
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 there are
2 significant risks to public health and the environment when
3 pesticide use instructions are not followed properly, including
4 injury to non-target sensitive plants and species; drift harms
5 to nearby farms and gardens; health injuries to farmworkers and
6 nearby residents; and short- and long-term contamination of the
7 State's soils, air, and waters. Despite these risks, pesticide
8 misuse has, and continues to, occur within the State.

9 In 2016 and 2017, a west Kauai agribusiness operation
10 failed to adhere to pesticide use instructions and improperly
11 used the neurotoxin pesticide chlorpyrifos, exposing the
12 dangerous pesticide to farm workers and injuring their health.
13 Although investigation by the United States Environmental
14 Protection Agency initially proposed a pesticide fine of
15 \$4,900,000, the fine was significantly reduced to just over
16 \$500,000.



1 In 2018, a commercial pesticide applicator was fined
2 \$168,535 for misusing different restricted-use pesticides on
3 Kauai. In November 2019, an agribusiness operation pled guilty
4 and paid \$10,000,000 as part of a plea agreement with the United
5 States Environmental Protection Agency for illegally using the
6 banned pesticide Penncap-M on Maui and Molokai.

7 The legislature also finds that a study entitled "Pesticide
8 Use by Large Agribusinesses on Kaua'i", published in May 2016 by
9 the independent Joint Fact Finding Study Group, points out the
10 need for more timely pesticide inspections and compliance
11 investigations, as well as better reporting on the results of
12 pesticide inspections and investigations. According to the same
13 study, the use of drift-prone pesticides should be more strictly
14 monitored through inspections and proven violators should be
15 fined.

16 The legislature further finds that enforcement of Hawaii's
17 pesticide law, as well as timely and routine inspections and
18 compliance investigations of potential misuse of pesticides, are
19 crucial to protecting public health and ensuring public
20 confidence in the State's oversight of pesticide use.



1 Therefore, it is the purpose of this Act to protect the
2 State's residents and environment and ensure more stringent
3 enforcement of Hawaii's pesticide law by:

- 4 (1) Requiring the department of agriculture to prepare and
5 submit an annual report on pesticide inspection and
6 compliance investigations; and
7 (2) Increasing monetary fines for pesticide violations.

8 SECTION 2. Chapter 149A, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§149A- Annual report. (a) The department shall
12 prepare and submit an annual report to the legislature no later
13 than twenty days prior to the convening of each regular session,
14 beginning with the regular session of 2021, regarding the scope
15 of pesticide inspections and compliance investigations conducted
16 during the prior year. The report shall be organized by county
17 and shall include, at a minimum, the following information:

- 18 (1) The number of complaints received during the prior
19 year, including a brief description of the nature and
20 location of each complaint;



- 1 (2) The number of compliance investigations conducted
2 during the prior year, including the time it took from
3 receipt of the complaint to completion of the
4 investigation, the department's conclusion, and the
5 type of enforcement action taken;
- 6 (3) The number of pesticide inspections conducted during
7 the prior year, including a brief description of the
8 nature and location of each inspection;
- 9 (4) The outcomes of pesticide inspections conducted during
10 the prior year, including any enforcement actions
11 taken; and
- 12 (5) The number and types of violations found during the
13 prior year, including the location of each pesticide
14 use violation and the pesticide active ingredient or
15 product name involved in each pesticide use violation.
- 16 (b) The report shall also be made available to the public
17 on the department's website."

18 SECTION 3. Section 149A-41, Hawaii Revised Statutes, is
19 amended by amending subsections (a) to (c) to read as follows:

20 "(a) Warning notice. Any person who violates this chapter
21 or any rule issued under this chapter [~~may~~] shall upon the first



1 violation be issued a written warning notice citing the specific
2 violation and necessary corrective action.

3 (b) Administrative penalties.

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

9 (2) Any private applicator or other person not included in
10 paragraph (1) who violates any provision of this
11 chapter relating to the use of pesticides while on
12 property owned or rented by that person or the
13 person's employer, subsequent to receiving a written
14 warning from the department or following a citation
15 for a prior violation, may be assessed an
16 administrative penalty by the board of not more than
17 [~~\$1,000~~] \$5,000 for each offense. Any private
18 applicator or other person not included in paragraph
19 (1) who violates any provision of this chapter
20 relating to licensing, transport, sale, distribution,
21 or application of a pesticide for commercial purposes



1 may be assessed an administrative penalty as provided
2 in paragraph (1);

3 (3) No administrative penalty shall be assessed unless the
4 person charged shall have been given notice and an
5 opportunity for a hearing on the specific charge in
6 the county of the residence of the person charged.
7 The administrative penalty and any proposed action
8 contained in the notice of finding of violation shall
9 become a final order unless, within twenty days of
10 receipt of the notice, the person or persons charged
11 make a written request for a hearing. In determining
12 the amount of penalty, the board shall consider the
13 appropriateness of the penalty to the size of the
14 business of the person charged, the effect on the
15 person's ability to continue business, and the gravity
16 of the violation; and

17 (4) In case of inability to collect the administrative
18 penalty or failure of any person to pay all or such
19 portion of the administrative penalty as the board may
20 determine, the board shall refer the matter to the
21 attorney general, who shall recover the amount by



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

8 (c) Criminal penalties.

9 (1) In general, any registrant, commercial applicator,
10 wholesaler, dealer, retailer, or other distributor who
11 knowingly violates any provision of this chapter shall
12 be guilty of a misdemeanor and shall on conviction be
13 fined not more than [~~\$25,000,~~] \$35,000, or imprisoned
14 for not more than one year, or both.

15 (2) Any private applicator or other person not included in
16 paragraph (1) who knowingly violates any provision of
17 this chapter shall be guilty of a misdemeanor and
18 shall on conviction be fined not more than [~~\$1,000,~~]
19 \$5,000, or imprisoned for not more than one year, or
20 both.



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

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

10 SECTION 5. 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 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

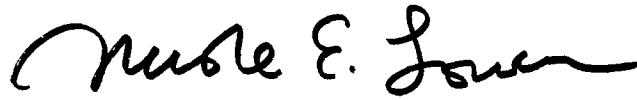


1 SECTION 7. This Act shall take effect on July 1, 2020.

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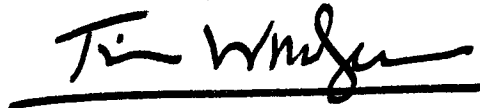
INTRODUCED BY: 















JAN 17 2020



H.B. NO. 2114

Report Title:

Pesticides; Annual Report; Fines

Description:

Requires the Department of Agriculture to prepare and submit an annual report concerning pesticide use. Increases fines for pesticide use violations.

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

