
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 known risks,
8 pesticide misuse continues to occur within the State.

9 The legislature notes that there have been numerous recent
10 instances of improper use of pesticides in the State. For
11 example, in 2016 and 2017, a west Kauai agribusiness operation
12 failed to adhere to pesticide use instruction by improperly
13 using the neurotoxin pesticide chlorpyrifos, thereby exposing
14 farm workers to the dangerous pesticide and potentially injuring
15 their health. Although investigation by the United States
16 Environmental Protection Agency initially proposed a pesticide
17 fine of \$4,900,000, the fine was significantly reduced to



1 slightly over \$500,000. In 2018, a commercial pesticide
2 applicator was fined \$168,535 for misusing different restricted-
3 use pesticides on Kauai. Also, in November 2019, an
4 agribusiness operation pled guilty and paid \$10,000,000 as part
5 of a plea agreement with the United States Environmental
6 Protection Agency for illegal use of the banned pesticide
7 Penncap-M on Maui and Molokai.

8 The legislature also finds that "Pesticide Use by Large
9 Agribusinesses on Kauai", a 2016 report published by the
10 independent joint fact-finding study group convened for purposes
11 of this report, found that more timely and better reported
12 pesticide inspections and compliance investigations are needed.
13 The study further found that the use of drift-prone pesticides
14 should be more strictly monitored and proven violators should be
15 fined.

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



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

4 (1) Requiring the department of agriculture to provide
5 annual reporting 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 submit
12 an annual report to the legislature detailing each pesticide
13 inspection and compliance investigation conducted during the
14 prior fiscal year, organized by county. This report shall
15 include the:

16 (1) Number of pesticide use complaints received during the
17 prior fiscal year, including a brief description of
18 the nature and location of each complaint;

19 (2) Number of compliance investigations conducted during
20 the prior fiscal year, including the:



- 1 (A) Duration, in calendar days, from receipt of
2 complaint to completion of investigation;
- 3 (B) Department's conclusion; and
- 4 (C) Type of enforcement action taken by the
5 department;
- 6 (3) Number of pesticide inspections conducted during the
7 prior fiscal year, including a brief description of
8 the nature and location of each inspection;
- 9 (4) Outcomes of pesticide inspections conducted during the
10 prior fiscal year, including any enforcement actions
11 taken by the department; and
- 12 (5) Number and types of pesticide violations found in the
13 prior fiscal year, including the:
- 14 (A) Location of each pesticide use violation; and
15 (B) Active ingredient or product name for any
16 pesticide involved in each pesticide violation.
- 17 (b) The report shall be submitted to the legislature and
18 posted to the department's website no later than June 30 of each
19 year."



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

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

8 (b) Administrative penalties.

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

14 (2) Any private applicator or other person not included in
15 paragraph (1) who violates any provision of this
16 chapter relating to the use of pesticides while on
17 property owned or rented by that person or the
18 person's employer, subsequent to receiving a written
19 warning from the department or following a citation
20 for a prior violation, may be assessed an
21 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 the portion of the administrative penalty as the board
4 may 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]~~, upon conviction, shall be fined not more
3 than ~~[\$1,000,]~~ \$5,000, or imprisoned for not more than
4 one year, or 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 SECTION 4. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 5. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on June 18, 2050.



Report Title:

HDOA; Hawaii Pesticides Law; Violations

Description:

Requires the Department of Agriculture to provide annual reporting on pesticide inspection and compliance investigations. Increases monetary fines for pesticide violations. Takes effect on 6/18/2050. (SD1)

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