

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

JAMES J. NAKATANI
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 RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
WEDNESDAY, FEBRUARY 16, 2011
9:00 A.M.
CONFERENCE ROOM 312**

**HOUSE BILL NO. 632
Relating to Noxious Weeds**

Chair Tsuji and members of the committee:

House Bill 632 proposes to amend Chapter 152, Hawaii Revised Statutes by allowing the Board of Agriculture to designate certain plant species as noxious weeds by board order. The Department sees no need for this bill.

The designation of plants species as noxious weeds is already provided for in the rules and the designation by board order serves no additional advantage. This bill raises some additional concerns.

- HB632 copies the rules (Chap 68, HAR) almost verbatim and inserts this language into the statutes. The consequences are that any changes to the rules in the future will make them inconsistent with the statutes. The only way to make changes is by statute revisions.
- It is not clear how to properly inform the public of changes to the list when it is done through board order rather than rule changes.
- Will there now be two lists. One by rule change and one by board order?
- Currently, Chapter 141-3, Hawaii Revised Statutes states that pest designation for control or eradication must be by rule for eradication or control programs and to get a court order to enter private property. HB 632 designates pests by board order and does not comply with Chap 141-3, Hawaii Revised Statutes therefore we would not

have the authority to obtain a court order to enter private property to control a pest if designated by board order.

The purpose of Chapter 152, Hawaii Revised Statutes, "Noxious Weed Control" is to give the Department the authority to 1) set criteria and procedures for the designation of plant species as noxious weeds for control by the department, 2) to enter into cooperative agreements with landowners to control and eradicate noxious weeds, and 3) for the Department control weeds when economically feasible.

The list of noxious weeds designated for control by the Department that is created through this process is mistakenly referred by some as a state noxious weed list. This is not a state noxious weed list for regulatory purposes. In fact, weeds that no longer meet the criteria for these types of cooperative agreements should be removed from the list. This is a list of weeds for control or eradication by the Department.

The regulatory authority against noxious weeds is through Chap 150A, Hawaii Revised Statutes, Section 6.1 which creates a Restricted Plant List for this purpose. If the intention of this bill is to create a list of noxious weeds that cannot be imported, sold, or moved within the state then it would be more appropriate to place these plants on the Restricted Plant List and not amend Chap 152, Hawaii Revised Statutes.

Thank you for the opportunity to provide testimony on this bill.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
AGRICULTURE

Wednesday, February 16, 2011
9:00 AM
State Capitol, House Conference Room 312

In consideration of
HOUSE BILL 632
RELATING TO NOXIOUS WEEDS

House Bill 632 grants the Board of Agriculture the ability to designate certain plant species as noxious weeds according to listed criteria.

The Department of Land and Natural Resources (Department) supports the intent to enable the Department of Agriculture (DOA) to quickly take actions to control noxious weeds and quickly add them to the noxious weed list. The Department notes that the noxious weed list does not limit the Plant Pest Control Program or other government agencies ability to control invasive species and noxious weeds to just those listed on the noxious weeds list. The noxious weed list provides DOA a way to create cooperative agreements with private landowners to facilitate control and eradication efforts of noxious weeds, a desirable effort.

The Department defers to DOA on the resources needed to implement and manage the program and the priority and ability to respond to requests with their reduced staffing and resources.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819
PH: (808)848-2074; Fax: (808) 848-1921

February 14, 2011

TESTIMONY

Re: HB632 RELATING TO NOXIOUS WEEDS

Chair Tsuji and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of our commercial farm and ranch families and organizations on the island **supports the intent BUT OPPOSES PASSAGE OF HB632**, authorizing the Board of Agriculture to designate plants as noxious weeds.

HFBF agrees with the authors of this measure that good risk assessments will greatly reduce the unintended introduction of invasive species into the State. However, it requires that the evaluation be a careful balance between benefit and risk and it be done by people with qualified backgrounds. Requiring the Board of Agriculture to undertake this at this time is unreasonable.

Designation of plants will require a risk assessment to be conducted to determine whether a plant should be listed. Recent budgetary shortfalls have derailed the State Biosecurity Plan and many other critical programs need priority.

Additionally, many in the industry have voluntarily developed a code of conduct and are policing themselves to control the spread of invasive species. A sample is attached.

We respectfully request that this measure be HELD at this time.

Thank you for this opportunity to provide our opinion on this important matter. If there are questions, please contact Warren Watanabe, at 2819718.

