

SB2347

SD1

LATE

TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jparish@hawaii.edu
Subject: Submitted testimony for SB2347 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 6:35:20 PM

SB2347

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Julia Parish	Oahu Invasive Species Committee	Support	No

Comments: The Oahu Invasive Species Committee supports the intent of this bill but believes that the addition of a definition for "nursery stock" to HRS 150A-2 might help clarify the scope of the act. For example, little fire ants are known to move on both propagative and non-propagative plant material. If this bill becomes law, it is hoped that additional resources will be made available to the Department of Agriculture to assist the industry's compliance with this legislation.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: lbuchanan@tnc.org
Subject: Submitted testimony for SB2347 on Feb 20, 2014 10:30AM
Date: Wednesday, February 19, 2014 4:32:57 PM

SB2347

Submitted on: 2/19/2014

Testimony for JDL on Feb 20, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lori Buchanan	MoMISC	Support	No

Comments: Molokai/Maui Invasive Species Committee (MoMISC) supports the intent of this bill but still has concerns about proposed wording under Section 3, subsection (c)(3) which could make the mere possession or unknowing transport of a pest a class C felony with a \$50,000 fine. The addition of the words "knowingly or negligently" could help prevent the unintended inclusion of persons who are already engaged in best practices to prevent the movement of pests, but may unknowingly and inadvertently transport pests. Also, the addition of a definition for "nursery stock" to HRS 150A-2 might help clarify the scope of the act. For example, little fire ants are known to move on both propagative and non-propagative plant material. If this bill becomes law, it is hoped that additional resources will be made available to the Department of Agriculture to assist the industry as so many businesses have become burdened with pest species through no fault of their own.

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Hawaii Export Nursery Association

Testimony for the Twenty Seventh Legislature 2014
State of Hawaii

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, vice Chair

Thursday, February 20, 2014 @ 10:30 a.m.
Conference Room 016
State Capitol, 415 South Beretania Street

A bill for an act
SB 2347 RELATING TO INVASIVE SPECIES
Oppose SB 2347

Aloha,

The Hawaii Export Nursery Association is a non-profit membership organization of over 117 Hawaii nurserymen and nurserywomen professionally engaged in the export and import of Potted Tropical Ornamental Plants and Flowers. We are dedicated to marketing, research, transportation, and educational issues. Our goal is to supply Hawaii grown, top quality tropical plants and flowers for the global marketplace.

Our membership, as a whole, **strongly opposes SB2347** Relating to Invasive Species. This bill unfairly targets agricultural producers and seeks to discourage and penalize Hawaii's Big Island farmers and ornamental nurseries from continuing to farm. This bill DISCRIMINATES against our industry and places an undue burden on small business. Our industry understands and strongly supports the need to control pests. We conduct seminars, provide education and information and help facilitate our nurseries to remain clean of invasive pests. Our nurseries have voluntary regular inspections, treatments such as hot shower and citric acid, and provide the best procedures to assure our products are as clear of all invasive pests before they leave the nurseries, whether their destination is another nursery on island, interisland or to the U.S. mainland and abroad.

This bill places the blame for invasive pests to the Big Island ornamental growers who are already working so diligently to eradicate these pests and prevent the spread of same. Although our nurseries have pest management plans in place, the spread of these invasive pests have other means of transport off island. This bill and similar bills (HB1994) can potentially decimate the ornamental industry which can significantly impact our economy.

We **OPPOSE** this bill and ask you to consider other measures that can better help our industry and Hawaii's agriculture as a whole. We appreciate your consideration of our position on this Bill and hope you will take appropriate action on our behalf.

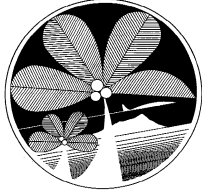
If you have any questions, please feel free to contact me. I can be reached by phone at 808-966-4637 or via email to info@hena.org.

Warmest regards,

Thomas Martin

Thomas Martin
President HENA

AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport
300 Rodgers Blvd., #62
Honolulu, Hawaii 96819-1832
Phone (808) 838-0011
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February 20, 2014

Honorable Clayton Hee, Chair
Honorable Maile Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Re: SB 2347 SD1 – RELATING TO INVASIVE SPECIES – COMMENTS
Conference Room 016 – 10:30 AM

Aloha Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

The Airlines Committee of Hawaii* (ACH), which is made up of 21 signatory air carriers that underwrite the State Airport System appreciates the opportunity to offer testimony on SB 2347 SD1.

The ACH strongly supports the prevention and control of invasive species, and supports the intent of SB 2347 SD1. We have concerns with section 3 of the measure, as it amends the penalty section which applies to someone who transports the subject material to a significantly reduced mens rea standard from needing “intent” to violate, to acting with “gross negligence”.

