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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

- 1           SECTION 1. The purpose of this Act is to promote and  
2 support agriculture by, among other things:
- 3           (1) Establishing the agriculture inspection and  
4                 certification special fund under the department of  
5                 agriculture;
- 6           (2) Transmitting certain fees, civil penalties, and moneys  
7                 collected by the department of agriculture to the  
8                 agriculture inspection and certification special fund;
- 9           (3) Allowing the department of agriculture to enter into  
10                agreements with government and private agencies to  
11                hire inspectors;
- 12           (4) Transferring all moneys and unpaid obligations of the  
13                certification services revolving fund on June 30,  
14                2011, to the agriculture inspection and certification  
15                special fund; and
- 16           (5) Repealing the certification services revolving fund.



1 SECTION 2. Chapter 147, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and read as follows:

4 "§147- Agriculture inspection and certification special  
5 fund. (a) There is established within the state treasury the  
6 agriculture inspection and certification special fund.

7 (b) The following sources of funds shall be deposited into  
8 the fund:

9 (1) Fees, charges, fines, and penalties designated by law  
10 or rule for deposit into the fund;

11 (2) Federal funds received for inspecting, certifying,  
12 weighing, classifying, or grading of agricultural  
13 commodities to be exported from or shipped within the  
14 State;

15 (3) Grants and gifts;

16 (4) Funds received for food safety or food security  
17 certification seals;

18 (5) Funds received for promoting safety-certified food  
19 suppliers and services related to food safety;

20 (6) All interest earned or accrued on moneys deposited in  
21 the fund; and

22 (7) Any other moneys made available to the fund.



1       (c) The moneys in the agriculture inspection and  
2 certification special fund shall be expended by the department  
3 for:

4       (1) The licensure of commission merchants, dealers,  
5 brokers, agents, processors, and retail merchants;

6       (2) The administration, operation, and enforcement of  
7 chapter 144, part I of chapter 145, and chapter 147;  
8 and

9       (3) The inspection, certification, weighing, or grading of  
10 agricultural commodities that are to be imported into,  
11 exported from, or shipped within the State.

12       No moneys from the general fund or other special or  
13 revolving funds shall be expended by the department for the  
14 administration, operation, or enforcement of section 141-4,  
15 chapter 144, part I of chapter 145, chapter 147, or chapter 150;  
16 provided that the expenditure of moneys from the general fund  
17 for central services and departmental administrative expenses  
18 shall be permitted."

19       SECTION 3. Section 141-4, Hawaii Revised Statutes, is  
20 amended to read as follows:

21       "**§141-4 Weights of coffee; rules.** The department of  
22 agriculture may make rules respecting the weighing of coffee



1 prior to its shipment to points outside the State, and providing  
2 for the certification of weights thereof. Further, a reasonable  
3 schedule of fees to defray the expense of administering this  
4 section shall be established by the department, the fees of  
5 which [~~fees~~] shall be collected and [~~deposited with~~] transmitted  
6 to the state director of finance [~~to the credit of the general~~]  
7 for deposit into the agriculture inspection and certification  
8 special fund; provided that the department shall consult the  
9 appropriate industries, organizations, and agencies prior to the  
10 promulgation of the rules."

11 SECTION 4. Section 144-5, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) There shall be paid to the department for all feeds  
14 distributed or imported for use or sale in this State,  
15 inspection fees as established by the rules of the department;  
16 provided that the department shall exempt by rule the payment of  
17 inspection fees on feed not subject to specific requirements of  
18 this chapter or rules adopted under this chapter. All  
19 inspection fees collected shall be [~~deposited with~~] transmitted  
20 to the state director of finance [~~to the credit of the general~~]  
21 for deposit into the agriculture inspection and certification  
22 special fund."



1 SECTION 5. Section 145-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§145-14 Disposition of fees and charges.** (a) All fees,  
4 charges, expenses, and other moneys collected pursuant to this  
5 ~~[chapter]~~ part shall be ~~[deposited with]~~ transmitted to the  
6 state director of finance ~~[to the credit of the general]~~ for  
7 deposit into the agriculture inspection and certification  
8 special fund.

9 (b) The following moneys shall be deposited into the  
10 agriculture inspection and certification special fund:

- 11 (1) Fees, charges, expenses, and other moneys collected  
12 under this part;  
13 (2) Fines collected from violations of this part; and  
14 (3) Interest earned on the moneys in the special fund."

