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JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

MARCH 11, 2020
1:15 P.M.
CONFERENCE ROOM 224

HOUSE BILL NO. 1854 HD1
RELATING TO LITTLE FIRE ANTS

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1854 HD1, Relating to Little Fire Ants. This bill authorizes the Hawaii Department of Agriculture, in conjunction with the Hawaii Ant Lab, to identify best practices for the treatment of little fire ants and requires the Department to post any identified best practices on its website. It further requires applicants for a pest control operator license to have knowledge of current best practices identified by the Department for eradication of little fire ants, and subjects a pest control operator to potential licensing sanctions for failure to report known or suspected cases of little fire ants to the Department. The Department offers comments on this measure.

Invasive species are a primary threat to Hawaii's agriculture and economy. *Wasmannia auropunctata*, commonly known as the little fire ant, is a significant pest of Hawaii's natural resources, agriculture, economy, and to the health and lifestyle of Hawaii's residents and visitors. The Department is a funder and partner of the Hawaii Ant Lab, a project of the University of Hawaii Pacific Cooperative Studies Unit. The Department also works with the county invasive species committees on response to little fire ants as necessary. The Department notes that in regions where little fire ant



populations are already established (such as the Windward Coast of Hawaii Island), eradication is no longer considered feasible. The Department instead aims to contain little fire ants in regions with established populations and prevent their spread to other regions of the State. Treatment of little fire ants on individuals' properties in those regions with established populations of little fire ants by pest control operators will likely have only temporary efficacy, despite effective pest management practices by pest control operators.

Pest control technology changes, and insects can also evolve over time to develop resistance to chemicals after repeated exposures. Care must be taken to ensure that the best management practices are able to evolve with any observed changes in little fire ant populations in the State. Section 2 of the HD1 represents agreed-upon language between the Department of Agriculture and the Department of Commerce and Consumer Affairs (DCCA), designed to avoid the inflexibility inherent in mandating a pest management practice in statute or rule (a change contemplated in the original draft of HB1854), and thereby reducing efficacy of little fire ant control techniques. If the Committee intends to move this measure forward, the Department requests that Section 2 be retained as is.

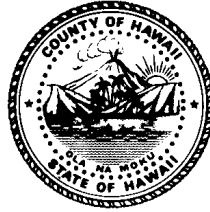
The Department defers to the DCCA on those parts of Sections 3 and 4 which relate to enforcement actions on pest control operator licensees and examinations to obtain licensure.

The Department has additional concerns regarding mandated reporting requirements for pest control operators (Page 8, Lines 16-17). The Department does not have an independently managed channel for reports of invasive species. Instead, Plant Quarantine Branch (PQB) manages a hotline (643-PEST) and the Hawaii Invasive Species Council (HISC) manages a website (643pest.org) which take public reports of little fire ant (and other invasive pests). PQB and HISC serve a dispatching function, notifying the appropriate department (if any) to respond to an invasive pest report. Little fire ant control requires multiple treatments over the course of months, and mandatory reporting would mean a significant increase in reports. The current reporting structure is

not staffed for large-scale regulatory reporting. Requiring pest control operators to use the current reporting system would impair response time to little fire ant infestations in areas that do not have an established population, which could facilitate the spread of the invasive species. If it is the intent of the Legislature to require regulatory reporting on pest control operators treating for little fire ants in areas of the State that already have established populations, the proper housing is a regulatory agency, such as the Department or the DCCA Pest Control Board. To fulfill this function the Department will require additional staff as well as resources to create a separate public reporting system.

Thank you for the opportunity to testify on this measure.

Harry Kim
Mayor



Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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March 9, 2020

Senator Mike Gabbard, Chair
Senator Russell E. Ruderman, Vice Chair
Committee on Agriculture and Environment

Dear Chair Gabbard, Vice Chair Ruderman, and Committee Members:

RE: HB 1854, HD1 Relating to Little Fire Ants

The little fire ant (LFA), to those who have experienced it, is a horrific species. It causes great pain in humans and has been reported to cause blindness in pets and horses. It has proliferated so widely that some have given up on eradication, and may even be ready to throw in the towel on control efforts. That is not acceptable. We must fight back, and that is why I appreciate the opportunity to testify on HB 1854, HD1.

I do not have the expertise to judge the most effective way to treat this menace, but it seems reasonable to have the DOA, in conjunction with the Hawai'i Ant Lab and private sector, working together to identify best practices, and making those best practices known to a wide audience.

More broadly, whether you pass this bill or not, I ask that you please provide as much funding for an anti-LFA initiative as you can justify in your budget for the coming fiscal year. In that way, government efforts to control, and even eliminate, LFA from Hawai'i can be maximized. The threat is great and warrants your much-appreciated attention.

