

JAN 28 2015

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1 SECTION 1. The legislature finds that the State has spent
2 millions of dollars to control certain invasive species, but that
3 control efforts are often too late to stop their spread across
4 the Hawaiian Islands. As a result, invasive species now infest
5 hundreds of thousands of acres and affect Hawaii's export
6 industry, tourism revenues, property values, residents' quality
7 of life, and the environment.

8 The legislature finds that the department of agriculture has
9 designated invasive species such as coqui frog (*Eleutherodactylus*
10 *coqui*), little fire ant (*Wasmannia auropunctata*), nettle
11 caterpillar, and coconut rhinoceros beetle as pests and has
12 targeted them for control or eradication. The legislature also
13 finds that these pests continue to move to new areas within the
14 State and through varied transportation methods. These two pests
15 are often transported and spread through various commodities that
16 are sourced from infested areas, and the commodities may or may

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1 not be subject to inspection for pests or subject to treatment.
2 The legislature further finds that the burden of pest prevention
3 falls primarily on plant quarantine inspectors. Therefore, the
4 legislature finds it necessary to require the department of
5 agriculture to identify pathways and areas infested with these
6 and other priority pests, provide information to business owners
7 about best management practices for controlling pest populations
8 at the source and mitigating the chances that designated pests
9 will enter transportation networks interisland and intrainland,
10 and work cooperatively with commercial entities to implement
11 these practices.

12 The purpose of this Act is to reduce the movement of
13 invasive pests between islands by allowing for the inspection of
14 goods moving between islands, prohibiting the transportation of
15 infested material between islands, allowing the department the
16 ability to designate quarantine areas as needed to isolate
17 infested areas, and creating a compliance agreement program to
18 ensure that such quarantines would not adversely affect
19 agricultural businesses in the quarantine areas.

20 SECTION 2. Chapter 150A, Hawaii Revised Statutes, is
21 amended by adding a new part titled "Intrastate Transportation

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1 and Quarantine" to include five new sections appropriately
2 designated to read as follows:

3 "§150A- Restrictions on Intrastate Movement. The
4 interisland or intransland transportation of any pest or any
5 article regulated under this chapter is subject to inspection,
6 treatment, restrictions on movement, and if necessary and
7 appropriate, destruction to prevent the spread and establishment
8 of pests, including designated pests.

9 §150A- Prohibited transportation and possession. (a) The
10 interisland or intransland transportation of any pest, including
11 a designated pest, or article that is diseased or infested with
12 insects or any pest, or is likely to assist in transmission or
13 dissemination of any pest or may be in itself injurious, harmful,
14 or detrimental to the agricultural, horticultural, and
15 aquacultural industries, forestry, environment, public health, or
16 animal or plant health is prohibited; provided that such
17 transportation may be permitted, pursuant to rules adopted by the
18 department that contain requirements determined by the department
19 to be adequate to prevent pest or disease spread, including, for
20 articles that are infested with a pest, appropriate treatment
21 that eliminates the disease or destroys the pest.

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1 (b) The department may allow the interisland or intrainland
2 transportation of a pest other than a designated pest and any
3 article that is diseased or infested with such a pest, by
4 inspection certificate, to an island or locality within an island
5 where the pest is known to be established. Transporting a pest
6 other than a designated pest and any article infested with a pest
7 without an inspection certificate is a violation of this section.

8 (c) Possession, harboring, transport, rearing, breeding,
9 distribution, or release of a pest, including a designated pest,
10 is prohibited, except that the department may issue a permit for
11 scientific research and testing and related purposes under
12 appropriate safeguards in an area that may or may not be infested
13 by the particular pest. Possession, harboring, transport,
14 rearing, breeding, distribution, or release of a pest, including
15 designated pests, without a permit is a violation of this
16 section.

17 §150A- Quarantine areas. The department may designate,
18 by rule, an island within the State or locality within an island
19 that the department has determined is infested with a designated
20 pest as an infested area subject to quarantine restrictions. The
21 transportation of articles from one island designated a
22 quarantine area for a designated pest to an island not subject to

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1 quarantine for the pest, or from one part or locality of any
2 island designated a quarantine area for a designated pest to
3 another part or locality of the same island not subject to
4 quarantine for the pest is prohibited except as allowed provided
5 by rule or pursuant to compliance agreement administered by the
6 department. The transportation of articles from a quarantine area
7 for a designated pest without a compliance agreement issued by
8 the department is a violation of this section.

