

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

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State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

FEBRUARY 21, 2020
12:00 P.M.
CONFERENCE ROOM 308

HOUSE BILL NO. 1854 HD1
RELATING TO LITTLE FIRE ANTS

Chairperson Luke 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 to identify best practices for the treatment of little fire ants (LFAs) in conjunction with the Hawaii Ant Lab and requires the Department to post these best practices on its website. It further allows the Pest Control Board to revoke, suspend, or refuse to renew any license for violation of any best practice identified by the Department, and requires applicants for a pest control operator license be tested on knowledge of DOA current best practices for eradication of little fire ants. 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 (LFA), 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 LFA populations are already established (such as the Windward Coast of Hawaii Island),



eradication of is no longer considered feasible. The Department instead aims to contain LFAs in regions with established populations and prevent their spread to other regions of the State. Treatment of LFAs on individuals' properties in those regions with established populations of little fire ants by pest control operators (PCOs) 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 (DOA) 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 LFA 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 Department of Commerce and Consumer Affairs 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 PCOs (Page 8, Lines 16-17). DOA does not have an independently managed channel for reports of invasive species. Instead, the Hawaii Invasive Species Council (HISC) manages a hotline (643-PEST) and a website (643pest.org) which takes public reports of LFA (and other invasive pests). HISC serves a dispatching function, notifying the appropriate department (if any) to respond to an invasive pest report. LFA control requires multiple treatments over the course of months, and mandatory reporting would mean a significant increase in reports. HISC is not staffed for large-scale regulatory reporting. Requiring pest control operators to use the current reporting system would impair response time to LFA 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 LFAs in areas of the State that already have established LFA populations, the proper housing is a regulatory agency, such as DOA or the pest control board. To fulfill this function the Department will require additional staff and resources to create a separate public reporting system.

Thank you for the opportunity to testify on this measure.

Testimony of the Pest Control Board

Before the
House Committee on Finance
Friday, February 21, 2020
12:00 p.m.
State Capitol, Conference Room 308

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

Chair Luke 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. In particular, the Board is concerned with:

- 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

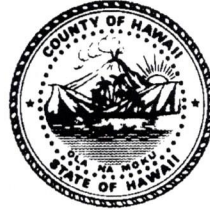
know, or should have known. Also, the licensee's "state of mind" would need to be proven before triggering any duty to report.

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.

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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February 19, 2020

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance

Dear Chair Luke, Vice Chair Cullen, 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 working together to identify best practices, and to make 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



HAWAII PEST CONTROL ASSOCIATION

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February 21, 2020

Testimony To: House Committee on Finance
Representative Sylvia Luke, Chair

Presented By: Tim Lyons, CAE
Executive Director

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

Chair Luke and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association and we are opposed to this bill. We believe the bill is flawed.

Our opposition lies not in its intent because we, afterall, we do recognize the problem of the little fire ants and the horrible situation that our Big Island residents are in as they have to cope with this pest. We also are, of course, not opposed to any efforts and any advice or information from the Hawaii Ant Lab. Our opposition is that the Hawaii Ant Lab is the not the “be all to end all”. It is not the only expert and authority on controlling ants.

Section 2 is okay. Section 3 requires the Board of DCCA to test for licensing purposes practices identified by another department (DOA)? Section 4 requires DCCA to take disciplinary action based on the failure to report items to DOA? This all does not make sense.

“Best practices” are guidelines. They are not strict protocols which if not followed should be punishable. In addition, in this industry, operators, in accordance with the federal FIFRA law, must follow the label. It is the law. What do they do when the label says one thing and outmoded best practices in the administrative rules conflict with that? This not an area for legislation.

While to some people controlling pests might seem like just “stomping on them”, in fact it is a very scientific industry and huge companies are doing research on all types of household pests including ants and expending millions of dollars doing so. The results of that research are translated to new products that appear on the marketplace on an almost monthly basis and we think the industry should be able to take advantage fo those and not have to wait for rules to be developed by the State.

Recommendation: Eliminate Sections 3 and 4 of House Draft 1 (requiring Section 1 to be restated.)

In consideration of the above, we cannot recommend passage of this bill.

Thanks you.

Date: February 21, 2020

To: House Committee on Finance

From: Benton Kealii Pang, Ph.D.

Re: HB 1854 HD1

Aloha Chair Sylvia Luke, Vice-Chair Ty Cullen, and members of the House Committee on Finance,

As a native Hawaiian conservationist for the past 30 years, I **SUPPORT HB 1854 HD1**. This bill appropriates authorizes the Department of Agriculture, in conjunction with the Hawaii Ant Lab, to identify best practices for the treatment of little fire ants.

Standardizing best practices by pest control operators to control little fire ants will help to decrease the spread of this invasive species from our neighborhoods. Please PASS HB 1854 HD1.

HB-1854-HD-1

Submitted on: 2/19/2020 7:51:13 PM

Testimony for FIN on 2/21/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB1854 to protect Hawaii's native species from fire ants.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei, Maui