Respectfully Submitted,

Harry Kim
MAYOR

Testimony of the Pest Control Board

Before the
Senate Committee on Agriculture and Environment
Wednesday, March 11, 2020
1:15 p.m.
State Capitol, Conference Room 224

On the following measure:
H.B. 1854, H.D. 1, RELATING TO LITTLE FIRE ANTS

Chair Gabbard and Members of the Committee:

My name is Lei Ana Green, and I am the Executive Officer of the Pest Control Board (Board). The Board offers comments on this bill.

The purposes of this bill are to: (1) authorize the Department of Agriculture (DOA), in conjunction with the Hawaii Ant Lab, to identify best practices for the treatment of little fire ants; (2) require the DOA to post those best practices on its website; (3) require applicants for a pest control operator license to have knowledge of DOA current best practices for eradication of little fire ants; and (4) subject a pest control operator to potential licensing sanctions for failure to report known or suspected cases of little fire ants.

The Board appreciates the bill's intent to control the spread of little fire ants in the State. However, the Board has the following concerns with section 3 and section 4 of this bill:

- Section 3, page 5, lines 7 to 12: Though examinations should be updated regularly, the Board does not recommend codifying in statute that the required best practices for a specific pest currently designated for eradication by emergency rule shall be written into an examination, as that would require the examination to change each time a best practice is identified. Examination content takes time to develop and, in the interim, the best practices could change and necessitate an update to the examination before publication.
- Section 4, page 8, lines 16 to 17: It is extremely difficult to prove an omission or failure to "report known or suspected cases of little fire ants to the department of agriculture." More specifically, it is challenging to prove an actor's "state of mind" because it is difficult to gather credible evidence of what a person knew, did not

know, or should have known. Also, the licensee's "state of mind" would need to be proven before triggering any duty to report.

If the Committee is inclined to amend HRS section 460J-15, the Board offers the following proposed language, to be consistent with the proposed changes in section 3 (page 5, lines 7 to 12):

- (14) Failure to report in writing to the [office designated by the Department of Agriculture] within thirty days, any known or suspected cases of any pest designated for eradication by the emergency rule adopted pursuant to section 141-3(c), which a pest control operator might reasonably be expected to treat, including little fire ants.

Thank you for the opportunity to testify on this bill.



HAWAII PEST CONTROL ASSOCIATION

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March 11, 2020

Testimony To: Senate Committee on Agriculture and Environment
Senator Mike Gabbard, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: H.B. 1854, HD 1 – RELATING TO LITTLE FIRE ANTS.

Chair Gabbard and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association, an Association of pest control operators who perform structural pest control. We can support only part of this bill.

We do not agree with some of the statements in Section 1, particularly those that allege that pest control operators spray in an attempt to create permanent clients however, we don't have any particular problem with Section 2. Our members have worked before with the Hawaii Ant Lab; in fact we have utilized their knowledge at our conferences and training sessions.

We do have problems however with Section 3 inasmuch as it appears that the bill is calling for the "best practices" of the Department of Agriculture to be incorporated into the testing at the

Department of Commerce and Consumer Affairs. The "best practices" would presumably be developed via Hawaii Administrative Rule (HAR) and the last rules of the Department of Agriculture took several years. We are not sure you want to wait that long to have those "best practices" incorporated into an exam. "Best practices" are defined as guidelines, ideas and a general frame work; they are not strict protocols from which to base disciplinary action. Additionally the practices can change upon the finding of new methodologies and/or pesticides that work better than those previously existing. It is very true in this case that government follows industry and we are sure that it would not be the "best practice" itself to have the examination follow what the industry is already doing.

Section 4 calls for disciplinary action to be imposed on a pest control operator for their failure to report known or suspected cases of little fire ants to the Department of Agriculture? This disciplinary action would be taken by the Department of Commerce and Consumer Affairs yet it is as a result of failure to report to the Department of Agriculture. This does not seem to make sense to us. Additionally, as far as we know, there is no requirement or obligation to report nor does this bill create that. We are not sure that the Department would be able to handle those reports since they would be voluminous and the bill does not seem to make any differentiation between an original report and/or additional reports of the same finding at the same or slightly different location.

In short, we think Sections 3 and 4 are ill advised.

Thank you.

HB-1854-HD-1

Submitted on: 3/8/2020 12:03:21 PM

Testimony for AEN on 3/11/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

Aloha Chair Gabbard, Vice Chair Ruderman, and Esteemed Members of the Committee,

I write in support of House Bill 1854, House Draft 1.

Little Fire Ant (LFA) is an ongoing menace across the islands, that has the ability to profoundly transform our quality of life for the worse. Ants blind pets, make their range unusable for human recreation, and have the ability to harm our tourism industry.

This measure would seek standardized protocols for the management of LFA, including eradication where and when feasible. I am in strong support.

In summary, please support HB1854 HD1.

Thank you for your consideration.

Best,
Dylan P. Armstrong

HB-1854-HD-1

Submitted on: 3/9/2020 9:37:54 AM

Testimony for AEN on 3/11/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dwamato	Individual	Support	No

Comments: