

JAN 24 2019

A BILL FOR AN ACT

RELATING TO BIOSECURITY.

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

1 SECTION 1. The legislature finds that the introduction and
2 spread of alien aquatic organisms poses an unprecedented threat
3 to Hawaii's marine ecosystems, harbors, recreational activities,
4 and economy. Alien aquatic organisms can cause the collapse of
5 native ecosystems and negatively impact the resilience to
6 climate change of coral reefs. In order to combat the
7 introduction and spread of alien aquatic organisms, it is
8 imperative to assess and regulate the vectors of introduction.

9 The introduction of alien aquatic organisms has been linked
10 to the movement of unmanaged or improperly managed ballast
11 water, vessel biofouling, biofouling on marine debris that
12 washes ashore, and the escape or release of species from
13 aquaculture, scientific research, and the aquarium trade or
14 hobbyists. The two main vectors of alien aquatic organism
15 introduction are vessel ballast water and biofouling. Ballast
16 water is seawater pumped into and out of ballast tanks to



1 stabilize vessels. Biofouling is the growth of marine species
2 on the hulls and in the niche areas of vessels.

3 The legislature finds that the 2027 Hawaii interagency
4 biosecurity plan recognizes that up to seventy-eight per cent of
5 the non-native marine algae and invertebrate species in Hawaii
6 waters arrived through biofouling or a combination of biofouling
7 and ballast water. The presence of species in unmanaged or
8 undermanaged ballast water and on vessel hulls remains a high
9 risk for the arrival and spread of invasive marine species. The
10 Hawaii interagency biosecurity plan also recognizes that
11 regulating these vectors is exponentially more cost effective
12 than post-introduction control and eradication programs.

13 The legislature further finds that recent developments in
14 technology used in other states and countries provide
15 opportunities to assess and mitigate the risk of introduction of
16 alien aquatic organisms. In order for emerging technologies and
17 systems to properly provide protections for Hawaii's waters, it
18 is critical to embark on a program aimed at testing and
19 demonstrating proof of concept, that may be followed by
20 regulation and oversight of use.



1 The legislature further finds that on December 4, 2018, the
2 Vessel Incidental Discharge Act (Title IX of the Frank LoBiondo
3 Coast Guard Authorization Act of 2018) was signed into law
4 (Public Law Number 115-282). The Vessel Incidental Discharge
5 Act has far-reaching implications on how states may regulate
6 certain discharges that are considered incidental to the normal
7 operations of a vessel. Once the Vessel Incidental Discharge
8 Act comes into full force and effect (there is a four-year
9 timeline in the language), states will be preempted from setting
10 or enforcing rules and regulations related to the treatment and
11 discharge of ballast water and the effluent resulting from the
12 cleaning of vessel hulls in state waters, among other effects,
13 that are more stringent than federal regulations. However,
14 there is ample evidence of the risk posed by the discharge of
15 unmanaged or undermanaged ballast water and the arrival and
16 movement of vessels that are fouled with species that can cause
17 harm if moved to new locations beyond their native range.
18 Further, the legislature finds that the U.S. Coast Guard does
19 not currently test vessel ballast water to assess treatment
20 efficacy or risk, or as a means of assessing compliance to
21 ballast water management regulations.



1 Section 187A-32, Hawaii Revised Statutes, designates the
2 department of land and natural resources as the lead agency for
3 preventing the introduction of alien aquatic organisms.

4 Pursuant to this responsibility, the legislature finds that the
5 department requires additional capacity to develop and maintain
6 a program to assess, monitor, and regulate the vectors of alien
7 aquatic organisms.

8 The purpose of this Act is to authorize the department of
9 land and natural resources to assess an aquatic biosecurity risk
10 assessment service fee for activities that are recognized as
11 potential vectors for the introduction or spread of alien
12 aquatic organisms and to appropriate funding to support staff
13 and operational costs associated with aquatic biosecurity
14 inspection, investigation, monitoring, management, compliance,
15 and enforcement.

16 SECTION 2. Section 187A-32, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§187A-32[+] Alien aquatic organisms; lead agency;
19 fees; rules. (a) The department is designated as the lead
20 state agency for preventing the introduction and carrying out
21 the destruction of alien aquatic organisms through the



1 regulation of ballast water discharges and hull fouling
2 organisms. The department may establish an interagency team to
3 address the concerns relating to alien aquatic organisms.

4 (b) The department may adopt rules in accordance with
5 chapter 91, including penalties, to carry out the purposes of
6 this part. The rules may include standards for the department
7 and the United States Coast Guard to use as part of their
8 respective inspection protocols. The rules may also include
9 implementation of a course of action in relation to the arrival
10 or pending arrival of a high risk vessel. The rules may also
11 include fees and regulations for all other non-military vessels
12 not subject to the aquatic biosecurity risk assessment service
13 fee under section (c).

