tug and barge employees statewide and instituted a requirement for all new employees to receive the same education during new-hire orientation.
- 3) Developed and disseminated notices to our customers on preventing the spread of invasive species.
- 4) Is developing invasive species incident response standard operating procedures, defining points of contact at the Company and the DOA, and instructions for customer notification.
- 5) Initiated and fully and actively cooperated with the DOA when specific incidents called for interception and inspection of contaminated or suspect cargo.
- 6) Worked with DOA inspectors to allow inspection of Lanai and Molokai cargo upon arrival at Young Brothers' Honolulu port, due to the lack of inspectors on those islands.
- 7) Prevents invasive species in ballast water by use of fresh water ballast in all new vessels, prevents hull fouling with anti-fouling paint on all vessels, and participates actively in the Alien Aquatic Organism Task Force.
- 8) Actively provided feedback to the DOA on previous invasive species bills.

Thank you for the opportunity to testify.