Voluntary Codes of Conduct For Plant Industry

Date: _____

Participating Business: _____

Contact Name: _____

Phone: _____

Preferred Contact Method

Mailing/FAX/Email address/number: _____

Voluntary Codes of Conduct for the Plant Industry

Codes adapted from *The St. Louis Declaration on Invasive Plant Species*

(<http://www.centerforplantconservation.org/invasives/cbgN.html>). Questions or comments, email or call Christy Martin at christym@rocketmail.com (808) 722-0995, or Joylynn Paman at miscpr@hawaii.edu (573-6472).

- Presented discussion draft to the Maui Association of Landscape Professionals (MALP) on 3/28/06
- Revised with comments 6/27/06
- Final revisions made resulting from additional comments 3/23/07

1. Ensure that invasive potential is assessed prior to introducing and marketing plant species new to Hawaii. Invasive potential should be assessed by the introducer or qualified experts using emerging risk assessment methods that consider plant characteristics and prior observations or experience with the plant elsewhere in the world. Additional insights may be gained through extensive monitoring on the nursery site prior to further distribution.

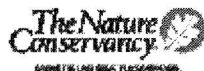
MALP will support this code by making a good faith effort to use the Hawaii Pacific Weed Risk Assessment (HPWRA) system to screen new plant introductions.

*Note: UH Botany PhD student Shahin Ansari is the WRA screener, she worked for Dr. Daehler as the WRA screener in the past, so has a lot of experience screening plants. Shahin works under the supervision of Lyon Arboretum Interim Director Dr. Cliff Morden. All new plants submitted by Codes of Conduct participants will be screened as a first priority. Submit plant names to Shahin via email at shahin@hawaii.edu, or feel free to call her at (808) 988-2971.

2. Work with regional experts and stakeholders to determine which species in your region are either currently invasive or will become invasive. Identify plants that could be suitable alternatives in your region.



Missouri Botanical Garden



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Voluntary Codes of Conduct

For Plant Industry

MALP will support this code by including the Maui Invasive Species Committee in MALP events and the webpage. We will distribute information on invasive plants to our members.

3. Develop and promote alternative plant material through plant selection and breeding.

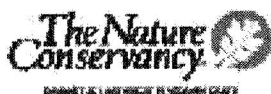
MALP will support this code by identifying and promoting suitable non-invasive alternatives. We will work with Maui County Department of Water Supply, the Maui Arborists Committee and others to encourage other plant industry professionals to use non-invasive plants.

4. Where agreement has been reached among nursery associations, government, academia and ecology and conservation organizations, phase-out existing stocks of those specific invasive species in regions where they are considered to be a threat.

MALP will discontinue the ordering, growing, and selling of the following plants as soon as possible:

1. Mule's foot fern (*Angiopteris evecta*)
2. Giant reed (*Arundo donax*)
3. Butterfly bush (*Buddleia davidii*)
4. Smoke bush (*Buddleia madagascariensis*)
5. Cat's claw (*Caesalpinia decapetala*)
6. Fiddlewood (*Citharexylum spinosum*)
7. Pampas grass (*Cortaderia selloana* and *C. jubata***)
8. Rubbervine (*Cryptostegia grandiflora* and *C. madagascariensis*)
9. Australian tree fern (*Cyathea cooperi*)
11. Water hyacinth (*Eichornia crassipes* and *E. azurea***)
13. Kahili ginger (*Hedychium gardnerianum*)
14. Hiptage (*Hiptage benghalensis*)
15. St. John's wort (*Hypericum canariensis*)
16. Chinese privet (*Ligustrum sinense*)
17. Bingbing/Macaranga (*Macaranga mappa* and *M. tanarius*)
18. Medinilla (*Medinilla cumingii* and *M. venosa***)
19. Indian rhododendron (*Melastoma candidum* and *M. sanguineum***)
20. Tree daisy (*Montanoa hibiscifolia*)**
21. Fountain grass (*Pennisetum setaceum*)**
22. New Zealand flax (*Phormium tenax*)
23. Cape pittosporum (*Pittosporum viridiflorum*)
24. Downy rose myrtle (*Rhodomyrtus tomentosa*)**
25. Glorybush (*Tibuchina urvilleana*)**

**denotes plants that are State Noxious Weeds, but are sold at times.



Voluntary Codes of Conduct For Plant Industry

5. Follow all laws on importation and quarantine of plant materials across political boundaries.

MALP will support this code by making an effort to learn the laws and follow them.

6. Encourage customers to use, and garden writers to promote, non-invasive plants.

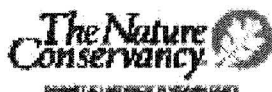
MALP agrees to do this wherever possible by promoting education about invasive plants and non-invasive alternatives through our web page, newsletter and annual garden fair.

These codes are voluntary and are agreed upon by the honor of the individual MALP member/business listed on page 1. MALP will try to promote these codes to other businesses as a way to establish an industry standard. The Codes of Conduct will be up for review and revisions on an as needed basis.