9 **§150A- Compliance agreement.** The interisland or
10 intraisland transportation of articles from an area under
11 quarantine may be allowed as provided by rule if the consignor
12 and consignee of the articles are participants in the
13 department's compliance agreement program for interisland
14 movement of agricultural commodities by commercial entities.
15 Qualification for compliance agreement shall be based on the
16 department's determination that the commercial entity is in
17 compliance with requirements the department has determined are
18 adequate to prevent pests or disease spread, as provided by rule.
19 Any violation of the compliance agreement is a violation of this
20 section.

21 **§150A- Duties of department; violations; proceedings;**
22 **penalties.** (a) The department shall administer and enforce this

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1 part and rules adopted by the department pursuant to this part.
2 The following penalties, procedures, and actions shall apply in
3 instances of violation and complaints of violations of this part,
4 or the rules adopted under this part:

5 (b) Administrative penalties.

6 (1) The department may, after notice and opportunity for
7 hearing on the specific charge, fine any person who
8 violates this part or any rule adopted under this part,
9 not less than \$50 and not more than \$3000 for each
10 separate violation. The administrative penalty and any
11 proposed action contained in the notice of finding of
12 violation, including suspension or cancellation of a
13 compliance agreement or permit for scientific research
14 and testing, shall become a final order, unless within
15 twenty (20) days of receipt of the notice, the person
16 or persons charged make a written request for a
17 hearing.

18 (2) In case of inability to collect the administrative
19 penalty or failure of any person to pay the
20 administrative penalty, the board of agriculture shall
21 refer the matter to the attorney general, who shall
22 recover the amount by civil action in the appropriate

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1 court. For any judicial proceeding to recover the
2 administrative penalty imposed, the attorney general
3 need only show that notice was given, a hearing was
4 held or the time granted for requesting a hearing has
5 expired without such a request, the administrative
6 penalty was imposed, and that the penalty remains
7 unpaid.

8 (c) Criminal penalties. Notwithstanding the provisions of
9 section 150A-14 or section 706-640, any person who intentionally
10 violates any provision of this part shall be guilty of a petty
11 misdemeanor and upon conviction may be fined up to \$3000.

12 (d) Liabilities. When construing and enforcing the
13 provisions of this part, the act, omission, or failure of any
14 officer, agent, or other person acting for or employed by any
15 person shall in every case be deemed to be the act, omission, or
16 failure of such person as well as that of the person employed."

17 SECTION 3. Section 150A-2, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Designated pest" means a pest designated for control or
21 eradication by section 141-3 or by rule pursuant to section 141-
22 3."

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1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act, upon its approval, shall take effect
3 on July 1, 2015.

4 INTRODUCED BY:

Jose Mercedo K.

5 BY REQUEST

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Report Title:

Invasive Pests; Interisland Movement; Quarantine and Compliance Agreements

Description:

Reduces the movement of invasive pests between islands by: Authorizing inspection and treatment of Regulated goods moving between islands and in-traitsland, prohibiting transportation of infested material between islands and in-traitsland, authorizing the department to designate quarantine areas, as needed, to isolate infested areas, and authorizing a compliance agreement program to insure that qualifying agricultural businesses in quarantine areas can transport their commodities with minimal risk of pest or disease spread.

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JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO INVASIVE SPECIES

PURPOSE: Reduce the movement of invasive pests between islands by: Authorizing inspection of goods moving between islands and intrainland, prohibiting the transportation of infested material between islands and intrainland, authorizing the department to designate quarantine areas as needed, to isolate infested areas, and to create a compliance agreement program to insure that qualifying agricultural businesses in the quarantine areas can transport their commodities with minimal risk of pest or disease spread.

MEANS: Amend section 150A-2, Hawaii Revised Statutes, to add a new definition and add five new sections to Chapter 150-A.

JUSTIFICATION: The State has spent millions of dollars to control certain invasive species, but control efforts are often too late to stop their spread across the Hawaiian Islands. As a result, invasive species now infest hundreds of thousands of acres and affect Hawaii's export industry, tourism revenues, property values, residents' quality of life, and the environment.

Furthermore, while much emphasis is placed on the prevention of invasive species moving in and out of the State, the interisland and intrainland movement of invasive species is not subject to the same level of scrutiny. Populations of certain invasive species are limited to specific islands and regions within specific islands. Therefore, increased vigilance and oversight on the transportation of agricultural products can help to decrease

the likelihood that such pests will be spread outside of an infested area.

Impact on the public: Would provide further protection from the spread of invasive species interisland and intrainland.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGR 122.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2015.