



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

January 31, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE COMMITTEE(S) ON TRANSPORTATION AND  
PUBLIC SAFETY & MILITARY AFFAIRS

HOUSE BILL NO. 970

The Department of Transportation opposes H.B.970 which would authorize the DOT to conduct incoming air cargo container inspections to detect and confiscate material posing a threat to the State and to assess a fee on air cargo to cover the costs of inspections.

First, the mission and responsibilities of the Department is to plan, design, construct, operate and maintain State facilities in all modes of transportation, including air, water and land. This means that DOT provides the infrastructure to support tri-modal means of transport. This bill, however, will dilute the Department's resources from executing our primary mission as Airport Revenue funds cannot be utilized to fund for air cargo inspectors as prescribed proposed in H. B. 970.

Second, we believe that the inspection function as proposed in this bill is misdirected. There are other governmental agencies with specific functions and responsibilities that are mandated to address the container inspections as described in this bill. The state's Department of Agriculture is responsible to protect Hawaii through its inspections of incoming agricultural products. The federal agency, US Department of Agriculture, is responsible for inspections of outgoing agricultural products. The US Customs and Border Patrol mission is to inspect all incoming personnel and cargo. Additionally, the Transportation Security Administration is also tasked to inspect all air cargo shipments being transported through our sovereign airspace. Specifically, both federal agencies are to detect and confiscate contraband that violate state, county and federal laws. As previously set forth, there are specified governmental agencies mandated to accomplish the very essence of this bill that is being proposed.

In conclusion, the Department of Transportation opposes this bill because it will unduly task it with additional, duplicative responsibilities that are already vested with other state and federal agencies, thereby extending responsibilities beyond the scope of the mission of the department, as prescribed by the Hawaii Revised Statutes.



**Hawaii Farm Bureau**  
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COMMITTEE ON TRANSPORTATION  
and  
COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

January 31, 2011

Testimony

RE: HB 970 RELATING TO CARGO INSPECTION

Chair Souki, Chair Aquino, and Members of the Committees,

Hawaii Farm Bureau Federation, on behalf of our commercial farm and ranch families and organizations across the State, agrees with the intent of HB 970, enabling appropriate air cargo inspections to protect the safety of Hawaii's people and environment.

We appreciate the recognition by the authors of this measure of the implications of invasive species and animal species to Hawaii. Over the years, the right of Hawaii to inspect imports has been questioned but the practice continues, protected by the legal authority provided under Chapter 150A-5.5.

**§150A-5.5 What constitutes importation.** (a) The landing of any article for the purpose of inspection or quarantine shall not be construed to give the article any status or the owner any right incident to articles which have actually been passed and allowed into the State.

(b) In legal effect, articles landed for the purpose of inspection or quarantine shall be construed to be still outside the State seeking entry, and shall not, in whole or in part, be considered suitable for entry into the State unless a tag, label, or stamp has been affixed to the article, its container, or its delivery order by the inspector as provided in section 150A-5(9), except that articles quarantined in the biocontrol containment facilities of the department or of other government agencies engaged in joint projects with the department may be released upon issuance of a permit approved by the board.

(c) Notwithstanding subsections (a) and (b), the import of articles in violation of this chapter or rules adopted under this chapter may subject the importer to penalty although the articles have not been passed for entry. [L 1985, c 133, §4; am L 1990, c 243, §3; am L 1996, c 153, §3]

We respectfully request consultation with the Hawaii Department of Agriculture regarding language associated with invasive species inspections. This measure seeks to assess a fee that may be considered duplicative considering the legislature has authorized collections of fees for

HB970 HDOT authority to inspect

inspection of imports in Chapter 150. A collaborative approach between departments may be a better approach.

The Air Transport Association of America has filed actions against the State alleging that the federal Anti-Head Tax Act and Airline Deregulation Act prohibit the State from levying or collecting a tax or fee on an air carrier. Until these proceedings are complete, establishment of another fee may bring about further action against the State.

It should be noted that a legal review was performed before Hawaii's Invasive Species Inspection Fee Program was passed into law. HFBF believes the State is correct in that we are not in violation of AHTA or ADA. Full implementation of the inspection requirements of Hawaii's Biosecurity Law is critical to Hawaii's future. We understand that the intent of this bill is to address explosives and illegal drugs and we certainly do not question the importance of this. However, agriculture cannot take second place as occurred at the Federal level. When these operations are combined, agriculture takes a back seat, and protection from invasive species does not occur. There is ample proof of this at the major ports of entry in Florida, Texas, and Arizona. We do NOT want to repeat that in Hawaii. We strongly support a joint inspection for all of the problematic imports and STRONGLY urge dialogue with HDOA to accomplish this goal.

**We respectfully request amendments after consultation with HDOA before this measure is passed.** Thank you for this opportunity to provide our opinion on this important matter. If there are questions, please contact Warren Watanabe at 2819718.



Maui County Farm Bureau

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Hearing before the

Committee on Transportation

and the

Committee on Public Safety and Military Affairs

January 31, 2011

**LATE TESTIMONY**

### **HB 970 RELATING TO CARGO INSPECTION**

Chair Souki, Chair Aquino, and Members of the Committees,

Maui County Farm Bureau on behalf of our commercial farm and ranch families and organizations on the island **agrees with the intent** of HB970, enabling mechanisms to allow inspections to protect the safety of Hawaii's people and environment. **We support the position submitted by Hawaii Farm Bureau Federation.**

Thank you for understanding the invasive species issues and providing your support. Hawaii has faced opposition by some transportation companies in implementing much-needed inspection fees and measures but we appreciate the maritime industry's acceptance of responsibility and the payment of fees that provide necessary funding during the economic down-turn.

Air transport cooperation has been another story, as seen in the newspaper articles in Pacific Business News and the Star Advertiser. We would like to note that as reported, Hawaiian Airlines was an exception and we very much appreciate their kama'aina spirit in working to protect Hawaii.

Currently the State faces lawsuits filed by the Air Transport Association of America alleging that the federal Anti-Head Tax Act and Airline Deregulation Act prohibit the state from levying or collecting a tax or fee on an air carrier. We do not want to see other legal actions, using scarce state resources for legal defense, instead of being used to promote the intent of this measure---which is to protect Hawaii and to increase our level of self sufficiency.

We respectfully request amendments to this measure after consultation with HDOA, before this measure is passed. Thank you for the opportunity to provide our opinion on this important matter. If there are questions, please contact Warren Watanabe, Executive Director of MCFB at 2819718.