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# A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

PART I

1  
2 SECTION 1. The legislature finds that responsible  
3 environmental stewardship requires management and supervision of  
4 the safe collection and lawful disposal of banned, outdated, or  
5 unwanted pesticides. The legislature further finds that the  
6 Hawaii pesticides law prohibits the disposal of agricultural  
7 pesticides in sanitary landfills, but there are currently no  
8 options for the legal disposal of these substances within the  
9 State. According to the Pesticide Stewardship Alliance, more  
10 than forty states have pesticide disposal programs. The  
11 legislature also finds that there is great urgency for the  
12 establishment of a pesticide disposal program in this State so  
13 that individuals and entities may legally dispose of banned,  
14 outdated, or unwanted pesticides.

15 Accordingly, the purpose of this part is to:

- 16 (1) Require the department of agriculture, in consultation  
17 with the department of health, to develop and



1           implement a pesticide disposal amnesty program to  
2           provide a one-time, affordable, and environmentally  
3           accessible means for the disposal of restricted use  
4           pesticides and nonrestricted use pesticides from a  
5           bona fide agricultural entity;

6           (2) Convene a steering committee to guide and monitor the  
7           pesticide disposal amnesty program; and

8           (3) Appropriate funds for purposes of the pesticide  
9           disposal amnesty program.

10          SECTION 2. (a) The department of agriculture, in  
11          consultation with the department of health, shall develop and  
12          implement a pesticide disposal amnesty program to provide a one-  
13          time, affordable, and environmentally accessible means for the  
14          disposal of restricted use pesticides and nonrestricted use  
15          pesticides from a bona fide agricultural entity.

16          For purposes of this Act, "bona fide agricultural entity"  
17          means one or more individuals, a company, corporation, a  
18          partnership, an association, or any other type of legal entity  
19          in the State that engages or engaged in an agricultural  
20          operation as defined in section 46-88(d), Hawaii Revised  
21          Statutes; provided that bona fide agricultural entity shall



1 include any successor, heir, or beneficiary that received  
2 ownership of any restricted use pesticide or nonrestricted use  
3 pesticide from a bona fide agricultural entity.

4 (b) There shall be established on the islands of Hawaii,  
5 Kauai, Lanai, Maui, Molokai, and Oahu disposal locations for  
6 restricted use pesticides and nonrestricted use pesticides as  
7 part of the pesticide disposal amnesty program. Each site shall  
8 offer the opportunity for disposal of restricted use pesticides  
9 and nonrestricted use pesticides for a duration of fourteen  
10 consecutive calendar days during the pesticide disposal amnesty  
11 program.

12 (c) The department of agriculture shall operate the  
13 pesticide disposal amnesty program as a free or low-cost program  
14 to encourage the safe and legal disposal of restricted use  
15 pesticides and nonrestricted use pesticides. The department of  
16 agriculture shall not charge a fee for disposal of restricted  
17 use pesticides or nonrestricted use pesticides that include an  
18 active ingredient of restricted use pesticide or nonrestricted  
19 use pesticide weighing less than five pounds or fifteen gallons.  
20 The department of agriculture may impose a fee for disposal of a  
21 restricted use pesticide or nonrestricted use pesticide that



1 includes an active ingredient weighing five pounds or more or  
2 fifteen gallons or more.

3 (d) The department of agriculture shall implement the  
4 pesticide disposal amnesty program no later than June 30, 2021,  
5 for a duration of fourteen consecutive calendar days.

6 (e) No later than July 31, 2020, the department of  
7 agriculture shall convene a pesticide disposal amnesty program  
8 steering committee to guide and monitor the pesticide disposal  
9 amnesty program. The steering committee shall comprise the  
10 advisory committee on pesticides established pursuant to section  
11 149A-51, Hawaii Revised Statutes, a representative of the Hawaii  
12 Agriculture Research Center, and representatives from any other  
13 entity deemed necessary by the chairperson of the board of  
14 agriculture.

15 SECTION 3. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$ or so  
17 much thereof as may be necessary for fiscal year 2020-2021 for  
18 the establishment and operation of the pesticide disposal  
19 amnesty program.

20 The sum appropriated shall be expended by the department of  
21 agriculture for the purposes of this Act.



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PART II

SECTION 4. Section 149A-41, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

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

(b) Administrative penalties.

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

(2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter relating to the use of pesticides while on property owned or rented by that person or the person's employer, subsequent to receiving a written warning from the department or following a citation for a prior violation, may be assessed an administrative penalty by the board of not more than

1            [~~\$1,000~~] \$5,000 for each offense. Any private  
2 applicator or other person not included in paragraph  
3 (1) who violates any provision of this chapter  
4 relating to licensing, transport, sale, distribution,  
5 or application of a pesticide for commercial purposes  
6 may be assessed an administrative penalty as provided  
7 in paragraph (1);

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



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

13          (c) Criminal penalties.

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

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



1           this chapter shall be guilty of a misdemeanor and  
2           shall on conviction be fined not more than [~~\$1,000,~~  
3           \$5,000, or imprisoned for not more than one year, or  
4           both.

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

11                               PART III

12          SECTION 5.   Statutory material to be repealed is bracketed  
13 and stricken.   New statutory material is underscored.

14          SECTION 6.   This Act shall take effect on July 1, 2150.



**Report Title:**

HDOA; Department of Health; Pesticides; Restricted Use  
Pesticides; Nonrestricted Use Pesticides; Pesticide Disposal  
Amnesty Program; Steering Committee; Appropriation

**Description:**

Establishes the Pesticide Disposal Amnesty Program within the Department of Agriculture to provide a one-time, affordable, and environmentally accessible means for the disposal of restricted and nonrestricted use pesticides from a bona fide agricultural entity. Convenes a Pesticide Disposal Amnesty Program Steering Committee to guide and monitor the program. Increases fines for pesticide use violations. Appropriates funds. Effective 7/1/2150. (HD2)

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

