
A BILL FOR AN ACT

RELATING TO COFFEE.

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

1 PART I.

2 SECTION 1. The purpose of this part is to address the
3 control and eradication of the coffee borer beetle by
4 temporarily:

- 5 (1) Imposing a fee on each pound of green coffee beans
6 grown in or imported into the State;
- 7 (2) Establishing a special fund as the depository of the
8 fee revenues; and
- 9 (3) Requiring the proceeds of the special fund to be
10 expended exclusively to control and eradicate the
11 coffee borer beetle in the State.

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

15 "PART . COFFEE BORER BEETLE CONTROL
16 FEE AND SPECIAL FUND



1 **§150A-A Purpose and findings.** The purpose of this part is
2 to generate revenue to control and eradicate the coffee borer
3 beetle.

4 The legislature finds that coffee production in the State
5 and exportation from the State are important components of the
6 economy. Hawaii-grown coffee, whether or not blended with
7 coffee from elsewhere, is of the highest quality, resulting in a
8 great reputation throughout the world. This quality and
9 reputation must be maintained for the general welfare of the
10 State.

11 An invasive species, the coffee borer beetle is a threat to
12 Hawaii-grown coffee. The control and eradication of the coffee
13 borer beetle is imperative to maintain the quality and
14 reputation of coffee consumed in or exported from Hawaii,
15 whether or not blended. If the export and consumption of coffee
16 blends from Hawaii suffers, whether one hundred per cent
17 Hawaiian-origin coffee or Hawaiian-origin coffees blended with
18 coffees from elsewhere, because of the coffee borer beetle, the
19 economy of the State will be harmed.

20 Consequently, the legislature finds that it is necessary to
21 impose a fee on all green coffee beans grown in or imported into



1 Hawaii in order to generate revenues to control or eradicate the
2 coffee borer beetle.

3 **§150A-B Definitions.** For the purposes of this part:

4 "Coffee cherry" means the unprocessed fruit of the coffee
5 arabica plant.

6 "Green coffee bean" means the seed of the fruit of the
7 coffee arabica plant, which has been dried and from which the
8 pulp and spermoderm have been removed and hulling has taken
9 place.

10 **§150A-C Coffee borer beetle control fee.** (a) A fee of 1
11 cent shall be assessed on each pound of green coffee beans
12 processed in Hawaii from Hawaii-grown coffee cherries. The fee
13 shall be paid by the person who owns the green coffee beans
14 after the processing from Hawaii-grown coffee cherries and shall
15 be due at the time the green coffee beans are sold or roasted.

16 (b) A fee of 1 cent shall be assessed on each pound of
17 green coffee beans that is imported into Hawaii from other
18 origins; provided that the green coffee beans are sold or
19 roasted in the State. The fee shall be paid only once on each
20 pound of green coffee beans in accordance with the following:

21 (1) If the green coffee beans are grown in the State
22 before being roasted in the State, the fee shall be



1 paid by the person who sells the green coffee beans;

2 or

3 (2) If the green coffee beans are not sold in the State
4 before being roasted in the State, the fee shall be
5 paid by the person who roasts the green coffee beans.

6 (c) The department shall collect the fees established
7 under this section each month and deposit the revenues collected
8 into the coffee borer beetle control special fund.

9 **§150A-D Coffee borer beetle control special fund. (a)**

10 There is established in the state treasury the coffee borer
11 beetle control special fund to be administered by the department
12 of agriculture.

13 (b) The following shall be deposited into the special
14 fund:

15 (1) Revenues from the fees established under section 150A-
16 C;

17 (2) Legislative appropriations to the special fund;

18 (3) Federal funds identified for deposit into the special
19 fund;

20 (4) Donations for the control or eradication of the coffee
21 borer beetle;

22 (5) Interest earned on moneys in the special fund; and



1 (6) Other moneys made available to the special fund or to
2 control or eradicate the coffee borer beetle.

