
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The State's experience with the COVID-19
3 pandemic demonstrates the need for preparation, flexibility, and
4 quick action in the face of ongoing or new risks presented by
5 outbreaks of communicable or dangerous diseases in this State or
6 in other parts of the world. The State has learned from
7 experience that a screening process for travelers is a key
8 component in the containment or mitigation of the spread of
9 disease. This Act serves to enhance the tools available to the
10 State in its effort to contain or mitigate the spread of
11 communicable or dangerous diseases, to enable the use of these
12 tools without a governor's emergency proclamation, and to make
13 the containment or mitigation effort more efficient and flexible
14 to protect the public health and safety.

15 This Act authorizes a screening process applicable to
16 travelers at any port of entry to the State whenever it is
17 determined by the director of health to be necessary to prevent



1 the spread of communicable or dangerous diseases in order to
2 protect the public health and safety, including the health and
3 safety of the traveling public. This process will help to
4 ensure a positive visitor experience, which is critical to
5 sustaining this State's tourism industry.

6 The screening may apply to any or all travelers, including
7 interisland, domestic, and international travelers, and it may
8 apply to both arrival and departure points within the State of
9 Hawaii. Benefits include the determination of whether
10 quarantine or isolation is necessary for the wellbeing of the
11 public, including travelers, travelers' household members, and
12 traveling companions, as well as the opportunity for timely
13 treatment to prevent or lessen symptoms or to shorten the
14 duration of the disease. To further enhance the effectiveness
15 of the screening process, and from the State's prior experience,
16 the legislature also finds that it is necessary to establish
17 penalties to address individuals who are uncooperative or seek
18 to evade the screening process. This screening process will
19 also authorize the department of health to take certain actions
20 upon completion of traveler screening, including testing,
21 investigating, monitoring, quarantining, and isolating



1 travelers, as determined to be necessary by the director of
2 health to protect the public health and safety.

3 This Act also amends existing law to work more efficiently
4 in conjunction with any emergency proclamation issued to respond
5 to the spread of a communicable or dangerous disease.

6 In addition, this Act gives the director of health the
7 authority to declare a public health emergency if there is, or
8 there is a potential for, an epidemic or serious outbreak of
9 communicable or dangerous disease.

10 PART II

11 SECTION 2. Chapter 325, Hawaii Revised Statutes, is
12 amended by adding a new part to be appropriately designated and
13 to read as follows:

14 "PART . DETECTION, PREVENTION, AND CONTROL OF
15 DISEASE TRANSMISSION

16 §325-A Director's authority to declare public health
17 emergency; powers. (a) Except when otherwise expressly
18 addressed by the governor or the Hawaii emergency management
19 agency under chapter 127A, when in the judgment of the director
20 there is a potential for an epidemic or serious outbreak of
21 communicable or dangerous disease, notwithstanding any other



1 laws, the director may declare a public health emergency by
2 written declaration, which shall set forth the reasons for the
3 public health emergency, and exercise the following powers:

4 (1) Require provider reporting, screening, testing,
5 contact tracing, quarantine, and isolation of persons
6 deemed by the department to be infected, at higher
7 risk of infection, or at risk for spreading infection;

8 (2) Require declarations from travelers of their health
9 status, travel history, and intended lodging or
10 residence plans;

11 (3) Require first responders and part or all of the public
12 to implement safeguards designed to prevent
13 infections, including but not limited to physical
14 distancing, temporary closure of schools, temporary
15 closure of businesses and operations, hygiene
16 procedures, and wearing of personal protective
17 equipment;

18 (4) Release otherwise confidential information if the
19 director determines that the disclosure is necessary
20 to protect the public health, safety, and welfare from
21 imminent harm; and



1 (5) Take any other action as deemed necessary by the
2 director to prevent, prepare for, respond to,
3 mitigate, and recover from a serious outbreak of
4 communicable or dangerous disease.

5 (b) Actions related to quarantine and isolation taken
6 pursuant to this section shall not be subject to the
7 requirements of section 325-8(a).

8 (c) Every police officer or state law enforcement officer
9 and the Hawaii emergency management agency shall aid and assist
10 the department in the enforcement of a declaration of a public
11 health emergency.

12 (d) The director's declaration of a public health
13 emergency shall be posted on the department's website and shall
14 terminate automatically ninety days after the declaration,
15 unless earlier terminated or extended or revoked by the director
16 or the governor. Any extension shall terminate automatically
17 after ninety days, unless further extended by the director or
18 the governor.

