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# A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1           SECTION 1. The legislature finds that when used properly,  
2 pesticides can protect plants and homes from damage. However,  
3 improper use of pesticides may result in plants becoming  
4 injured; pests not being controlled; human health becoming  
5 impaired; and soil, air, and water becoming polluted.

6           The legislature further finds that enforcement of chapter  
7 149A, Hawaii Revised Statutes, relating to Hawaii pesticide  
8 laws, as well as timely and routine inspections and compliance  
9 investigations of potential pesticide misuse are crucial to  
10 protecting public health and ensuring public confidence in the  
11 State's oversight of pesticide use. In its 2016 study, entitled  
12 "Pesticide Use by Large Agribusinesses on Kauai", the Joint Fact  
13 Finding Study Group found indications of possible pesticide  
14 misuse on Kauai. The study stressed the need for more timely  
15 pesticide inspections and compliance investigations. According  
16 to the study, the use of drift-prone pesticides should be more



1 strictly monitored through inspections, and proven violators  
2 should be fined.

3 Accordingly, the purpose of this Act is to:

4 (1) Require the issuance of a warning notice for first  
5 time pesticide violators; and

6 (2) Increase the penalties for pesticide violations.

7 SECTION 2. Section 149A-41, Hawaii Revised Statutes, is  
8 amended by amending subsections (a), (b), and (c) to read as  
9 follows:

10 "(a) Warning notice. Any person who violates this chapter  
11 or any rule issued under this chapter [~~may~~], upon the first  
12 violation, shall be issued a written warning notice citing the  
13 specific violation and necessary corrective action.

14 (b) Administrative penalties.

15 (1) In general, any registrant, commercial applicator,  
16 wholesaler, dealer, retailer, or other distributor who  
17 violates [~~any provision of~~] this chapter may be  
18 assessed an administrative penalty by the board of not  
19 more than [~~\$5,000~~] \$10,000 for each offense;

20 (2) Any private applicator or other person not included in  
21 paragraph (1) who violates [~~any provision of~~] this



1 chapter relating to the use of pesticides while on  
2 property owned or rented by that person or the  
3 person's employer, subsequent to receiving a written  
4 warning from the department or following a citation  
5 for a prior violation, may be assessed an  
6 administrative penalty by the board of not more than  
7 [~~\$1,000~~] \$5,000 for each offense. Any private  
8 applicator or other person not included in paragraph  
9 (1) who violates [~~any provision of~~] this chapter  
10 relating to licensing, transport, sale, distribution,  
11 or application of a pesticide for commercial purposes  
12 may be assessed an administrative penalty as provided  
13 in paragraph (1);

- 14 (3) No administrative penalty shall be assessed unless the  
15 person charged [~~shall have~~] has been given notice and  
16 an opportunity for a hearing on the specific charge in  
17 the county of the residence of the person charged.  
18 The administrative penalty and any proposed action  
19 contained in the notice of finding of violation shall  
20 become a final order unless, within twenty days of  
21 receipt of the notice, the person or persons charged



1 make a written request for a hearing. In determining  
2 the amount of penalty, the board shall consider the  
3 appropriateness of the penalty to the size of the  
4 business of the person charged, the effect on the  
5 person's ability to continue business, and the gravity  
6 of the violation; and

7 (4) In case of inability to collect the administrative  
8 penalty or failure of any person to pay all or [~~such~~]  
9 a portion of the administrative penalty as the board  
10 may determine, the board shall refer the matter to the  
11 attorney general, who shall recover the amount by  
12 action in the appropriate court. For any judicial  
13 proceeding to recover the administrative penalty  
14 imposed, the attorney general need only show that  
15 notice was given, a hearing was held or the time  
16 granted for requesting a hearing has expired without  
17 such a request, the administrative penalty was  
18 imposed, and that the penalty remains unpaid.

19 (c) Criminal penalties.

20 (1) In general, any registrant, commercial applicator,  
21 wholesaler, dealer, retailer, or other distributor who



1 knowingly violates [~~any provision of~~] this chapter  
2 shall be guilty of a misdemeanor and [~~shall on~~], upon  
3 conviction, shall be fined not more than [~~\$25,000,~~  
4 \$35,000, or imprisoned for not more than one year, or  
5 both[-];

6 (2) Any private applicator or other person not included in  
7 paragraph (1) who knowingly violates [~~any provision~~  
8 ~~of~~] this chapter shall be guilty of a misdemeanor and  
9 [~~shall on~~], upon conviction, shall be fined not more  
10 than [~~\$1,000,~~ \$5,000, or imprisoned for not more than  
11 one year, or both[-];

12 (3) Any person, who, with intent to defraud, uses or  
13 reveals information relative to formulas of products  
14 acquired under the authority of section 3, Federal  
15 Insecticide, Fungicide, and Rodenticide Act (FIFRA),  
16 as amended, shall be fined not more than \$10,000, or  
17 imprisoned for not more than three years, or both."

18 SECTION 3. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2150.



**Report Title:**

HDOA; Pesticides; Inspection; Monitoring; Fines; Warning Notice

**Description:**

Increases fines for pesticide use violations. Requires issuance of a warning notice for first-time pesticide violations. (HB929 HD2)

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

