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# A BILL FOR AN ACT

RELATING TO AQUATIC 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 coral reefs' resilience  
6 to climate change. In order to combat the introduction and  
7 spread of alien aquatic organisms it is imperative that the  
8 State 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 the seawater pumped into and out of ballast tanks to



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

3 The legislature further finds that the *Hawaii Interagency*  
4 *Biosecurity Plan 2017-2027* recognizes that up to seventy-eight  
5 per cent of the non-native marine algae and invertebrate species  
6 in Hawaii waters arrived through biofouling or a combination of  
7 biofouling and ballast water, and that the presence of alien  
8 species in unmanaged or undermanaged ballast water and on vessel  
9 hulls remains a high risk factor for the arrival and spread of  
10 invasive marine species. The *Hawaii Interagency Biosecurity*  
11 *Plan 2017-2027* also recognizes that regulating these vectors is  
12 exponentially more cost effective than post-introduction control  
13 and eradication programs.

14 The legislature further finds that recent developments in  
15 technology used in other states and countries provide  
16 opportunities to assess and mitigate the risk of introduction of  
17 alien aquatic organisms. In order for emerging technologies and  
18 systems to properly provide protections for Hawaii's waters, it  
19 is critical that the State embark on a program aimed at testing  
20 these technologies and demonstrating proof of concept, that may  
21 be followed by regulation and oversight of their 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 as  
4 Public Law Number 115-282. The Vessel Incidental Discharge Act  
5 has far-reaching implications for how states may regulate  
6 certain discharges that are considered incidental to the normal  
7 operations of a vessel. Once the federal law, which has a four-  
8 year implementation timeline, comes into full force and effect,  
9 states will be preempted from setting or enforcing rules and  
10 regulations related to the treatment and discharge of ballast  
11 water and the effluent resulting from the cleaning of vessel  
12 hulls in state waters that are more stringent than federal  
13 regulations. However, there is ample evidence of the risk posed  
14 by the discharge of unmanaged or undermanaged ballast water and  
15 by the arrival and movement of vessels that are fouled with  
16 species that can cause harm when moved to new locations beyond  
17 their native range. Further, the legislature finds that the  
18 United States Coast Guard does not currently test vessel ballast  
19 water to assess treatment efficacy or risk, or as a means of  
20 assessing compliance with 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. To  
4 successfully meet this responsibility, the legislature finds  
5 that the department requires additional capacity to develop and  
6 maintain a program to assess, monitor, and regulate vectors of  
7 alien aquatic organisms.

8 The purpose of this Act is to:

- 9 (1) Require the department of land and natural resources  
10 to impose an aquatic biosecurity risk assessment  
11 service fee for assessment of activities that are  
12 recognized as a potential vector source for the  
13 introduction or spread of alien aquatic organisms; and  
14 (2) Appropriate funds to support staff and operational  
15 costs associated with aquatic biosecurity inspection,  
16 investigation, monitoring, management, compliance, and  
17 enforcement.

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

20 "[+]§187A-32[+] Alien aquatic organisms; lead agency;  
21 fees; rules. (a) The department is designated as the lead



1 state agency for preventing the introduction and carrying out  
2 the destruction of alien aquatic organisms through the  
3 regulation of ballast water discharges and hull fouling  
4 organisms. The department may establish an interagency team to  
5 address the concerns relating to alien aquatic organisms.

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

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



1 section 266-2. The aquatic biosecurity risk assessment service  
2 fee shall be eighty-five per cent of the port entry fee amount  
3 and shall be collected with the port entry fee. The aquatic  
4 biosecurity risk assessment service fee shall be deposited into  
5 the general fund.

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

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

20 (1) Half-year funding (\$32,238 for fiscal year 2019-2020)  
21 and full-year funding (\$64,476 for fiscal year 2020-



- 1           2021) for one biologist VI position to oversee the  
2           aquatic biosecurity team and operations;
- 3           (2) Half-year funding (\$29,808 for fiscal year 2019-2020)  
4           and full-year funding (\$59,616 for fiscal year 2020-  
5           2021) for one program specialist V position to analyze  
6           and develop regulations and policy related to aquatic  
7           biosecurity;
- 8           (3) Half-year funding (\$26,478 for fiscal year 2019-2020)  
9           and full-year funding (\$52,956 for fiscal year 2020-  
10          2021) for one general professional IV position to  
11          develop, manage, and maintain reporting for any  
12          database and technology used during aquatic  
13          biosecurity risk inspections;
- 14          (4) Half-year funding (\$52,956 for fiscal year 2019-2020)  
15          and full-year funding (\$105,912 for fiscal year 2020-  
16          2021) for two biologist IV positions to oversee  
17          biosecurity risk inspections and compliance testing;  
18          and
- 19          (5) Half-year funding (\$97,896 for fiscal year 2019-2020)  
20          and full-year funding (\$195,792 for fiscal year 2020-  
21          2021) for four biologist III positions to conduct



1           biosecurity risk inspections, monitoring, and related  
2           outreach and education.

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

5           SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$28,158 or so much  
7 thereof as may be necessary for fiscal year 2019-2020 and the  
8 sum of \$56,316 or so much thereof as may be necessary for fiscal  
9 year 2020-2021 for one full-time equivalent (1.0 FTE)  
10 conservation and resources enforcement officer IV position to  
11 support safety, compliance, and enforcement of aquatic  
12 biosecurity laws in conservation and resources enforcement.

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

15           SECTION 5. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$24,474 or so much  
17 thereof as may be necessary for fiscal year 2019-2020 and the  
18 sum of \$48,948 or so much thereof as may be necessary for fiscal  
19 year 2020-2021 for one full-time equivalent (1.0 FTE) accountant  
20 III position to support assessment, collection, and accounting





1 of the aquatic biosecurity risk assessment service fee in  
2 harbors administration.

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

5 SECTION 6. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$540,000 or so much  
7 thereof as may be necessary for fiscal year 2019-2020 and the  
8 sum of \$400,000 or so much thereof as may be necessary for  
9 fiscal year 2020-2021 for operating expenditures in the  
10 ecosystem protection and restoration program for aquatic  
11 biosecurity including contracts for specialized laboratory work,  
12 purchase and maintenance of field and laboratory equipment and  
13 supplies, and travel costs.

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

16 SECTION 7. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



1 SECTION 8. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

*Fidel Cabani Mac-Akawa*

*By Request*

JAN 22 2019



# H.B. NO. 746

**Report Title:**

Aquatic Biosecurity; Appropriation

**Description:**

Requires the Department of Land and Natural Resources to charge an aquatic biosecurity risk assessment service fee and conduct activities to detect and prevent the introduction or spread of alien aquatic organisms. Appropriates funds for staffing and operating expenditures for aquatic biosecurity.

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