19 **§325-B Detection of communicable or dangerous diseases in**
20 **travelers; screening, investigating, monitoring, quarantining,**
21 **isolating, data-sharing, and other actions to protect the public**



1 **health and safety.** (a) Whenever the director determines it is
2 necessary to detect, prevent, prepare for, respond to, mitigate,
3 or recover from the transmission of communicable or dangerous
4 diseases by traveling members of the public, the department may,
5 by order of the director:

6 (1) Screen interisland, domestic, or international
7 travelers for evidence of communicable or dangerous
8 diseases by using a screening method approved by the
9 department;

10 (2) Investigate interisland, domestic, or international
11 travelers and persons in contact with those travelers,
12 as determined by the director to be necessary to
13 detect, prevent, or control the transmission of a
14 communicable or dangerous disease;

15 (3) Monitor interisland, domestic, or international
16 travelers after their arrival, as determined by the
17 department to be necessary to detect, prevent, prepare
18 for, respond to, mitigate, or recover from the
19 transmission of a communicable or dangerous disease;

20 (4) Quarantine interisland, domestic, or international
21 travelers after their arrival, as determined by the



1 department to be necessary to detect, prevent, prepare
2 for, respond to, mitigate, or recover from the
3 transmission of a communicable or dangerous disease
4 pursuant to section 325-8;

5 (5) Isolate interisland, domestic, or international
6 travelers after their arrival, as determined by the
7 department to be necessary to detect, prevent, prepare
8 for, respond to, mitigate, or recover from the
9 transmission of a communicable or dangerous disease
10 pursuant to section 325-8; and

11 (6) Enlist the services or collaboration of any other
12 federal, state, county, or private entity to assist
13 with any of the activities in this section.

14 (b) Travelers arriving in a Hawaii port of entry may be
15 required to provide a completed State of Hawaii traveler
16 questionnaire on a form or in another manner approved by the
17 department. The failure to provide a completed State of Hawaii
18 travel questionnaire as directed by the department shall be a
19 violation of this section.

20 **§325-C Communicable or dangerous diseases, screening,**
21 **treatment, and isolation.** Upon entry to the State, the



1 department may require all persons to submit to a screening for
2 communicable or dangerous diseases as deemed appropriate by the
3 department. The diseases screened for shall include those
4 deemed a public health and safety risk by the department at the
5 time of the screening. If the department deems it necessary for
6 the public health, any treatment, quarantine, and isolation may
7 be required at the expense of the person entering the State.

8 **§325-D Administrative rules.** (a) The department may
9 adopt rules pursuant to chapter 91 to effectuate the purposes of
10 this part.

11 (b) No later than October 1, 2020, the department shall
12 adopt interim rules to effectuate the purposes of this part;
13 provided that the interim rules shall:

14 (1) Be exempt from the requirements of chapters 91 and
15 201M; and

16 (2) The interim rules shall remain in effect until
17 December 31, 2026, or until rules are adopted pursuant
18 to subsection (a), whichever occurs sooner.

19 (c) The department may amend the interim rules to
20 effectuate the purposes of this chapter; provided that:



1 (1) The amendments shall be exempt from the requirements
2 of chapters 91 and chapter 201M; and

3 (2) Any amended interim rules shall remain in effect until
4 December 31, 2026, or until rules are adopted pursuant
5 to subsection (a), whichever occurs sooner.

6 (d) The department shall make the adoption, amendment, or
7 repeal of interim rules known to the public by:

8 (1) Giving public notice of the substance of the proposed
9 rules at least once statewide; and

10 (2) Posting the full text of the proposed rulemaking
11 action on the Internet as provided in section 91-2.6.

12 **§325-E Environmental impact statements not required.** No
13 action taken by the department to implement this part shall be
14 subject to chapter 343.

15 **§325-F Procurement exemption.** Contracts for the purchase
16 of goods and services to effectuate the purposes of this part
17 shall be exempt from chapters 103D and 103F.

18 **§325-G Travelers screening special fund.** (a) There is
19 established in the state treasury the travelers screening
20 special fund, which shall be administered by the department and
21 into which shall be deposited:



- 1 (1) Transient accommodations taxes collected and allocated
- 2 to the fund;
- 3 (2) Fines collected as penalties pursuant to section
- 4 325-H;
- 5 (3) Appropriations made by the legislature to the fund;
- 6 (4) All moneys received by the fund from any other source;
- 7 and
- 8 (5) Interest earned on any moneys in the fund.

9 (b) Moneys in the travelers screening special fund shall
10 be used for the purposes set forth in sections 325-B and 325-C
11 regarding the detection of communicable or dangerous diseases in
12 travelers and related screening, investigating, monitoring,
13 quarantining, isolating, data-sharing, other related actions,
14 and the related costs of operating the fund.

15 **§325-H Penalties.** Any person who violates any provision
16 of this part or who violates any rule adopted pursuant to this
17 part shall be guilty of a misdemeanor and fined not more than
18 \$5,000. All fines shall be deposited into the travelers
19 screening special fund."



1 PART III

2 SECTION 3. Chapter 325, Hawaii Revised Statutes, is
3 amended by adding four new sections to be appropriately
4 designated and to read as follows:

5 "§325-I Definitions. As used in this chapter:

6 "Communicable disease" means an illness caused by a
7 specific infectious agent or its toxic products that arises
8 through transmission of that agent or its products from an
9 infected person or animal or a reservoir to a susceptible host,
10 either directly or indirectly through an intermediate animal
11 host, vector, or the inanimate environment. "Communicable
12 disease" includes "infectious disease" and any disease declared
13 to be "communicable" by the director.

14 "Dangerous disease" means any illness or health condition
15 that might pose a substantial risk of a significant number of
16 human fatalities or incidents of permanent or long-term
17 disability.

18 "Department" means the department of health.

19 "Director" means the director of health.



