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# A BILL FOR AN ACT

RELATING TO COUNTY ACCESS TO PRIVATE PROPERTY.

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

1           SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to part I to be appropriately designated  
3 and to read as follows:

4           "§46- Authority to enter private property; pests or  
5 invasive species. Each county of this State, through its  
6 employees or authorized agents, may enter private property  
7 within the respective county to control or eradicate pests and  
8 invasive species pursuant to sections 141-3.6 and 194-5."

9           SECTION 2. Section 141-3.6, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "§141-3.6 Entry of private property to control or  
12 eradicate any pests. (a) The department of agriculture or  
13 applicable county shall give at least five days notice to the  
14 landowner and the occupier of any private property of its  
15 intention to enter the property for the control or eradication  
16 of a pest. Written notice sent to the landowner's last known  
17 address by certified mail, postage prepaid, return receipt



1 requested, shall be deemed sufficient notice. [~~In the event~~  
2 ~~that~~] If certified mail is impractical because the department [~~7~~]  
3 or county, despite diligent efforts, cannot determine land  
4 ownership or because of urgent need to initiate control or  
5 eradication measures, notice given once in a daily or weekly  
6 publication of general circulation, in the county where any  
7 action or proposed action will be taken, or notice made as  
8 otherwise provided by law, shall be deemed sufficient notice.  
9 The notice shall set forth all pertinent information on the pest  
10 control program and the procedures and methods to be used for  
11 control or eradication.

12 (b) After notice as required by subsection (a), any member  
13 of the department, employee of the county, or any agent  
14 authorized by the department or county may enter at reasonable  
15 times any private property other than dwelling places to  
16 maintain a pest control or eradication program, being liable  
17 only for damage caused by acts beyond the scope of the person's  
18 authority, or the person's negligence, gross negligence, or  
19 intentional misconduct. If entry is refused, the department  
20 member, county employee, or any authorized agent may apply to  
21 the district court in the circuit in which the property is



1 located for a warrant to enter on the premises to effectuate the  
2 purposes of this chapter. The district court may issue a  
3 warrant directing a police officer of the circuit to assist the  
4 department member, county employee, or any authorized agent in  
5 gaining entry onto the premises during regular working hours or  
6 at other reasonable times."

7 SECTION 3. Section 194-5, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) Whenever any invasive species identified by the  
11 council for control or eradication is found on private property,  
12 a department or applicable county, or its employees or  
13 authorized agents may enter [~~such~~] the premises to control or  
14 eradicate the invasive species after reasonable notice is given  
15 to the owner of the property and, if entry is refused, pursuant  
16 to the court order in subsection (d)."

17 2. By amending subsections (c) to (f) to read:

18 "(c) The department or applicable county, or its employees  
19 or authorized agents may instead cause notice to be given, and  
20 order the owner to control or eradicate the invasive species, if  
21 [~~such~~] the species was intentionally and knowingly established



1 by the owner on the owner's property and not naturally dispersed  
2 from neighboring properties, at the owner's expense within  
3 [~~such~~] a reasonable time as the department or county may deem  
4 proper, pursuant to the notice requirements of this section.

5 (d) If the owner thus notified fails to comply with the  
6 order of the department, the applicable county, or its employee  
7 or authorized agent, within the time specified by the  
8 department [~~7~~] or county, or if entry is refused after notice is  
9 given pursuant to subsection (a) and, if applicable subsection  
10 (b), the department, the applicable county, or its employee or  
11 authorized agent may apply to the district court of the circuit  
12 in which the property is situated for a warrant, directed to any  
13 police officer of the circuit, commanding the police officer to  
14 take sufficient aid and to assist the department member, county  
15 employee, or [~~its~~] agent in gaining entry onto the premises, and  
16 executing measures to control or eradicate the invasive species.

17 (e) The department or applicable county may recover by  
18 appropriate proceedings the expenses incurred by its order from  
19 any owner who, after proper notice, has failed to comply with  
20 the department's or county's order.



1 (f) In no case shall the department, the county, or any  
2 officer, employee, or authorized agent thereof be liable for  
3 costs in any action or proceeding that may be commenced pursuant  
4 to this [†]chapter[†]."

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on January 7, 2059.



**Report Title:**

Invasive Species; Pests; Control; Removal; Private Property;  
Counties

**Description:**

Authorizes the counties, through their employees or authorized agents, to enter private property to control or eradicate invasive species and pests. Takes effect on 1/7/2059. (SD2)

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