15 SECTION 6. Section 147-10, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§147-10 Income from certification and agriculture control**  
18 **activities.** ~~[Except for fees collected by the department~~  
19 ~~pursuant to part VII, all]~~ All fees, expenses, and penalties  
20 collected by the department pursuant to this part shall be  
21 ~~[deposited with]~~ transmitted to the director of finance ~~[to the~~



1 ~~credit of the general]~~ for deposit into the agriculture

2 inspection and certification special fund."

3 SECTION 7. Section 147-34, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§147-34 Inspection; certification fees.** The board of  
6 agriculture may designate any appropriately-certified employee  
7 or agent of the department as an inspector to classify and  
8 inspect fresh and processed flowers and foliage for quality and  
9 condition and to determine if containers, packing materials, and  
10 methods of packing meet the minimum requirements established.  
11 In addition the inspector may classify and inspect flowers and  
12 foliage for quality and condition at the request of persons  
13 having a financial interest in the commodities in order to  
14 ascertain and to certify to those persons the grade,  
15 classification, quality, or condition thereof and other  
16 pertinent facts. The department may fix, assess, and collect or  
17 cause to be collected fees for those certification services when  
18 they are performed by the employees of the department. The fees  
19 shall be on a uniform basis and in an amount reasonably  
20 necessary to cover the cost of certification services provided  
21 at the request of persons having a financial interest. [~~Except~~  
22 ~~for fees collected by the department pursuant to part VII, all]~~



1 All fees collected by the department pursuant to this part shall  
2 be [~~deposited with~~] transmitted to the state director of finance  
3 [~~to the credit of the general~~] for deposit into the agriculture  
4 inspection and certification special fund."

5 SECTION 8. Section 147-64, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§147-64 Deposit of moneys.** [~~Except for fees collected by~~  
8 ~~the department pursuant to part VII, all~~] All fees, charges,  
9 expenses, civil penalties, and other moneys collected by the  
10 department under this part or any rules prescribed by the  
11 department pursuant to this part shall be [~~deposited with~~]  
12 transmitted to the state director of finance [~~to the credit of~~  
13 ~~the general~~] for deposit into the agriculture inspection and  
14 certification special fund."

15 SECTION 9. Section 147-74, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§147-74 Grading standards and regulations[+]; fees.** (a)

18 Subject to chapter 91, the department of agriculture may make  
19 rules with respect to:

20 (1) Sale and transportation for sale of eggs for human  
21 consumption;



- 1 (2) Specific grades or standards of quality, condition and  
2 size or weight classes which shall conform when  
3 practical to those established by the United States  
4 Department of Agriculture as local conditions will  
5 permit;
- 6 (3) Inspection and classification;
- 7 (4) Assessment and collection of fees for requested  
8 certification as to grade, standard of quality,  
9 condition, and size or weight classes;
- 10 (5) Labeling of containers of imported and locally  
11 produced eggs and marking of individual imported eggs  
12 as to origin;
- 13 (6) Seller's invoice for sale of eggs;
- 14 (7) Records of imported shell eggs of foreign origin;
- 15 (8) Methods of determining egg quality, which shall not  
16 include recandling or any other method applied to eggs  
17 in interstate commerce which is discriminatory or  
18 impairs that commerce in any way or requires a cost  
19 increase of eggs in interstate commerce;
- 20 (9) Enforcement of this part and of the rules adopted  
21 under this part.





1        (b) Any fees collected pursuant to subsection (a)(4) shall  
2 be transmitted to the director of finance for deposit into the  
3 agriculture inspection and certification special fund."

4        SECTION 10. Section 147-97, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "**§147-97 Disposition of fees.** All fees collected under  
7 this part shall be [~~paid into a special fund established by the~~  
8 ~~department of agriculture and shall be expended for the purposes~~  
9 ~~of this part.~~] transmitted to the director of finance for  
10 deposit into the agriculture inspection and certification  
11 special fund."