1 "Epidemic" means the occurrence of cases of an illness
2 clearly in excess of normal expectancy, as determined by the
3 director.

4 "Health care facility" means a facility as defined in
5 section 323D-2.

6 "Infectious disease" means a disease that spreads from
7 person to person, directly or indirectly, that poses a
8 significant public health risk.

9 "Isolation" means the physical separation, including the
10 restriction of movement or confinement, of individuals or groups
11 confirmed by the department to have been infected with a
12 communicable or dangerous disease, from individuals who are
13 believed not to have been exposed or infected, as ordered by the
14 director, the governor, or a court of competent jurisdiction.
15 Conditions of isolation may be more restrictive than as for
16 quarantine.

17 "Quarantine" means the physical separation, including the
18 restriction of movement or confinement, of individuals or groups
19 who are believed to have been exposed to a communicable or
20 dangerous disease or who otherwise have or create a potential
21 risk of transmitting a communicable or dangerous disease to



1 others, from individuals who are believed not to have been
2 exposed or infected, as ordered by the director, the governor,
3 or a court of competent jurisdiction, based on information
4 collected and reviewed by the department.

5 "Screening" means a diagnostic tool administered to detect
6 the presence of a communicable or dangerous disease in an
7 individual and may include the measuring of a person's
8 temperature. "Screening" also includes the administration of
9 one or more questionnaires used to conduct surveillance of
10 disease activity or to determine to whom a test or diagnostic
11 tool is to be administered.

12 **§325-J Right to contest.** (a) An individual subject to
13 quarantine or isolation pursuant to this chapter may request a
14 hearing in the courts of this State to contest the order of
15 quarantine or isolation, the individual's treatment, or the
16 terms and conditions of the quarantine or isolation. The
17 request shall be in writing and shall be filed as a civil
18 proceeding with the circuit court in the circuit in which the
19 individual is quarantined or isolated. Upon receiving a
20 request, the court shall fix a date for a hearing. The hearing
21 shall take place within ten days of the filing of the request



1 with the court. The request for a hearing shall not alter or
2 stay the order of quarantine or isolation. The department shall
3 be notified of the request for a hearing at least seven days
4 before the hearing by the individual requesting the hearing.
5 If, after a hearing, the court finds that the quarantine or
6 isolation of the individual is not in compliance with this part,
7 the court may fashion remedies reasonable under the
8 circumstances and consistent with this chapter.

9 (b) Judicial decisions shall be based upon clear and
10 convincing evidence; provided that in hearings to contest the
11 individual's screening, treatment, or the terms or conditions of
12 the quarantine or isolation, judicial decisions shall be based
13 upon a preponderance of the evidence. A written record of the
14 disposition of the case shall be made and retained. If the
15 personal appearance before the court of a quarantined or
16 isolated individual is determined by the director to pose a
17 threat to individuals at the proceeding and the quarantined or
18 isolated individual does not waive the right to attend the
19 proceeding, the court shall appoint a guardian ad litem to
20 represent the quarantined or isolated individual throughout the
21 proceeding or shall hold the hearing via any means that allow



1 all parties to participate as fully and safely as is reasonable
2 under the circumstances.

3 (c) Upon written request, the court, in its discretion,
4 may appoint counsel to represent individuals or groups of
5 individuals who are or who are about to be quarantined or
6 isolated pursuant to this section and who are not otherwise
7 represented by counsel. Adequate means of communication between
8 those individuals or groups and their counsel or their guardian
9 ad litem shall be provided by the department if adequate means
10 of communication is not otherwise available to them.

11 (d) In any proceeding brought pursuant to this section, in
12 consideration of the protection of the public's health, the
13 severity of the emergency, and the availability of necessary
14 witnesses and evidence, the court may order the consolidation of
15 claims when:

16 (1) The number of individuals involved or to be affected
17 by an order of quarantine or isolation is so large as
18 to render individual participation impractical;

19 (2) There are questions of law or fact common to the
20 individual claims or rights to be determined;



1 (3) The group claims or rights to be determined are
2 typical of the affected individuals' claims or rights;
3 and

4 (4) The entire group will be adequately represented in the
5 consolidation.

6 **§325-K Collection, receipt, and use of information;**

7 **disclosure; confidentiality of information.** (a)

8 Notwithstanding any other law to the contrary, the department,
9 other governmental agencies, or private entities under contract
10 with the department, who act pursuant to this section, may
11 collect, receive, and use information for the purposes of
12 detecting, preventing, preparing for, responding to, mitigating,
13 or recovering from the transmission of communicable or dangerous
14 diseases. Collection, receipt, and use of the information may
15 include the sharing of the information between or among the
16 department, other governmental agencies, and private entities
17 under contract with the department. Collection, receipt, and
18 use shall not include disclosure of the information to other
19 departments, entities, or individuals except as provided in
20 subsection (b).



1 (b) The information to be collected, received, and used
2 pursuant to this section may be disclosed by the department to
3 the public only as necessary to prevent or lessen a serious and
4 imminent threat to the health or safety of a person or the
5 public, including the transmission of communicable or dangerous
6 diseases to others.