3 (c) Subject to legislative appropriations, expenditures
4 from the special fund may be made for the programs and projects
5 to eradicate the coffee borer beetle in the State, including
6 destruction of feral coffee plants; provided that, if the fund
7 receives revenues in excess of \$180,000 during a fiscal year,
8 the excess may be expended on the following:

9 (1) Research and development programs and projects to
10 control or eradicate the coffee borer beetle;

11 (2) Programs to inspect and, if necessary, treat coffee
12 cherries or beans for the purpose of controlling or
13 eradicated the coffee borer beetle or preventing the
14 spread of the coffee borer beetle within the State;
15 and

16 (3) Other programs and projects for the control or
17 eradication of the coffee borer beetle.

18 To implement a program or project under this subsection,
19 the department may contract with another government agency or
20 private person to conduct the program or project.

21 **§150A-E Administration.** (a) The department shall
22 establish procedures for the collection of the fee established



1 under section 150A-C. The procedures may include requirements
2 for the filing of returns by the person required to pay the fee,
3 the keeping of records necessary to impose and collect the fee,
4 and inspection of the records and premises of persons required
5 to pay the fee.

6 (b) The department shall establish a procedure for persons
7 to appeal the imposition of the fee established under section
8 150A-C.

9 **§150A-F Penalty.** (a) If a person fails to pay the fee
10 imposed on the person under this part, or is delinquent in
11 paying the fee, the person shall be subject to a penalty of ten
12 per cent of the unpaid fee or delinquent portion of the fee, as
13 applicable, and the interest on the total delinquent amount and
14 penalty shall be five per cent per month, compounded.

15 (b) A person shall be subject to a fine of up to \$10,000,
16 loss of general excise tax license, or both, if the person
17 knowingly makes a false statement to or files a false document
18 with the department or any other state agency regarding a fee
19 imposed on the person under this part.

20 **§150A-G Sunset.** This part shall terminate on June 30,
21 2018. Any unexpended and unencumbered balance of the coffee

1 borer beetle special fund on the date of termination shall be
2 transferred to the general fund on July 1, 2018."

3 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as provided in this section, and
6 notwithstanding any other law to the contrary, from time to
7 time, the director of finance, for the purpose of defraying the
8 prorated estimate of central service expenses of government in
9 relation to all special funds, except the:

- 10 (1) Special out-of-school time instructional program fund
- 11 under section 302A-1310;
- 12 (2) School cafeteria special funds of the department of
- 13 education;
- 14 (3) Special funds of the University of Hawaii;
- 15 (4) State educational facilities improvement special fund;
- 16 (5) Convention center enterprise special fund under
- 17 section 201B-8;
- 18 (6) Special funds established by section 206E-6;
- 19 (7) Housing loan program revenue bond special fund;
- 20 (8) Housing project bond special fund;
- 21 (9) Aloha Tower fund created by section 206J-17;



- 1 (10) Funds of the employees' retirement system created by
- 2 section 88-109;
- 3 (11) Unemployment compensation fund established under
- 4 section 383-121;
- 5 (12) Hawaii hurricane relief fund established under chapter
- 6 431P;
- 7 (13) Hawaii health systems corporation special funds and
- 8 the subaccounts of its regional system boards;
- 9 (14) Tourism special fund established under section 201B-
- 10 11;
- 11 (15) Universal service fund established under section 269-
- 12 42;
- 13 (16) Emergency and budget reserve fund under section 328L-
- 14 3;
- 15 (17) Public schools special fees and charges fund under
- 16 section 302A-1130;
- 17 (18) Sport fish special fund under section 187A-9.5;
- 18 (19) Glass advance disposal fee established by section
- 19 342G-82;
- 20 (20) Center for nursing special fund under section 304A-
- 21 2163;