12        SECTION 11. Section 147-102, Hawaii Revised Statutes, is  
13 amended to read as follows:

14        "~~[§147-102]~~ **Certification and audit services.** The  
15 department of agriculture shall fix, assess, and collect fees  
16 for certification or audit services provided by temporary  
17 inspectors employed under this [~~part.~~] chapter. The fees shall  
18 be in amounts necessary to cover all costs of the administration  
19 and provision of the certification or audit services provided  
20 under this [~~part.~~] chapter; provided that the department of  
21 agriculture shall establish charges for traveling expenses and  
22 extraordinary services when the performance of the services



1 involves unusual cost. The fees and charges established by the  
2 department of agriculture shall not be subject to chapter 91[-]  
3 and, upon collection, shall be transmitted to the director of  
4 finance for deposit into the agriculture inspection and  
5 certification special fund. The department of agriculture may  
6 employ temporary inspectors to assist in providing certification  
7 or audit services under parts I, III, IV, VIII, and IX, and  
8 those temporary inspectors shall be exempt from chapter 76."

9 SECTION 12. Section 147-112, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~{}~~§147-112~~{}~~ **Cooperative agreements and contracts to**  
12 **provide auditing and certification services.** The department may  
13 enter into cooperative agreements with the United States  
14 Department of Agriculture or other agreements and contracts with  
15 private parties or other governmental agencies for the purposes  
16 of:

- 17 (1) Auditing and certifying that applicants are following  
18 good agricultural, handling, processing, and  
19 manufacturing practices; ~~and~~
- 20 (2) Hiring and paying travel and other expenses for  
21 inspectors to perform the certification and audit  
22 services required under this chapter;



- 1       ~~[(+2)]~~ (3) Maintaining food safety, security, and product  
 2                    traceability~~[-]~~; and  
 3        (4) Establishing and maintaining an Internet food safety  
 4                    promotional and reporting system."

5           SECTION 13. Section 147-114, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7           "~~{}~~**§147-114**~~{}~~ **Fees and deposit of moneys.** (a) The  
 8 department shall fix, assess, and collect fees for the audit and  
 9 certification services provided under this part~~[-]~~, including  
 10 fees for hiring inspectors to perform the services. The fees  
 11 shall be as established under cooperative agreement with the  
 12 United States Department of Agriculture or other governmental  
 13 agencies or, if not applicable, as established by rule under  
 14 section 147-7. The department [~~may~~] shall also charge an amount  
 15 necessary to cover all costs of traveling expenses and  
 16 extraordinary services when the performance of the services  
 17 involves unusual cost in their performance.

18           (b) [~~Except for fees collected by the department pursuant~~  
 19 ~~to part VII, all~~] All fees and expenses collected by the  
 20 department pursuant to this part shall be [~~deposited with~~]  
 21 transmitted to the director of finance [~~to the credit of the~~



1 ~~general]~~ for deposit into the agriculture inspection and  
2 certification special fund."

3 SECTION 14. Section 147-126, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) [~~Except for fees collected by the department pursuant~~  
6 ~~to part VII, all]~~ All fees and expenses collected by the  
7 department pursuant to this part shall be [~~deposited with]~~  
8 transmitted to the director of finance [~~to the credit of the~~  
9 ~~general]~~ for deposit into the agriculture inspection and  
10 certification special fund."

11 SECTION 15. Section 147-101, Hawaii Revised Statutes, is  
12 repealed.

13 [~~**\$147-101 Certification services revolving fund.** There~~  
14 ~~is established a certification services revolving fund for use~~  
15 ~~by the department of agriculture to support certification or~~  
16 ~~audit services established under parts I, III, IV, VIII, and IX.~~  
17 ~~Moneys in the fund may be expended for materials, salaries,~~  
18 ~~equipment, training, travel, and other costs related to~~  
19 ~~providing certification or audit services. Notwithstanding~~  
20 ~~sections 147-10, 147-34, 147-64, 147-114 and 147-126, moneys~~  
21 ~~derived from the certification or audit services provided by~~  
22 ~~temporary inspectors employed under this part or from charges~~



1 ~~for traveling expenses or extraordinary services shall be~~  
2 ~~deposited into the fund." ]~~

3 SECTION 16. (a) The repeal of section 147-101, Hawaii  
4 Revised Statutes, shall not rescind any fees authorized or  
5 imposed under that section that would have been deposited into  
6 the certification services revolving fund. From July 1, 2011,  
7 the fees under that section shall be deposited into the  
8 agriculture inspection and certification special fund.