7 (c) All information collected, received, or used pursuant
8 to this section shall be confidential and shall not be used or
9 disclosed, except as allowed by this section or as required by
10 law. Any governmental agency or private entity that collects,
11 receives, or uses information pursuant to this section shall be
12 subject to the same restrictions on collection, receipt, and use
13 of that information as the department.

14 **§325-L Construction and severability.** (a) This chapter
15 shall be liberally construed to effectuate its purposes;
16 provided that this chapter shall not be construed as conferring
17 any power or permitting any action that is inconsistent with the
18 Constitution and laws of the United States, but, in so
19 construing this chapter, due consideration shall be given to the
20 circumstances as they exist from time to time.



1 property interests in Turtle Bay, Oahu, for the
2 protection, preservation, and enhancement of natural
3 resources important to the State, until the bonds are
4 fully amortized;

5 [~~+2~~] (3) \$16,500,000 shall be allocated to the convention
6 center enterprise special fund established under
7 section 201B-8;

8 [~~+3~~] (4) \$79,000,000 shall be allocated to the tourism
9 special fund established under section 201B-11;
10 provided that:

11 (A) Beginning on July 1, 2012, and ending on June 30,
12 2015, \$2,000,000 shall be expended from the
13 tourism special fund for development and
14 implementation of initiatives to take advantage
15 of expanded visa programs and increased travel
16 opportunities for international visitors to
17 Hawaii;

18 (B) Of the \$79,000,000 allocated:

19 (i) \$1,000,000 shall be allocated for the
20 operation of a Hawaiian center and the
21 museum of Hawaiian music and dance; and



1 (ii) 0.5 per cent of the \$79,000,000 shall be
2 transferred to a sub-account in the tourism
3 special fund to provide funding for a safety
4 and security budget, in accordance with the
5 Hawaii tourism strategic plan 2005-2015; and
6 (C) Of the revenues remaining in the tourism special
7 fund after revenues have been deposited as
8 provided in this paragraph and except for any sum
9 authorized by the legislature for expenditure
10 from revenues subject to this paragraph,
11 beginning July 1, 2007, funds shall be deposited
12 into the tourism emergency special fund,
13 established in section 201B-10, in a manner
14 sufficient to maintain a fund balance of
15 \$5,000,000 in the tourism emergency special fund;
16 [~~(4)~~] (5) \$103,000,000 shall be allocated as follows:
17 Kauai county shall receive 14.5 per cent, Hawaii
18 county shall receive 18.6 per cent, city and county of
19 Honolulu shall receive 44.1 per cent, and Maui county
20 shall receive 22.8 per cent; provided that commencing
21 with fiscal year 2018-2019, a sum that represents the



1 difference between a county public employer's annual
2 required contribution for the separate trust fund
3 established under section 87A-42 and the amount of the
4 county public employer's contributions into that trust
5 fund shall be retained by the state director of
6 finance and deposited to the credit of the county
7 public employer's annual required contribution into
8 that trust fund in each fiscal year, as provided in
9 section 87A-42, if the respective county fails to
10 remit the total amount of the county's required annual
11 contributions, as required under section 87A-43; and
12 [~~+5~~] (6) \$3,000,000 shall be allocated to the special land
13 and development fund established under section 171-19;
14 provided that the allocation shall be expended in
15 accordance with the Hawaii tourism authority strategic
16 plan for:
17 (A) The protection, preservation, maintenance, and
18 enhancement of natural resources, including
19 beaches, important to the visitor industry;
20 (B) Planning, construction, and repair of facilities;
21 and



1 (C) Operation and maintenance costs of public lands,
2 including beaches, connected with enhancing the
3 visitor experience.

4 All transient accommodations taxes shall be paid into the
5 state treasury each month within ten days after collection and
6 shall be kept by the state director of finance in special
7 accounts for distribution as provided in this subsection.

8 As used in this subsection, "fiscal year" means the twelve-
9 month period beginning on July 1 of a calendar year and ending
10 on June 30 of the following calendar year."

11 PART V

12 SECTION 5. Section 325-2.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§325-2.5[+] **Health care-associated infection**
15 **reporting.** (a) Each health care facility in the State that is
16 certified by the Centers for Medicare and Medicaid Services
17 shall report information about health care-associated infections
18 to the Centers for Disease Control and Prevention's national
19 healthcare safety network, as specified in the rules of the
20 Centers for Medicare and Medicaid Services.



1 (b) Health care facilities subject to this section shall
2 authorize the Centers for Disease Control and Prevention to
3 allow the department to access health care-associated infection
4 data reported by those health care facilities to the national
5 healthcare safety network.

6 (c) The department may adopt rules pursuant to chapter 91
7 to require that health care-associated infections that are
8 multidrug-resistant be reported to the department through the
9 national healthcare safety network. The rules shall specify
10 which health care facilities are required to report those health
11 care-associated infections that are multidrug-resistant through
12 the national healthcare safety network, as well as the patient
13 populations that are to be targeted in the reports. The first
14 year of reporting required under this subsection shall be a
15 pilot test of the reporting system and shall not be reported or
16 disclosed to the public.

17 (d) The department shall preserve patient confidentiality
18 and shall not disclose to the public any patient-level data
19 obtained from any health care facility.