- 1 (21) Passenger facility charge special fund established by
2 section 261-5.5;
- 3 (22) Court interpreting services revolving fund under
4 section 607-1.5;
- 5 (23) Hawaii cancer research special fund;
- 6 (24) Community health centers special fund;
- 7 (25) Emergency medical services special fund;
- 8 (26) Rental motor vehicle customer facility charge special
9 fund established under section 261-5.6; [and]
- 10 (27) Shared services technology special fund under section
11 27-43[7]; and
- 12 (28) Coffee borer beetle control special fund established
13 under section 150A-D,
- 14 shall deduct five per cent of all receipts of all special funds,
15 which deduction shall be transferred to the general fund of the
16 State and become general realizations of the State. All
17 officers of the State and other persons having power to allocate
18 or disburse any special funds shall cooperate with the director
19 in effecting these transfers. To determine the proper revenue
20 base upon which the central service assessment is to be
21 calculated, the director shall adopt rules pursuant to chapter
22 91 for the purpose of suspending or limiting the application of



1 the central service assessment of any fund. No later than
2 twenty days prior to the convening of each regular session of
3 the legislature, the director shall report all central service
4 assessments made during the preceding fiscal year."

5 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Each special fund, except the:

- 8 (1) Transportation use special fund established by section
9 261D-1;
- 10 (2) Special out-of-school time instructional program fund
11 under section 302A-1310;
- 12 (3) School cafeteria special funds of the department of
13 education;
- 14 (4) Special funds of the University of Hawaii;
- 15 (5) State educational facilities improvement special fund;
- 16 (6) Special funds established by section 206E-6;
- 17 (7) Aloha Tower fund created by section 206J-17;
- 18 (8) Funds of the employees' retirement system created by
19 section 88-109;
- 20 (9) Unemployment compensation fund established under
21 section 383-121;



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- 1 (10) Hawaii hurricane relief fund established under section
- 2 431P-2;
- 3 (11) Convention center enterprise special fund established
- 4 under section 201B-8;
- 5 (12) Hawaii health systems corporation special funds and
- 6 the subaccounts of its regional system boards;
- 7 (13) Tourism special fund established under section 201B-
- 8 11;
- 9 (14) Universal service fund established under section 269-
- 10 42;
- 11 (15) Emergency and budget reserve fund under section 328L-
- 12 3;
- 13 (16) Public schools special fees and charges fund under
- 14 section 302A-1130;
- 15 (17) Sport fish special fund under section 187A-9.5;
- 16 (18) Center for nursing special fund under section 304A-
- 17 2163;
- 18 (19) Passenger facility charge special fund established by
- 19 section 261-5.5;
- 20 (20) Court interpreting services revolving fund under
- 21 section 607-1.5;
- 22 (21) Hawaii cancer research special fund;



- 1 (22) Community health centers special fund;
- 2 (23) Emergency medical services special fund;
- 3 (24) Rental motor vehicle customer facility charge special
- 4 fund established under section 261-5.6; [~~and~~]
- 5 (25) Shared services technology special fund under section
- 6 27-43[~~7~~]; and
- 7 (26) Coffee borer beetle control special fund established
- 8 under section 150A-D,
- 9 shall be responsible for its pro rata share of the
- 10 administrative expenses incurred by the department responsible
- 11 for the operations supported by the special fund concerned."

12 SECTION 5. The department of agriculture shall adopt

13 rules, procedures, and forms to implement and collect the fee

14 established under this part commencing on October 1, 2012.

15 Chapter 91, Hawaii Revised Statutes, shall not apply to the

16 adoption of the initial rules to implement and collect the fee;

17 provided that the department of agriculture shall hold at least

18 one public hearing on the proposed initial rules in each county

19 of the State. Any amendment of the initial rules or adoption of

20 additional rules after October 1, 2012, shall be subject to

21 chapter 91, Hawaii Revised Statutes.



1 SECTION 6. There is appropriated out of the coffee borer
2 beetle control special fund the sum of \$90,000 or so much
3 thereof as may be necessary for fiscal year 2012-2013 for the
4 control or eradication of coffee borer beetles.