9 (b) On the effective date of this Act:

10 (1) All moneys in the certification services revolving  
11 fund on June 30, 2011, shall be transferred to the  
12 agriculture inspection and certification special fund;

13 (2) All unpaid obligations of the certification services  
14 revolving fund on June 30, 2011, shall become payable  
15 from the agriculture inspection and certification  
16 special fund; and

17 (3) The certification services revolving fund shall cease  
18 to exist.

19 SECTION 17. (a) Between July 1, 2011, and September 30,  
20 2011, the department of agriculture shall adopt new or amend  
21 existing rules to impose or increase fees authorized to be  
22 charged under section 141-4, chapter 144, part I of chapter 145,



1 and chapter 147, Hawaii Revised Statutes, without regard to the  
2 public notice and public hearing requirements of section 91-3,  
3 Hawaii Revised Statutes, the small business impact review  
4 requirements of chapter 201M, Hawaii Revised Statutes, or the  
5 limit on fee increases under section 92-28, Hawaii Revised  
6 Statutes. The department shall set the fees through a two-  
7 tiered increase at amounts intended to generate sufficient  
8 revenues to pay the operation and maintenance costs of  
9 implementing the agriculture inspection and certification  
10 programs of chapter 141, chapter 144, part I of chapter 145, and  
11 chapter 147, Hawaii Revised Statutes, and central services and  
12 departmental administrative expense assessments of section 36-27  
13 and section 36-30, Hawaii Revised Statutes.

14 (b) If, by September 30, 2011, the department of  
15 agriculture has not complied with subsection (a), then the fee  
16 charged for each inspection or certification conducted under  
17 authority of section 141-4, chapter 144, part I of chapter 145,  
18 and chapter 147 shall be \$ per hour or as established  
19 under cooperative agreement with the United States Department of  
20 Agriculture or other governmental agencies commencing October 1,  
21 2011, and the fee charged for licensure of or license renewal



1 for a commission merchant, dealer, broker, agent, processor, or  
2 retail merchant shall be:

3 (1) \$ for a commission merchant, dealer, broker,  
4 agent, or processor;

5 (2) \$ for a retail merchant; and

6 (3) \$ for each branch store,  
7 commencing October 1, 2011.

8 (c) Any subsequent amendments to the rules adopted or  
9 amended pursuant to subsection (a) or the fee established under  
10 subsection (b) shall be subject to all applicable provisions of  
11 chapter 91, chapter 201M, and section 92-28, Hawaii Revised  
12 Statutes.

13 SECTION 18. Notwithstanding section 2 of this Act, there  
14 is appropriated out of the general revenues of the State of  
15 Hawaii the sum of \$ or so much thereof as may be  
16 necessary for fiscal year 2011-2012 for the agriculture  
17 inspection and certification program of the department of  
18 agriculture; provided that funding shall cease when the  
19 collection into the agriculture inspection and certification  
20 special fund becomes sufficient to carry out the purposes of  
21 this Act.



1           The sum appropriated shall be expended by the department of  
2 agriculture for the purposes of this Act.

3           SECTION 19. There is appropriated out of the agriculture  
4 inspection and certification special fund the sum of \$  
5 or so much thereof as may be necessary for fiscal year 2011-2012  
6 and the same sum or so much thereof as may be necessary for  
7 fiscal year 2012-2013 for the agriculture inspection and  
8 certification program and for deposits into the general fund to  
9 reimburse the general fund for appropriations made pursuant to  
10 section 18 of this Act.

11           The sums appropriated shall be expended by the department  
12 of agriculture for the purposes of this Act.

13           SECTION 20. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 21. This Act shall take effect on July 1, 2020.





**Report Title:**

Agriculture Inspection and Certification; Inspectors

**Description:**

Establishes the Agriculture Inspection and Certification Special Fund under the Department of Agriculture for the inspection, certification, weighing, or grading of agricultural commodities that are to be imported into, exported from, or shipped within the state. Deposits all fees, civil penalties, and other moneys collected by DOA into the Special Fund. Allows DOA to enter into agreements with government and private agencies to hire and pay inspectors to perform certification and audit services, maintain food safety, and establish and maintain an Internet food safety promotional and reporting system. Repeals the Certification Services Revolving Fund. Requires the establishment or increase of certain fees to cover the operation and maintenance costs of agriculture inspection and certification programs, and central services and departmental administrative expense assessments. Appropriates funds for DOA's agriculture inspection and certification program. (HB290 HD1)

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