20 (e) The department may issue reports to the public
21 regarding health care-associated infections in aggregate data



1 form to protect individual patient identity. The reports may
2 identify individual health care facilities. The reports shall
3 use the methodology or any part of the methodology developed by
4 the Centers for Disease Control and Prevention and the Centers
5 for Medicare and Medicaid Services for national reporting of
6 health care-associated infections.

7 (f) Health care-associated infection information held by
8 the department as a result of reporting under this section is
9 not subject to subpoena, discovery, or introduction into
10 evidence in any civil or criminal proceeding; provided that
11 health care-associated infection information otherwise available
12 from other sources is not immune from subpoena, discovery, or
13 introduction into evidence through those sources solely because
14 the information was reported as required by this section.

15 (g) Beginning on June 30, 2013, and no later than June 30
16 of each year, thereafter, the department shall prepare a public
17 report, in accordance with this section, containing information
18 pertaining to health care-associated infections in the State for
19 the previous calendar year.

20 ~~[(h) For the purposes of this section:~~

21 ~~"Department" means the department of health.~~



1 ~~"Health care facility" means the same as in section~~
2 ~~323D-2.]"~~

3 SECTION 6. Section 325-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§325-8 Infected persons and quarantine.** (a) ~~[As used in~~
6 ~~this section:~~

7 ~~"Communicable disease" means any disease declared to be~~
8 ~~"communicable" by the director of health.~~

9 ~~"Dangerous disease" means a disease as defined in section~~
10 ~~325-20.~~

11 ~~"Quarantine" means the compulsory physical separation,~~
12 ~~including the restriction of movement or confinement of~~
13 ~~individuals or groups believed to have been exposed to or known~~
14 ~~to have been infected with a contagious disease, from~~
15 ~~individuals who are believed not to have been exposed or~~
16 ~~infected, by order of the department or a court of competent~~
17 ~~jurisdiction.] By order of the director, the department may~~
18 ~~quarantine or isolate an individual if:~~

19 (1) Any delay in the quarantine or isolation of the
20 individual would pose an immediate threat to the
21 public health;



1 (2) The individual is reasonably believed to have been
2 exposed to or known to have been infected with a
3 communicable or dangerous disease; and
4 (3) A quarantine or isolation is the least restrictive
5 means by which the public's health, safety, and
6 welfare can be protected, due to the transmittable
7 nature of the communicable or dangerous disease and
8 the lack of preventive measures, or due to the failure
9 by the individual quarantined or isolated to accept or
10 practice less restrictive measures to prevent disease
11 transmission.

12 (b) In implementing a quarantine~~[7]~~ or isolation, the
13 dignity of the individual quarantined or isolated shall be
14 respected at all times and to the greatest extent possible,
15 consistent with the objective of preventing or limiting the
16 transmission of the disease to others. The needs of individuals
17 quarantined or isolated shall be addressed in as systematic and
18 competent a fashion as is reasonable under the circumstances.
19 To the greatest extent possible, the premises in which
20 individuals are quarantined or isolated shall be maintained in a
21 safe and hygienic manner, designed to minimize the likelihood of



1 further transmission of infection or other harm to individuals
2 subject to quarantine[~~adequate~~] or isolation; provided that
3 if an individual is quarantined or isolated in the individual's
4 own home or in a rented premises, the individual shall be
5 responsible for maintaining the premises in a safe and hygienic
6 manner. Access to adequate food, clothing, medication, and
7 other necessities, access to counsel, means of communication
8 with [~~those in and outside these settings,~~] others, and
9 [~~competent~~] adequate medical care shall [~~be provided~~] not be
10 denied to the person quarantined[~~or~~] or isolated; provided that
11 the access shall be at that person's expense.

12 To the greatest extent possible, cultural and religious
13 beliefs shall be considered in addressing the needs of
14 quarantined or isolated individuals. The department may
15 establish and maintain places of quarantine and isolation and
16 quarantine or isolate any individual by the least restrictive
17 means necessary to protect the public health.

18 The department shall take all reasonable means to prevent
19 the transmission of infection between or among quarantined or
20 isolated individuals. The quarantine or isolation of any
21 individual shall be terminated when the director determines that



1 the quarantine or isolation of that individual is no longer
2 necessary to protect the public health.

3 (c) An individual subject to quarantine or isolation shall
4 obey the department's rules and orders, shall not go beyond the
5 quarantined or isolated premises, and shall not put the
6 individual's self in contact with any individual not subject to
7 quarantine or isolation other than a physician, health care
8 provider, or individual authorized to enter a quarantined or
9 isolated premises by the department. Violation of any of the
10 provisions of this subsection is a misdemeanor.

11 (d) No individual, other than an individual authorized by
12 the department, shall enter a quarantined or isolated premises.
13 Any individual entering a quarantined or isolated premises
14 without permission of the department shall be guilty of a
15 misdemeanor. If, by reason of an unauthorized entry into a
16 quarantined or isolated premises, the individual poses a danger
17 to public health, the individual may be subject to the
18 quarantine or isolation pursuant to this section.