5 The sum appropriated shall be expended by the department of
6 agriculture for the purposes of this part.

7 PART II.

8 SECTION 7. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 "CHAPTER
12 COFFEE PESTS AND DISEASES

13 § -1 Definitions. As used in this chapter, unless the
14 context clearly requires otherwise:

15 "Chairperson" means the chairperson of the board of
16 agriculture.

17 "Commercial area" means a district where any coffee trees
18 are being produced to the extent that a producer is dependent
19 thereon, in whole or in part, for the producer's livelihood.

20 "Department" means the department of agriculture.



1 "Disinfect" means the control, cure, or eradication of
2 pests or diseases by removing all infected coffee cherries from
3 the trees and ground.

4 "Infect" means affected by or infested with coffee borer
5 beetle pests.

6 "Nuisance" means any plant, produce, or property found in
7 any commercial area upon which the coffee borer beetle is found
8 or may be a source of infestation of other properties.

9 "Pests and diseases" includes any living stage of the
10 coffee borer beetle that may directly or indirectly injure or
11 cause disease or damage to any coffee tree, coffee cherry, or
12 green bean.

13 "Premises" means any land, orchards, storage facilities,
14 structures, and shipping containers or other enclosures.

15 **§ -2 Method of prevention, control, and disinfection.**

16 The following method shall be used for the prevention, control,
17 or disinfection of pests and diseases on coffee trees: For the
18 coffee borer beetle, removal of all coffee cherries from the
19 coffee trees or from the grounds or premises.

20 **§ -3 Duty to disinfect and destroy.** It shall be the
21 duty of every owner, shipper, consignee, or other person in
22 charge of coffee trees to use sufficient methods of prevention



1 to keep the coffee trees and coffee cherry free from infection
2 by coffee borer beetles. If coffee trees and coffee cherry
3 become infected with coffee borer beetles, the owner, shipper,
4 consignee, or other person in charge shall use effective methods
5 to control or destroy the infection pursuant to this chapter.

6 All coffee trees with coffee borer beetles that cannot be
7 successfully disinfected shall be promptly destroyed.

8 § -4 **Authority to enter premises.** (a) Any authorized
9 representative of the department may enter at any time any
10 premises or structure where coffee trees are grown or situated
11 for any purpose, to inspect the trees and cherry for coffee
12 borer beetle infection.

13 (b) No person shall hinder or interfere with any entering
14 or inspection authorized by this section.

15 § -5 **Condemnation of infected premises; notice.** (a) If
16 the premises inspected under this chapter is found to be coffee
17 borer beetle infected, the inspecting officer shall condemn the
18 premises and serve upon the owner or person in charge thereof a
19 written notice of the condemnation, describing the premises with
20 reasonable certainty and ordering the infected portion to be
21 disinfected, or to be destroyed if incapable of disinfection,
22 within a time and in a manner stated therein, and giving notice



1 that if the order is not complied with in the time stated, the
2 inspecting officer shall disinfect or destroy the infected
3 premises by cutting down or removing coffee trees and charging
4 the expense thereof to the owner or against the premises by
5 cutting down or removing coffee trees.

6 (b) No person shall ship, sell, or otherwise dispose of or
7 part with possession of, or transport, any premises or coffee
8 cherry, green coffee, or coffee trees condemned under this
9 section until all requirements of the notice and order are
10 complied with and written permit of the inspector so to do is
11 issued.

12 (c) The notice of condemnation shall authorize the owner
13 or person in charge of the coffee borer beetle infected coffee
14 trees and coffee cherry to divide the coffee trees into the
15 following classes:

- 16 (1) The coffee trees not infected;
- 17 (2) The coffee borer beetle infected coffee trees that are
18 capable of successful disinfection; and
- 19 (3) The coffee borer beetle infected coffee trees that are
20 incapable of successful disinfection and must be
21 destroyed.



1 The notice shall require the owner or person to disinfect the
2 coffee trees in class (2) and destroy the coffee trees in class
3 (3) within the time stated in the notice.

4 (d) Personal service of the notice of condemnation shall
5 be made upon the person in possession or in charge of the
6 premises or property, if possible. If the person is not the
7 owner, or personal service cannot be made on the person, a copy
8 of the notice shall be mailed to the owner at the owner's home
9 or post office address, if known or with reasonable diligence
10 can be ascertained. If personal service cannot be made upon any
11 person in possession or charge of the premises or structure and
12 the name and address of the owner thereof are not known or
13 cannot be ascertained, the notice shall be posted in a
14 conspicuous place on the premises where the property to be
15 disinfected or destroyed is situated, which service by posting
16 shall be construed to be constructive personal service upon the
17 owner. If the name and address of the owner are not known or
18 cannot be ascertained, service upon the person in possession or
19 charge of the premises or property shall constitute substituted
20 personal service upon the owner, in the absence of fraud or
21 gross neglect.



1 § -6 **Lien for costs.** If the owner or person in
2 possession or charge of the premises or property fails to comply
3 with the terms of the notice of condemnation, the inspecting
4 officer may enter the premises and perform or cause to be
5 performed the services required in the notice. The inspector
6 shall keep an accurate account of the expense of performing the
7 services, which shall become a lien on the premises or property
8 that may be foreclosed pursuant to chapter 507. The lien on
9 personal property shall have preference over all other liens.

10 § -7 **Foreclosure on lien; sale.** (a) The inspecting
11 officer disinfecting personal property pursuant to section -6
12 may enforce the lien thereon by impounding and selling the
13 property.

14 (b) The officer shall give notice of the impounding and
15 proposed sale by posting a written notice in a conspicuous place
16 upon the premises where the property is impounded and serve the
17 notice upon the owner or person in charge of the property in the
18 manner provided for in section -5. The notice shall state
19 that the property, describing it with reasonable certainty, has
20 been impounded, where it is situated, the amount of costs and
21 expenses charged against it, and that unless costs and expenses
22 are paid within a specified time, the property shall be sold to



1 satisfy the charges, accrued transportation and storage charges,
2 if any, and costs of sale. The specified time shall not be less
3 than ten days after the service of notice.

4 (c) Sale of the property may be conducted by public
5 auction or private sale, with the proceeds distributed according
6 to the following order of priority:

- 7 (1) Costs of sale;
- 8 (2) Expenses of disinfection;
- 9 (3) Accrued transportation and storage charges; and
- 10 (4) Balance paid to the owner;

11 provided that if the proceeds are not sufficient to pay the
12 costs of sale and expenses of disinfection, the deficiency may
13 be recovered from the owner or person in charge in an action
14 brought in the name of the State.

15 § -8 **Records.** (a) The inspector shall make and sign a
16 record, which shall include:

- 17 (1) The name of the owner or reputed owner of the
18 property, if known;
- 19 (2) Location of the property;
- 20 (3) The date of the inspection;
- 21 (4) The results of the inspection, including the nature
22 and extent of infestation;



- 1 (5) Whether the infestation constitutes a nuisance;
- 2 (6) The date and manner of giving notice to disinfect, if
- 3 any;
- 4 (7) Any failure to disinfect;
- 5 (8) Any disinfection by the inspector, and the cost
- 6 thereof;
- 7 (9) The date and manner of giving notice of impounding and
- 8 sale, if any;
- 9 (10) The date, place, and manner of sale, if any;
- 10 (11) The name of the purchaser, if any; and
- 11 (12) The amount of any proceeds, and disposition thereof.
- 12 (b) Upon demand by the owner or person in charge of the
- 13 property, the inspector shall furnish the owner or person with a
- 14 verified copy of the record, along with the balance of the
- 15 proceeds. If no demand is made within thirty days of the sale,
- 16 or if the tender of proceeds is refused, the inspector shall
- 17 file a verified copy of the record with and remit any balance of
- 18 the proceeds to the chairperson, and if it is not claimed by the
- 19 owner within six months, it shall be deposited in the general
- 20 fund.



1 (c) The record or a verified copy of the record shall be
2 admissible in evidence as prima facie evidence of the truth of
3 its contents.

4 § -9 **Nuisance; petition.** If the inspecting officer does
5 not disinfect or destroy the infected property, and indicates in
6 the records under section -8 that the infestation constitutes
7 a nuisance, the records shall be transmitted to the prosecuting
8 attorney of the county, who shall within five days file in the
9 appropriate circuit court a petition, with the records attached
10 thereto, for an order declaring the premises or property to be a
11 nuisance.

12 § -10 **Nuisance; notice.** A notice containing a
13 description of the premises, stating the objects and purposes of
14 the petition and the time and place of presentation of the
15 petition to the court, shall be served upon every person named
16 as interested in the premises at least five days prior to the
17 time of presentation.

18 (b) Service of the notice shall be as nearly as possible
19 in the manner provided by law for service of summons in a civil
20 action, except that if service is had by publication the period
21 of publication shall be two weekly publications in a newspaper
22 published of general circulation in the county, and the service



1 shall be deemed completed on the expiration of fifteen days
2 after the date of the first publication.

3 (c) Proof of service may be made by affidavit of the
4 person serving or publishing the notice and shall be filed with
5 the clerk of the court on or before the time of presentation of
6 the petition.

7 (d) On application of any party or its own motion the
8 court may adjourn the hearing from time to time, and may order
9 new or further notice to be given any person whose interest may
10 be affected.

11 § -11 **Nuisance; order of abatement.** The inspecting
12 officer's records shall be prima facie evidence that the
13 premises are infested and constitute a nuisance. If there is no
14 showing that the inspecting officer acted in a capricious,
15 arbitrary, or unfair manner, the court shall decree the coffee
16 trees and coffee cherry on the premises to constitute a nuisance
17 and order the department to destroy the same, or abate the
18 nuisance in any other manner as the court may direct; provided
19 that the costs of destruction or abatement, and of the
20 proceedings, shall be levied against the defendants therein.

21 § -12 **Nuisance; appeals.** An appeal may be taken from
22 the decree under section -11 by filing notice of appeal not



1 later than ten days after issuance of the decree; provided that
2 the appellant shall file an appeal bond of not less than one
3 thousand dollars and sufficient in amount to cover possible
4 damages to neighboring properties due to delay in carrying out
5 the decree.

6 § -13 **Disinfection of public properties.** The
7 chairperson may require the counties to disinfect or destroy all
8 infected coffee trees growing upon public property within their
9 respective jurisdictions, or the department may disinfect or
10 destroy the infected trees."

11 PART III.

12 SECTION 8. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date. The repeal of part I of this
15 Act on June 30, 2018, shall not affect any rights and duties
16 that matured, penalties that were incurred, and proceedings that
17 were begun between October 1, 2012, and June 30, 2018.

18 SECTION 9. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval;
4 provided that part I of this Act shall take effect on October 1,
5 2012, and shall be repealed on June 30, 2018, and sections 36-27
6 and 36-30, Hawaii Revised Statutes, shall be reenacted in the
7 form in which they read on September 30, 2012; provided further
8 that the amendments made to sections 36-27 and 36-30, HRS, by
9 this Act shall not be repealed when those sections are reenacted
10 on July 1, 2015, pursuant to Act 79, SLH 2009.

11

INTRODUCED BY:


BY REQUEST

JAN 13 2012



H.B. NO. 1827

Report Title:

Coffee; Pests; Infection; Special Fund; DOA

Description:

Imposes a 1 cent fee on each pound of green coffee beans grown in or imported into the State to be deposited into a special fund to control and eradicate the coffee borer beetle. Establishes provisions to eradicate and control pests and infections on coffee trees. Appropriation. Sunset.

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