Thank you for the opportunity to submit testimony.

Sincerely,

Blaine Miyasato
ACH Co-chair

Matthew Shelby
ACH Co-chair

**ACH members are Air Canada, Air New Zealand, Air Pacific, Alaska Airlines, All Nippon Airways, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, go!, Hawaiian Airlines, Island Air, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, US Airways, and Westjet.*



Hawaii Floriculture and Nursery Association

Testimony for the Twenty Seventh Legislature, 2014
State of Hawaii

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

Thursday, February 20, 2014

10:30 am

Conference Room 016

State Capitol

415 South Beretania Street

A bill for an act

SB 2347 RELATING TO INVASIVE SPECIES

Oppose SB 2347

My name is Eric S. Tanouye and I am the President for the Hawaii Floriculture and Nursery Association. HFNA is a statewide umbrella organization with approximately 300 members. Our membership is made up with breeders, hybridizers, propagators, growers, shippers, wholesalers, retailers, educators, and the allied industry, which supports our efforts in agriculture.

We **Strongly Oppose** SB2347 Relating to Invasive Species. This bill unfairly targets agricultural producers, and seeks to discourage as well as penalize Hawaii's Big Island Farmers and Nurseries from continuing to farm. To put it plainly this bill DISCRIMINATES against our industry and places an UNDUE BURDEN on small business. This will in time effectively act as an embargo of our products from the Big Island. Our industry understands the need to control pests and have voluntarily enacted procedures to prevent the spread of pests such as inspections, citric acid treatments, hot water treatment, cold treatment, etc. It is important to understand these procedures are not 100% effective and that one should not be penalized for living in an imperfect world.

This bill discriminates against the Big Island ornamental sector and seeks to lay the blame of invasive pests on those who are already most affected by them. Currently, certified nurseries are inspected and the certified area must be free of coqui, little fire ants and other quarantine pests. Even non-certified nurseries on the Island of Hawaii must have their products treated before nursery stock is shipped. So although nurseries must have pest management plans and be certified free or treated, the other commodities could be infested with little fire ant or coqui and basically receive a free pass. An example would be logs harvested for biomass can move freely within the island and then move to Oahu without treatment.



Hawaii Floriculture and Nursery Association

The movement of nursery stock and/or agricultural commodities are not the only way coqui and little fire ant move. Yet our industry is singled out again. Similar to the pesticides measure in Kauai County, five agricultural entities comprised 18% of the pesticide use, yet they were singled out and the remaining 82% were exempted. This discrimination against agriculture needs to stop.

Please also note that these pests did not originate on the Big Island but came about via importation, this suggests that we should continue to focus on invasive species from outside the state. Why should the County of Hawaii, the agricultural industry, and other entities impacted by this bill be held hostage to invasive pests that the Federal, State, County, and the Hawaii Invasive Species Council could not suppress. If the State feels it is that important to control these pests, then the State should provide all of the resources to combat, control and mitigate the problem, instead of making small business and the currently impacted population suffer more with these overburdening laws and rules. The Big Island exports many agricultural products to markets within the State, and if the agriculture industry can't export from the County of Hawaii, the state's capacity to produce local grown agricultural commodities, including food, is greatly diminished. Also note that the floriculture industry once topped \$100 million dollars in revenue annually, with over half of the production being on the Big Island.

Frankly, between this legislation and others this session, non-farmers are dictating to farmers how to farm, what to farm, where to farm and taking away the freedom. It makes a physically demanding industry, much harder and less profitable, unfortunately, most farms are not non-profit organizations or government funded agencies. This Bill, and bills similar to this (HB1994), separately or combined, have a high potential to decimate the agriculture industry, and significantly impact the economy. Furthermore, the upper echelon of Department of Agriculture, are non-farmers. How can we depend on the department to look out for best interest of the agriculture industry if they don't understand modern commercial agriculture.

SB 2347 regulates and constrains agriculture by placing a high penalty of \$50,000 to \$200,000 on the shipment of agriculture within the state. Current methods do not have a hundred percent success rate of treatment to rid of pests. We understand the need to contain pests but these penalties are not a solution to the problem, this will just stop ornamental agriculture as the risk will be too great to bear. Who wants to work hard to grow products, follow treatment procedure and then know that they are still at a risk of being fined \$50,000?

The Department of Land and Natural Resources and Hawaii Invasive Species Council need to devise and implement a cost-effective and efficient plan to stop the re-



Hawaii Floriculture and Nursery Association

infestation of agriculture lands and other impacted by this bill from pests that are in these public areas. Again we are being penalized and yet nothing is being done to control the areas around the agricultural land of these pests. There is already too much talk and not enough cost-effective implementation actions by the Hawaii Invasive Species Committee. The farmers don't need more advice from ineffective agencies, state task forces, and committees, if the State feels this is a major problem use the funds to deal with the problem and not on these in-effective bureaucratic solutions. Unfortunately, the only worthwhile program was the biosecurity program, but stopped in its infancy by the Department of Agriculture and others.

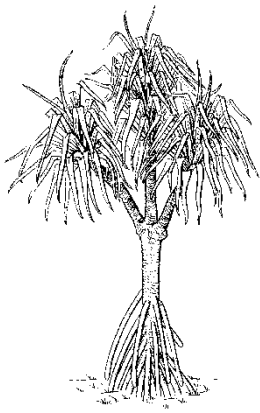
Without the innovation developed under the biosecurity program and research from CTAHR, HARC and PBARC, treatments for new pests may not be available. This is what we should be focusing on and not penalizing the Big Island for past Invasive Species Council failures.

We **OPPOSE** this bill and ask you to consider other measures that can better help all of Hawaii's Agriculture. If you have any questions at this time, I would be happy to discuss them and can be reached by phone at 808-959-3535 ext 22, cell 960-1433 and email eric@greenpointnursery.com.

Supporting Agriculture and Hawaii,

Eric S. Tanouye
President

Hawaii Floriculture and Nursery Association



KAUAI NURSERY & LANDSCAPING, INC

3-1550 Kaumualii Highway, Lihue Hi 96766
Phone: (808) 245-7747 / Fax: (808) 245-9289
Contractor's License No.: ABC-10825
E-mail: knl@kauainursery.com

Wednesday, February 19, 2014

Regarding:

Hearing before the Senate Committee on Judiciary and Labor
Testimony on Senate Bill 2347 Relating to Invasive Species

Dear Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

We are strongly opposed to Senate Bill 2347. While the spirit of SB2347 is commendable, its wording is both vague and deficient in producing a law that is both fair and enforceable. We are most concerned that SB2347 does not fully account for the chain of ownership a shipped plant goes through:

- When an inter-island plant shipment is prepared, the shipment is inspected by an agent of the Department of Agriculture.
- The agent then determines if the shipment is free of foreign organisms.
- If the shipment is approved for inter-island transport, it is then transferred to the appropriate air or sea carrier.
- The carrier then transports the shipment to its neighbor island receiving site.
- From there, either the final owner or their designated transporter claims possession of the shipment and delivers it to its final destination (or a temporary holding area).

As you can see, a basic inter-island shipment goes through a number of possessions by different parties. The sequence assumes that all points of possession are considered clean of foreign organisms. In reality, the shipment could potentially become contaminated at any point in transit. SB2347, as it is currently written, appears to lay guilt on the originating shipper, and excludes any possible fault of interim or final possessors of the shipment.


Another issue with SB2347 is that vague violation descriptions are coupled with specific financial penalties. Each violation description appears to have overlapping elements which makes the determination of whether a violation is a misdemeanor or a class C felony vague and highly subjective.

We see the passing of SB2347 as having the potential to curtail the inter-island plant shipping industry. While we do not have a substantial investment in the inter-island industry, we do know of businesses that base their livelihoods on inter-island trade. With the emphasis of SB2347 laying fault with the originating shipper, and vague violations with financially crippling penalties, we can see businesses essentially throwing in the towel on inter-island shipping. This

would have a rippling effect through the industry, affecting not only nurseries, but also inter-island freight movers, trucking companies, and end-use businesses that depend on the products shipped.

While we commend the Senate in their effort to reign in invasive species, we all need to understand that legislation may not be the most appropriate avenue. There are a number of laws already in place to deal with the problem. There are also agencies and volunteer groups in place to perform inspections and eradication. What is needed is enforcement of existing laws and support for the front-line agencies and groups that deal with the problem in the field. If legislation is necessary, create laws that will support the industry – not restrict it.

Sincerely,


Lelan Nishek
President



THE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON JUDICIARY & LABOR
Senator Clayton Hee, Chair

2/20/2014
Rm. 016, 10:30 AM

SB 2347, SD 1
Relating to Invasive Species

Chair Hee and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, supporting the intent of SB 2347.

Invasive plants & pests are some of the greatest threats to Hawaii's tourism industry, natural environment, and the health and lifestyle of its people. In French Polynesia, the sand flea has crippled the tourism industry on some islands, which can happen in Hawaii if pest such as the fire ants & brown tree snakes are allowed to take a permanent hold.

Studies done in Hawaii and around the world shows that preventing new pest from establishing itself, as well as preventing movement between islands is more economical than trying to get ride of them, once it becomes established.

Mahalo for allowing use to testify and we urge your support of this bill.