19 ~~[(e) Before quarantining an individual, the department~~
20 ~~shall obtain a written, ex parte order from a court of this~~
21 ~~State authorizing such action. A petition for an ex parte order~~



1 ~~shall be filed with the circuit court of the circuit in which~~
2 ~~the individual resides, is suspected of residing, or is~~
3 ~~quarantined under subsection (f). Proceedings on or related to~~
4 ~~a petition for an ex parte order shall be a civil action. The~~
5 ~~court shall grant an ex parte order upon finding that probable~~
6 ~~cause exists to believe a quarantine is warranted pursuant to~~
7 ~~this section. A copy of the ex parte order shall be given to~~
8 ~~the individual quarantined, along with notification that the~~
9 ~~individual has a right to a hearing under this section.~~

10 ~~(f) Notwithstanding subsection (e), the department may~~
11 ~~quarantine an individual without first obtaining a written, ex~~
12 ~~parte order from the court if any delay in the quarantine of the~~
13 ~~individual would pose an immediate threat to the public health.~~
14 ~~Following such a quarantine, the department shall promptly~~
15 ~~obtain a written, ex parte order from the court authorizing the~~
16 ~~quarantine.~~

17 ~~(g) An individual quarantined pursuant to subsection (e)~~
18 ~~or (f) shall have the right to a court hearing to contest the ex~~
19 ~~parte order. If the individual, the individual's guardian ad~~
20 ~~litem, or the individual's counsel requests a hearing, the~~
21 ~~hearing shall be held within fourteen days of filing of the~~



1 ~~request. The request shall be in writing and shall be filed~~
2 ~~with the circuit court in the circuit in which the individual is~~
3 ~~quarantined. A request for a hearing shall not alter or stay~~
4 ~~the quarantine of the individual. The department shall be~~
5 ~~notified of the request for a hearing at least ten days before~~
6 ~~the hearing. At the hearing, the department shall show that the~~
7 ~~quarantine is warranted pursuant to this section. If, after~~
8 ~~hearing all relevant evidence, the court finds that the criteria~~
9 ~~for quarantine under subsection (i) have been met by clear and~~
10 ~~convincing evidence, the court shall authorize the continued~~
11 ~~quarantine of the individual.~~

12 ~~(h) On or after thirty days following the issuance of an~~
13 ~~ex parte order or a hearing as provided for in this section, an~~
14 ~~individual quarantined pursuant to this section may request in~~
15 ~~writing a court hearing to contest the continued quarantine.~~
16 ~~The hearing shall be held within fourteen days of the filing of~~
17 ~~the request. The request shall be in writing and shall be filed~~
18 ~~with the circuit court for the circuit in which the individual~~
19 ~~is quarantined. A request for a hearing shall not alter or stay~~
20 ~~the order of quarantine. The department shall be notified of~~
21 ~~the request for a hearing at least ten days before the hearing.~~



1 ~~At the hearing, the department shall show that continuation of~~
2 ~~the quarantine is warranted pursuant to this section. If, after~~
3 ~~hearing all relevant evidence, the court finds that the criteria~~
4 ~~for the quarantine under subsection (i) have been met by clear~~
5 ~~and convincing evidence, the court shall authorize the continued~~
6 ~~quarantine of the individual.~~

7 ~~(i) A court may order an individual to be quarantined if~~
8 ~~the court finds that:~~

9 ~~(1) The individual is reasonably believed to have been~~
10 ~~exposed to or known to have been infected with a~~
11 ~~communicable or dangerous disease; and~~

12 ~~(2) A quarantine is the least restrictive means by which~~
13 ~~the public's health, safety, and welfare can be~~
14 ~~protected, due to the transmittable nature of the~~
15 ~~communicable or dangerous disease and the lack of~~
16 ~~preventive measures, or due to the failure by the~~
17 ~~individual quarantined to accept or practice less~~
18 ~~restrictive measures to prevent disease transmission.~~

19 ~~(j) An individual quarantined pursuant to this section may~~
20 ~~request a hearing in the courts of this State regarding the~~
21 ~~individual's treatment and the terms and conditions of the~~



1 ~~quarantine. Upon receiving a request, the court shall fix a~~
2 ~~date for a hearing. The hearing shall take place within~~
3 ~~fourteen days of the filing of the request with the court. The~~
4 ~~request for a hearing shall not alter or stay the order of~~
5 ~~quarantine. The department shall be notified of the request for~~
6 ~~a hearing at least ten days before the hearing. If, upon a~~
7 ~~hearing, the court finds that the quarantine of the individual~~
8 ~~is not in compliance with subsection (b), the court may fashion~~
9 ~~remedies reasonable under the circumstances and consistent with~~
10 ~~this chapter.~~

11 ~~(k) Judicial decisions shall be based upon clear and~~
12 ~~convincing evidence, and a written record of the disposition of~~
13 ~~the case shall be made and retained. If the personal appearance~~
14 ~~before the court of a quarantined individual is determined by~~
15 ~~the director to pose a threat to individuals at the proceeding~~
16 ~~and the quarantined individual does not waive the right to~~
17 ~~attend the proceeding, the court shall appoint a guardian ad~~
18 ~~litem as provided in article V of chapter 560, to represent the~~
19 ~~quarantined individual throughout the proceeding or shall hold~~
20 ~~the hearing via any means that allow all parties to participate~~
21 ~~as fully and safely as is reasonable under the circumstances.~~



