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## 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 when used properly,  
2 pesticides can protect plants and homes from damage. However,  
3 improper use of pesticides may result in plants becoming  
4 injured; pests not being controlled; human health becoming  
5 impaired; and soil, air, and water becoming polluted.

6           The legislature further finds that enforcement of chapter  
7 149A, Hawaii Revised Statutes, as well as timely and routine  
8 inspections and compliance investigations of potential pesticide  
9 misuse are crucial to protecting public health and ensuring  
10 public confidence in the State's oversight of pesticide use. In  
11 its 2016 study, entitled "Pesticide Use by Large Agribusinesses  
12 on Kauai", the Joint Fact Finding Study Group found indications  
13 of possible pesticide misuse on Kauai. The study stressed the  
14 need for more timely pesticide inspections and compliance  
15 investigations, as well as improved reporting on the results of  
16 these inspections and investigations. According to the study,  
17 the use of drift-prone pesticides should be more strictly



1 monitored through inspections, and proven violators should be  
2 fined.

3 Accordingly, the purpose of this Act is to:

- 4 (1) Require the department of agriculture to submit an  
5 annual report to the legislature detailing the scope  
6 of its pesticide inspections and compliance  
7 investigations;
- 8 (2) Require the issuance of a warning notice for first  
9 time pesticide violators; and
- 10 (3) Increase the penalties for pesticide violations.

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

14 "§149A- Annual report. The department shall submit an  
15 annual report to the legislature on the scope of any pesticide  
16 inspections and investigations conducted to ensure compliance  
17 with this chapter during the previous year. The report shall be  
18 organized by county and shall include, at a minimum, the  
19 following information:



- 1        (1) The number of complaints received during the previous  
2        year, including a brief description of the nature and  
3        location of each complaint;
- 4        (2) The number of compliance investigations conducted  
5        during the previous year and, for each complaint:  
6        (A) The department's findings and conclusions; and  
7        (B) The type of enforcement action taken, if any;
- 8        (3) The number of pesticide inspections conducted during  
9        the previous year and, for each inspection:  
10       (A) A brief description of the nature and location of  
11       the inspection; and  
12       (B) The outcome of the inspection, including the type  
13       of enforcement action taken, if any; and
- 14       (4) The total number and the types of violations found  
15       during the previous year, including the location of  
16       each pesticide use violation, and the active pesticide  
17       ingredient or product name involved in each pesticide  
18       use violation."

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



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

5           (b) Administrative penalties.

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

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



1 relating to licensing, transport, sale, distribution,  
2 or application of a pesticide for commercial purposes  
3 may be assessed an administrative penalty as provided  
4 in paragraph (1);

5 (3) No administrative penalty shall be assessed unless the  
6 person charged [~~shall have~~] has been given notice and  
7 an opportunity for a hearing on the specific charge in  
8 the county of the residence of the person charged.

9 The administrative penalty and any proposed action  
10 contained in the notice of finding of violation shall  
11 become a final order unless, within twenty days of  
12 receipt of the notice, the person or persons charged  
13 make a written request for a hearing. In determining  
14 the amount of penalty, the board shall consider the  
15 appropriateness of the penalty to the size of the  
16 business of the person charged, the effect on the  
17 person's ability to continue business, and the gravity  
18 of the violation; and

19 (4) In case of inability to collect the administrative  
20 penalty or failure of any person to pay all or [~~such~~]  
21 a portion of the administrative penalty as the board



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

10       (c) Criminal penalties.

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

18       (2) Any private applicator or other person not included in  
19       paragraph (1) who knowingly violates [~~any provision~~  
20       of] this chapter shall be guilty of a misdemeanor and  
21       [~~shall be~~], upon conviction, shall be fined not more



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1 than [~~\$1,000,~~] \$5,000, or imprisoned for not more than  
2 one year, or both[-];

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

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

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, 2019.

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INTRODUCED BY: 

JAN 22 2019



# H.B. NO. 929

**Report Title:**

HDOA; Pesticides; Inspection; Monitoring; Reporting; Fines

**Description:**

Requires Department of Agriculture to provide annual reports on pesticide inspection and compliance investigations. 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.*

