

Honolulu, Hawaii

February 6, 2019

RE: H.B. No. 929

H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Agriculture, to which was referred H.B. No. 929 entitled:

"A BILL FOR AN ACT RELATING TO PESTICIDES,"

begs leave to report as follows:

The purpose of this measure is to protect public health and ensure public confidence in the State's oversight of pesticide use by:

- (1) Requiring the Department of Agriculture (DOA) to submit an annual report that is organized by county to the Legislature on the scope of any pesticide inspections and investigations, including the number of complaints, compliance investigations, pesticide investigations, and types of violations during the previous year, to ensure compliance with Hawaii's pesticide law;
- (2) Mandating, rather than authorizing, the issuance of a written warning notice to any person who violates Hawaii's pesticide laws;
- (3) Increasing the administrative penalties for any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributors who violate Hawaii's pesticide laws to not more than \$10,000 per violation,



and up to \$5,000 for other persons, including private applicators, for violations relating to pesticide use while on property owned or rented by that person or the person's employer; and

- (4) Increasing the criminal misdemeanor fines to not more than \$35,000 for any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor, and up to \$5,000 for others, including private applicators.

The League of Women Voters, Environmental Caucus of the Democratic Party of Hawai'i, Ka Ohana O Na Pua, Respiratory and Environmental Disabilities Association of Hawaii, Surfrider Foundation Kauai, Young Progressives Demanding Action, Hawai'i Alliance for Progressive Action, We Are One, Inc., GMO Free Kaua'i, Down to Earth, Hawai'i Center for Food Safety, and numerous individuals submitted testimony in support of this measure. The Hawai'i Farm Bureau, Hawaii Cattlemen's Council, and Western Plant Health Association submitted testimony in opposition to this measure. The DOA, Hawaii Crop Improvement Association, Crop Life America, and an individual submitted testimony to comment on this measure.

Your Committee has amended this measure by:

- (1) Changing its effective date to July 1, 2150, to encourage further discussions; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests your Committees on Judiciary and Finance to consider the concerns of DOA and the Hawaii Farm Bureau (HFB) with respect to certain provisions of this measure.

The DOA finds that many of the items to be reported are provided quarterly by DOA to the United States Environmental Protection Agency, which can be made available to the public. However, it will be difficult for DOA to comply with the mandate requiring the total number and types of pesticide violations, including the location of each violation, and its active ingredients or product name. Currently, DOA does not maintain records of the number and types of violation and to produce such a



report will require an overhaul of its current database or manual reporting requirements from DOA's staff. Currently, DOA's reporting requirements under Act 45, Session Laws of Hawaii 2018, is consuming a significant portion of DOA's limited and taxed staffing resources. DOA respectfully requests that the requirement to report the number and types of pesticide violations be delayed until its efforts to implement the procedures and systems to comply with requirements of Act 45 are in place and operational.

This measure requires the issuance of warning notices to all violators, including first-time violators. Presently, in the event of a violation, depending on the situation, DOA's case development team may determine that an effective deterrent is the issuance of an advisory letter. DOA believes that the mandate to issue a warning notice does not recognize the expertise of its staff in determining the most effective means to address violations and deter future violations.

The HFB recommends that the limited resources of DOA should be focused on preventing pesticide violations through outreach, education, and enforcement, rather than burdensome reporting requirements. The measure's reporting requirements divert staff resources from compliance investigations, inspections, and training. The substantial increase in the penalty amounts is another concern of HFB. Generally, pesticide violations are not intentional. Such being the situation, a higher penalty will not result in fewer violations. The HFB submits, if the goal is to ensure compliance with Hawaii's pesticide laws, then DOA should commit more of its limited resources to outreach and educational initiatives.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 929, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Agriculture,


RICHARD P. CREAGAN, Chair