1 ~~(l) Upon written request, the court shall appoint counsel~~
2 ~~at state expense to represent individuals or groups of~~
3 ~~individuals who are or who are about to be quarantined pursuant~~
4 ~~to this section and who are not otherwise represented by~~
5 ~~counsel. Adequate means of communication between those~~
6 ~~individuals or groups and their counsel and guardians ad litem~~
7 ~~shall be provided.~~

8 ~~(m) In any proceeding brought pursuant to this section, in~~
9 ~~consideration of the protection of the public's health, the~~
10 ~~severity of the emergency, and the availability of necessary~~
11 ~~witnesses and evidence, the court may order the consolidation of~~
12 ~~claims by individuals involved or to be affected by a quarantine~~
13 ~~where:~~

14 ~~(1) The number of individuals involved or to be affected~~
15 ~~by a quarantine is so large as to render individual~~
16 ~~participation impractical;~~

17 ~~(2) There are questions of law or fact common to the~~
18 ~~individual claims or rights to be determined;~~

19 ~~(3) The group claims or rights to be determined are~~
20 ~~typical of the affected individuals' claims or rights;~~

21 ~~and~~



1 ~~(4) The entire group will be adequately represented in the~~
2 ~~consolidation.~~

3 ~~(n)]~~ (e) Each individual quarantined shall be responsible
4 for the costs of food, lodging, and medical care, except for
5 those costs covered and paid by the individual's health plan.

6 (f) By order of the director, the department may inspect,
7 quarantine, or isolate persons, properties, places, cities, or
8 counties, and take measures as are necessary to ascertain the
9 nature of the disease and prevent its spread whenever in the
10 department's judgment the action is necessary to protect or
11 preserve the public health."

12 SECTION 7. Section 325-20, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~{}~~§325-20~~{}~~ **Agreements; collaborative assistance in**
15 **control of disease outbreaks.** (a) The director may enter into
16 agreements for collaborative assistance with licensed health
17 care facilities and health care providers in the State to
18 control an epidemic of a dangerous disease~~[, which]~~ that
19 requires more physical facilities, materials, or personnel than
20 the department has available.



1 ~~[(b) Whenever used in this section, unless a different~~
2 ~~meaning clearly appears from the context:]~~

3 ~~"Dangerous disease" means any illness or health condition~~
4 ~~that might pose a substantial risk of a significant number of~~
5 ~~human fatalities or incidents of permanent or long-term~~
6 ~~disability.~~

7 ~~"Department" means the department of health.~~

8 ~~"Director" means the director of health.~~

9 ~~"Epidemic" means the occurrence of cases of an illness~~
10 ~~clearly in excess of normal expectancy, as determined by the~~
11 ~~director.~~

12 ~~"Health care facility" means a facility as defined in~~
13 ~~section 323D-2.~~

14 ~~"Health care provider" means a provider as defined in~~
15 ~~section 323D-2.~~

16 ~~(e)]~~ (b) Under collaborative agreements, health care
17 facilities or health care providers shall provide prophylactic
18 and treatment services for the epidemic disease in collaboration
19 with and under the general direction of the department and shall
20 seek reimbursement from the individuals who receive medical
21 care, the parties responsible for their care, or their health



1 plans. Persons having health plan benefits shall be responsible
2 for any copayments to the facilities or health care providers.

3 ~~[(d)]~~ (c) The agreements may provide that the department
4 shall use reasonable efforts to seek legislative appropriations
5 to reimburse health care facilities and health care providers
6 for the use of physical facilities, professional services, and
7 materials provided to persons without health plan coverage.

8 ~~[(e)]~~ (d) Except in cases of wilful misconduct, the
9 following persons shall not be liable for the death of or injury
10 to any person who is provided care pursuant to this section or
11 for damage to property when resulting from any act or omission
12 in the performance of such services:

- 13 (1) The State or any political subdivision;
- 14 (2) A health care facility or health care provider acting
15 at the direction of the department under an agreement
16 as provided in this section; and
- 17 (3) Persons engaged in disease prevention and control
18 functions pursuant to this section or sections 325-8
19 and 325-9, including volunteers whose services are
20 accepted by any authorized person."



1 PART VI

2 SECTION 8. Section 706-643, Hawaii Revised Statutes, is
3 amended by amending subsection (2) to read as follows:

4 "(2) All fines and other final payments received by a
5 clerk or other officer of a court shall be accounted for, with
6 the names of persons making payment, and the amount and date
7 thereof, being recorded. All such funds shall be deposited with
8 the director of finance to the credit of the general fund of the
9 State. With respect to fines and bail forfeitures that are
10 proceeds of the wildlife revolving fund under section 183D-10.5,
11 [~~and~~] fines that are proceeds of the compliance resolution fund
12 under sections 26-9(o) and 431:2-410, and fines that are
13 proceeds of the travelers screening special fund under sections
14 325-G and 325-H, the director of finance shall transmit the
15 fines and forfeitures to the respective funds."