Please fill out contact information on page 1 and FAX to Christy Martin at (808) 956-4710, or mail to P.O. Box 61441, Honolulu, Hawaii 96839. MAHALO for your participation.



Missouri Botanical Garden



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The Nature Conservancy of Hawai'i
923 Nu'uuanu Avenue
Honolulu, Hawai'i 96817

Tel (808) 537-4508
Fax (808) 545-2019

nature.org/hawaii

Testimony of The Nature Conservancy of Hawai'i
Supporting the Intent of H.B. 632 Relating to Noxious Weeds
House Committee on Agriculture
Wednesday, February 16, 2011, 9:00AM, Rm. 312

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports the intent of H.B. 632 and its purpose to streamline the process for adding plants to the State noxious weed list.

Invasive weeds, insects, diseases, snakes, and other pests are one of the greatest threats to Hawaii's economy, agriculture, natural environment, and the health and lifestyle of its people. One of the greatest challenges to adding plants to the State noxious weed list is the burdensome and expensive administrative rulemaking process required to add even a single plant to the list. Because of the time and cost associated with Chapter 91 rulemaking, new weed species are almost never added to the list.

However, while it is important to have an up-to-date list of noxious weeds so that the Department of Agriculture (DOA), land owners and managers, and the general public can be aware of and responsive to protecting against the spread of such weeds, it is also important to recognize the impacts of adding weeds to the list. For example, when a plant is added to the list there are additional requirements placed on the DOA to take action to prevent movement and control these pests, which it may or may not have the capacity to carry out. Additionally, the public should still have a reasonable mechanism for public input on the additions proposed by the Board of Agriculture.

While we absolutely agree that we need to head in the direction proposed by H.B. 632, we hope that we can work with the DOA and other stakeholders to ensure that any changes by legislation or otherwise are manageable and fair.

BOARD OF TRUSTEES

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House of Representatives
Committee on Agriculture
Wednesday, February 16, 2011
9:00 a.m., Conference Room 312
State Capitol

Testimony in Support of the Intent of HB 632

Aloha Chair Tsuji, Vice Chair Hashem, and Members of the Committee,

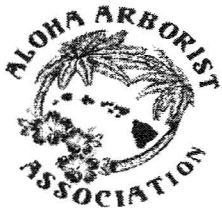
The Coordinating Group on Alien Pest Species **supports the intent of HB 632, Relating to Noxious Weeds**. The Noxious Weed Rules were set up largely to provide the Hawai'i Department of Agriculture (HDOA) with the legal means to control listed plants and enter into cooperative agreements with landowners to control listed plants.

Although the rules are set up so that invasive plants may be added or removed, the list has not been changed since its inception due to the time-consuming, costly, and cumbersome process of rulemaking. While HB 632 would make it easier to update the noxious weed list, adding plants to the list requires the Plant Pest Control Branch to control or eradicate it, a daunting task for the handful of staff with little to no operating budget. We urge legislators to consider funding mechanisms for this branch along with any changes to the noxious weed rules.

Mahalo for your time and consideration.

Aloha,

Christy Martin
Coordinating Group on Alien Pest Species (CGAPS)
Ph: (808) 722-0995



P.O. Box 893953
Mililani, Hawaii 96789-0953
(808) 381-1342 Fax (808) 625-4287

February 15, 2011

House Committee on Agriculture and
House Committee on Finance

Subject: Testimony on HB 632

The Aloha Arborist Association (AAA) opposes HB 632 relating to the Noxious Plant List. We are an organization of 80 individuals and companies who work in the tree care industry.

Please refer to the Landscape Industry Council of Hawaii's (LICH's) testimony on HB 632 for further information as to why we oppose this bill.

Respectfully submitted,

Steven Connolly
President



LANDSCAPE INDUSTRY COUNCIL OF HAWAI'I

FEBRUARY 14, 2011

TESTIMONY FOR HOUSE BILL 632

HOUSE COMMITTEE ON AGRICULTURE

The Landscape Industry Council of Hawai'i opposes House Bill 632 relating to Agriculture and the Department of Agriculture Noxious Plant List.

The noxious plant list's purpose is to establish criteria for the designation, control, or eradication of noxious weeds. The original intent of the noxious weed rules was to direct the Department of Agriculture to control plants that met all the requirements of the list including a plant species that is poisonous, injurious, or otherwise harmful to humans or animals. Thus the name, the "Noxious Plant List."

House Bill 632 expands the Noxious Plant Rules to include invasive plant characteristics and streamline the process of additions and deletions of species on the list. Very few plants have been added to the Noxious Plant List due to the overly cumbersome and expensive process to add plants to the restricted list but mostly from the cost for the Department of Agriculture to control species on the Noxious Plant List.