14 (c) The department shall charge an aquatic biosecurity
15 risk assessment service fee for the inspection, investigation,
16 monitoring, and management of alien aquatic organisms. This fee
17 shall be charged to all vessels required to pay a port entry fee
18 when entering harbors under the jurisdiction of the department
19 of transportation as set forth in rules adopted pursuant to
20 section 266-2, Hawaii Revised Statutes. The aquatic biosecurity
21 risk assessment service fee shall be eighty-five per cent of the



1 port entry fee amount and shall be collected with the port entry
2 fee. The aquatic biosecurity risk assessment service fee
3 revenues shall be deposited into the general fund.

4 [~~(e)~~] (d) The [~~governor may enter into an agreement~~]
5 department shall carry out or enforce the purposes of this part
6 to the extent of its jurisdiction, and shall carry out, enforce,
7 or co-enforce with the United States [~~Secretary of~~
8 ~~Transportation to carry out~~] Coast Guard, the purposes of this
9 part, including [~~but not limited to the~~] enforcement of [~~state~~]
10 federal law."

11 SECTION 3. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$239,376 or so much
13 thereof as may be necessary for fiscal year 2019-2020 and the
14 sum of \$478,752 or so much thereof as may be necessary for
15 fiscal year 2020-2021 for the funding of the following positions
16 to support the prevention, detection, and management of aquatic
17 alien and invasive species in ecosystem protection and
18 restoration (LNR401):

19 (1) \$32,238 for fiscal year 2019-2020 and \$64,476 for
20 fiscal year 2020-2021 for biologist VI to oversee the
21 aquatic biosecurity team and operations;



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- 1 (2) \$29,808 for fiscal year 2019-2020 and \$59,616 for
2 fiscal year 2020-2021 for program specialist V to
3 analyze and develop regulations and policy related to
4 aquatic biosecurity;
- 5 (3) \$26,478 for fiscal year 2019-2020 and \$52,956 for
6 fiscal year 2020-2021 for general professional IV to
7 develop, manage, and maintain reporting form database
8 and technology used during aquatic biosecurity risk
9 inspections;
- 10 (4) \$52,956 for fiscal year 2019-2020 and \$105,912 for
11 fiscal year 2020-2021 for two biologist IV positions
12 to oversee biosecurity risk inspections and compliance
13 testing; and
- 14 (5) \$97,896 for fiscal year 2019-2020 and \$195,792 for
15 fiscal year 2020-2021 for four biologist III positions
16 to conduct biosecurity risk inspections, monitoring,
17 and related outreach and education.

18 The sums appropriated shall be expended by the department
19 of land and natural resources for the purposes of this Act.

20 SECTION 4. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$28,158 or so much



1 thereof as may be necessary for fiscal year 2019-2020 and the
2 sum of \$56,316 or so much thereof as may be necessary for fiscal
3 year 2020-2021 for one full-time equivalent (1.0 FTE)
4 conservation and resources enforcement officer IV position to
5 support safety, compliance, and enforcement of aquatic
6 biosecurity laws in conservation and resources enforcement
7 (LNR405).

8 The sums appropriated shall be expended by the department
9 of land and natural resources for the purposes of this Act.

10 SECTION 5. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$24,474 or so much
12 thereof as may be necessary for fiscal year 2019-2020 and the
13 sum of \$48,948 or so much thereof as may be necessary for fiscal
14 year 2020-2021 for one full-time equivalent (1.0 FTE) accountant
15 III position to support assessment, collection, and accounting
16 of the aquatic biosecurity risk assessment fee in harbors
17 administration (TRN395).

18 The sums appropriated shall be expended by the department
19 of transportation for the purposes of this Act.

20 SECTION 6. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$540,000 or so much



1 thereof as may be necessary for fiscal year 2019-2020 and the
 2 sum of \$400,000 or so much thereof as may be necessary for
 3 fiscal year 2020-2021 for the funding of operating expenditures
 4 in the ecosystem protection and restoration program for aquatic
 5 biosecurity (LNR401), including contracts for specialized
 6 laboratory work, the purchase and maintenance of field and
 7 laboratory equipment and supplies, and travel costs.

8 The sums appropriated shall be expended by the department
 9 of land and natural resources for the purposes of this Act.

10 SECTION 7. If any provision of this Act, or the
 11 application thereof to any person or circumstance, is held
 12 invalid, the invalidity does not affect other provisions or
 13 applications of the Act that can be given effect without the
 14 invalid provision or application, and to this end the provisions
 15 of this Act are severable.

16 SECTION 8. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect upon its approval.
 19

INTRODUCED BY

[Handwritten signatures: S. P. Olivier, M. A. L., Franck L. Aronoff, Kal Nhand, and 4. An Q. L.]



S.B. NO. 1162

Report Title:

Aquatic Biosecurity; Alien Aquatic Organisms; Vessel Ballast Water; Biofouling; Department of Land and Natural Resources; Appropriation

Description:

Authorizes the department of land and natural resources to collect an aquatic biosecurity risk assessment service fee and conduct activities under its jurisdiction to detect and prevent the introduction or spread of alien aquatic organisms. Appropriates funds.

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