16 PART VII

17 SECTION 9. Section 87A-42, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) In any fiscal year subsequent to the 2017-2018 fiscal
20 year in which a county public employer's contributions into the
21 fund are less than the amount of the annual required



1 contribution, the amount that represents the excess of the
2 annual required contribution over the county public employer's
3 contributions shall be deposited into the fund from a portion of
4 all transient accommodations tax revenues collected by the
5 department of taxation under section [~~237D-6.5(b)(4)~~.]
6 237D-6.5(b)(5). The director of finance shall deduct the amount
7 necessary to meet the county public employer's annual required
8 contribution from the revenues derived under section
9 [~~237D-6.5(b)(4)~~] 237D-6.5(b)(5) and transfer the amount to the
10 board for deposit into the appropriate account of the separate
11 trust fund."

12 SECTION 10. Section 171-19, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) There is created in the department a special fund to
15 be designated as the "special land and development fund".
16 Subject to the Hawaiian Homes Commission Act of 1920, as
17 amended, and section 5(f) of the Admission Act of 1959, all
18 proceeds of sale of public lands, including interest on deferred
19 payments; all moneys collected under section 171-58 for mineral
20 and water rights; all rents from leases, licenses, and permits
21 derived from public lands; all moneys collected from lessees of



1 public lands within industrial parks; all fees, fines, and other
2 administrative charges collected under this chapter and chapter
3 183C; a portion of the highway fuel tax collected under chapter
4 243; all moneys collected by the department for the commercial
5 use of public trails and trail accesses under the jurisdiction
6 of the department; transient accommodations tax revenues
7 collected pursuant to section [~~237D-6.5(b)(5);~~] 237D-6.5(b)(6);
8 and private contributions for the management, maintenance, and
9 development of trails and accesses shall be set apart in the
10 fund and shall be used only as authorized by the legislature for
11 the following purposes:

- 12 (1) To reimburse the general fund of the State for
13 advances made that are required to be reimbursed from
14 the proceeds derived from sales, leases, licenses, or
15 permits of public lands;
- 16 (2) For the planning, development, management, operations,
17 or maintenance of all lands and improvements under the
18 control and management of the board pursuant to title
19 12, including but not limited to permanent or
20 temporary staff positions who may be appointed without
21 regard to chapter 76; provided that transient



1 accommodations tax revenues allocated to the fund
2 shall be expended as provided in section
3 [~~237D-6.5(b)(5);~~] 237D-6.5(b)(6);
4 (3) To repurchase any land, including improvements, in the
5 exercise by the board of any right of repurchase
6 specifically reserved in any patent, deed, lease, or
7 other documents or as provided by law;
8 (4) For the payment of all appraisal fees; provided that
9 all fees reimbursed to the board shall be deposited in
10 the fund;
11 (5) For the payment of publication notices as required
12 under this chapter; provided that all or a portion of
13 the expenditures may be charged to the purchaser or
14 lessee of public lands or any interest therein under
15 rules adopted by the board;
16 (6) For the management, maintenance, and development of
17 trails and trail accesses under the jurisdiction of
18 the department;
19 (7) For the payment to private land developers who have
20 contracted with the board for development of public
21 lands under section 171-60;



- 1 (8) For the payment of debt service on revenue bonds
- 2 issued by the department, and the establishment of
- 3 debt service and other reserves deemed necessary by
- 4 the board;
- 5 (9) To reimburse the general fund for debt service on
- 6 general obligation bonds issued to finance
- 7 departmental projects, where the bonds are designated
- 8 to be reimbursed from the special land and development
- 9 fund;
- 10 (10) For the protection, planning, management, and
- 11 regulation of water resources under chapter 174C; and
- 12 (11) For other purposes of this chapter."

PART VIII

14 SECTION 11. There is appropriated out of the general

15 revenues of the State of Hawaii the sum of \$ or so much

16 thereof as may be necessary for fiscal year 2020-2021 to be

17 deposited into the travelers screening special fund established

18 pursuant to section 325-G, Hawaii Revised Statutes.

19 SECTION 12. There is appropriated out of the travelers

20 screening special fund the sum of \$ or so much thereof



1 as may be necessary for fiscal year 2020-2021 to carry out the
2 purposes of this Act.

3 The sum appropriated shall be expended by the department of
4 health for the purposes of this Act.

5 SECTION 13. In codifying the new sections added by
6 sections 2 and 3 of this Act, the revisor of statutes shall
7 substitute appropriate section numbers for the letters used in
8 designating the new sections in this Act.

9 SECTION 14. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 15. This Act shall take effect upon its approval.



H.B. NO. 220
H.D. 1
S.D. 1
C.D. 1
PROPOSED

Report Title:

DOH; Communicable or Dangerous Diseases; Screening; Monitoring; Penalties; Quarantine; Isolation; Appropriation

Description:

Authorizes the Department of Health to screen, test, and monitor travelers. Provides for penalties for noncompliance. Amends and adds definitions and procedural and administrative provisions in chapter 325, Hawaii Revised Statutes. Establishes a travelers screening special fund. Allocates funds from transient accommodations tax revenues. Appropriates funds.

(HB220 CD1 PROPOSED)

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