The landscape industry is passionate about protecting our landscape and taking a proactive stance on invasive species. In 2008, LICH enacted the most aggressive invasive species position in the nation with the LICH Invasive Species Initiative. The LICH Invasive Species Initiative was a collaborative, inclusive and transparent initiative to develop an invasive species policy and invasive plant list. It included conservation and industry. It was the first statewide effort in the nation to weigh the benefit versus risk of invasive species and include conservation and industry. The end result was an invasive position statement and an invasive plant list containing 134 invasive plants.

In 2009, a survey showed that over 75% of landscape professionals were aware of the LICH Invasive Species effort. Since 2008, the LICH Invasive Species list and policy have been adopted by the Hawaii Department of Transportation and is being used by the City & County of Honolulu High-Capacity Transit Corridor Project.

The House Bill 632 might prevent promising plants with more benefit than risk. Some examples might be biofuel plants, forestry trees for lumber, salt tolerant turf grass saving drinking water, erosion control plants that reduce sediments from entering our storm drains and silting our reefs, disease resistant plants that reduce the use of pesticides, agriculture plants, emerging seed crop plants, etc. While these examples might have an overwhelming benefit compared to the invasive risk, House Bill 632 would not consider the benefit.

LICH cannot support House Bill 632 in its current form and suggests amending the bill to include risk and benefit information from industry and conservation leaders to advise the board in making decisions on the noxious plant list. LICH developed its invasive plant policy and invasive plant list on benefit versus risk basis similar to an effort of risk versus benefit by the New Zealand National Pest Plant Accord (NPPA), which can be found online at <http://www.biosecurity.govt.nz/nppa>.

LICH supports a risk versus benefit analysis for importation and control of plants. If you would like to discuss this further feel free to contact me at 927-3503 or email at chris.dacus@gmail.com.

Chris Dacus
President
Landscape Industry Council of Hawai'i
P. O. Box 22938, Honolulu, Hawai'i 96823-2938

Landscape Industry Council of Hawai'i

Hawaii's landscape industry is one of the fastest growing and largest segments of the green industry with an economic impact of over \$520 million annually and full time employment of over 11,000 landscape professionals.

Celebrating 25 years, LICH was formed in June 1986, the Landscape Industry Council of Hawai'i is a state wide alliance representing Hawaii's landscape trade associations: Aloha Arborist Association, American Society of Landscape Architects Hawaii Chapter, Hawaii Association of Nurserymen, Hawaii Island Landscape Association, Hawaii Landscape and Irrigation Contractors, Hawaii Society of Urban Forestry Professionals, Kauai Landscape Industry Council, Maui Association of Landscape Professionals, Professional Grounds Management Society, Big Island Association of Nurserymen, and the Hawaii Professional Gardeners Association.

Online at www.landscapehawaii.org

TO: Rep. Clift Tsuji, Chair
Rep. Mark J. Hashem, Vice Chair
Committee On Agriculture

FROM: Mary Ikagawa, Kailua, Oahu HI

RE: SUPPORT for HB 632, Relating to noxious weeds, scheduled to be heard Wed.,
Feb. 16 at 9:00 a.m. in Conference Room 312

Hawaii's taxpayers fund several important initiatives to reduce the impacts of harmful invasive species on our agricultural areas and watersheds. Organizations doing this work—including the watershed partnerships, invasive species committees, Department of Land and Natural Resources, the Department of Agriculture, and various NGOs—have limited resources that could be used to much greater effect if there was a better policy foundation at the prevention end.

In pest management, the proactive approach is always the money-saving approach. This bill gives the Department of Agriculture a key authority to act quickly to control the influx and movement of high-risk plants. Supporting tools and programs such as the Weed Risk Assessment, Invasive Species Committees and Early Detection initiatives stand ready and waiting to assist the DOA to identify and respond to the highest-priority threats.

Without the authority to act quickly that is provided to the Department of Agriculture by this bill, plants that are already known to be high-threat pests will continue to be brought to the islands and spread around, and the Department will lack a critical rapid intervention tool. Plants come in via internet orders, nurseries, and markets of all kinds. Many new plants are not known to be in the islands until a botanist or biologist spots them in someone's yard. Without an official declaration that a plant is a restricted or noxious pest, it can be very difficult to achieve the goal of removing all occurrences of a landscape-altering weed before it can naturalize. While most people are cooperative and helpful, there will always be some who will not allow a pest to be removed from their property unless it is the law. It is very expensive to control invasive species after they are widely established, and without the policy tools to expedite rapid response, irreversible harm may be done before any action is taken.

For these reasons, HB 632 deserves legislative support.