

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

**FEBRUARY 5, 2020
8:35 A.M.
CONFERENCE ROOM 312**

**HOUSE BILL NO. 2643
RELATING TO AGRICULTURAL INSPECTIONS**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2643, relating to agricultural inspections. The bill appropriates funds from the general fund for fiscal year 2020-2021 to be expended by the Hawaii Department of Agriculture (Department) to establish preclearance quarantine inspections at points of origin to address invasive plants and animals entering the State both domestically and internationally, including through the U.S. Postal Service (USPS); and allows the Department to contract with another state agency to carry out the program. The Department strongly opposes this measure and offers comments.

First, and most importantly, the Department does not have the authority or jurisdiction to operate or enforce Hawaii law outside of the State. Additionally, the bill requires inspections "to or from the state". HRS Chapter 150A already requires inspections of imported agricultural commodities into the State.

Second, while the Department does have authorization to operate in the USPS sorting facility on Oahu, federal privacy laws, such as the Privacy Act, prevent inspections of parcels that are shipped via first class, priority, or express mail, without



consent of the importer or from the Postmaster. The Department does have the ability to obtain search warrants in lieu of consent but must do so within a 24-hour timeframe. This same authorization would be needed with each post office and the Department would need the authority to obtain a search warrant in the jurisdiction of another state, which cannot be done.

Third, international cargo is the express jurisdiction of the United States Department of Agriculture (USDA) and United States Customs and Border Protection (CBP). While domestic agricultural cargo can be inspected by the Department upon arrival in the State, regulation of international cargo is still subject to preemption by the USDA and CBP when there is a federal rule regarding a specific commodity.

Fourth, implementation of this measure would seemingly require the Department to have a presence in any U.S. state or any foreign country from which travelers, cargo, or any other articles with direct movement to Hawaii and conduct inspections on these items. The bill does not define the specific commodities that are regulated and in could be interpreted that everything entering the State must be inspected prior to shipment. This would require a hugely expensive endeavor to establish and staff Departmental offices at all airports and seaports in each of the many U.S. states and foreign countries from which travelers, cargo, and other articles directly move to Hawaii. Additionally, contracting with other state agencies would similarly be very costly, and as it would require those agencies to establish and maintain facilities at airports and seaports, provide manpower at these facilities to conduct inspections, train staff to conduct inspections and, enforce laws that have no legal standing in their state. This is all under the assumption that each of those state agencies even has the authority to enter onto the air/seaports, conduct inspections, and prevent the shipment of infested commodities to Hawaii.

Fifth, the Department notes that a similar effort to require preclearance departure for cargo coming into Hawaii is currently being considered in congress due to federal legislation introduced by Representative Ed Case. An important distinction between the federal legislation and this measure is that the federal legislation places the

responsibility for preclearance inspection on the USDA in collaboration with the Department and other states. This bill would place the responsibility solely on the Department, with the provision in SECTION 2 that the Department could contract with other state departments of agriculture for this purpose which would face the concerns as listed in the previous paragraph.

Thank you for the opportunity to testify on this measure.



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February 5, 2020

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2643
RELATING TO AGRICULTURAL INSPECTIONS

Room 312
8:35 AM

Aloha Chair Creagan, Vice-Chair DeCoite, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports the intent HB 2643, which requires the department of agriculture to conduct preclearance quarantine inspections prior to direct travel to or from the State and appropriates funds to implement a preclearance quarantine inspection. HFB believes that the HDOA needs to be adequately funded so that it can accomplish requirements in this measure.

Invasive species have become one of the most challenging problems impacting Hawaii. Many invasive species are damaging Hawaii's environment and the state's economy. Agriculture has a vested interest in this matter. Agriculture is one of the major casualties when invasive species are introduced. Every year, numerous new pests are introduced into the State, such as the coqui frog, coffee berry borer, axis deer, macadamia felted coccid, little fire ant, coconut rhinoceros beetle, small hive beetle, and varroa mite, to name a few.

In the 2002 LRB study on invasive species, it was reported that the estimated cost of financing all invasive species programs was \$50 million. The report estimated that the lost revenue to agriculture was \$300 million per year. The HISC currently estimates that those costs are now \$38 million on top of the current funding for biosecurity.

Thank you for this opportunity to testify on this important subject.

Testimony of Ku'uhaku Park
On Behalf of Matson
Comments on HB2643
Before the Committee on Agriculture
February 5, 2020

Dear Chair Creagan, Vice Chair DeCoite, and Members of the Committees,

Matson submits comments on HB2643, Relating to Agricultural Inspections, which requires the Department of Agriculture to conduct preclearance quarantine inspections prior to direct travel to or from the State.

In its current form, HB2643 is premature. It does not include a process or procedure for inspections of cargo and does not specify where or when these inspections will take place. Matson's operations run twenty-four hours a day, seven days a week and our Sand Island Terminal is operating at full capacity. Any additional inspection that takes place in our terminal could cause significant delays in offloading and out-gating our cargo. Inspections must take place away from our ports.

When shipping a container, securing its contents is very important. Placing a seal on the container ensures it has been properly closed at origin, deters theft, and minimizes the risk of an unauthorized person accessing the container to transport illegal goods. Requiring visual and canine preclearance of containerized cargo will interfere with our ability to ensure that our customers' goods are shipped securely and on time.

Our cargo is inspected in accordance with federal and state rules. Additional screening must take place outside of our terminal to avoid interference with our operations and minimize the safety risk to inspectors. If your Committee intends to pass this measure, we request that the measure be amended to:

- (1) Include a process that ensures these additional inspections will not interfere with the movement and delivery of our cargo and occur away from commercial ports; and
- (2) Exempts maritime shipping containers that are sealed with a security seal.

Thank you for considering these comments.

HB-2643

Submitted on: 2/3/2020 11:26:27 PM

Testimony for AGR on 2/5/2020 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Azuma Chrupalyk	Farmer in Training FAM Cohort #5	Support	Yes

Comments:

HB-2643

Submitted on: 1/30/2020 9:29:33 PM

Testimony for AGR on 2/5/2020 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

As a native Hawaiian conservationist, I support HB 2643 which requires the department of agriculture to conduct preclearance quarantine inspections prior to direct travel to or from the State. We need to protect Hawai'i from new invsive species. Please pass HB2643.

Benton Kealii Pang, Ph.D.



Wednesday, February 5, 2020

House Bill 2643
Testifying in Support

Aloha Chair Creagan, Vice-Chair DeCoite, and members of the Committee on Agriculture,

The Democratic Party of Hawai'i (The Party) **stands in support of HB2643** Relating to Agricultural Inspections, which requires the Department of Agriculture to conduct pre-clearance quarantine inspections prior to direct travel to or from the State and appropriates funds. This bill is part of the initiative to embrace Aloha 'Aina through a Green New Deal for Hawai'i working families, correcting the effects of being a fragile archipelago immersed in global trade, and to participate more fully in restoration of our fragile environment.

Many of us have watched in horror as scourges of invasive plants, fungi, insects, amphibians, mammals, crustaceans, fish, and algae have taken over our fragile landscapes and nearshore waters, while noting the stringent efforts of other regions to protect their agricultural produce with sophisticated interdiction. We have talked with the Department of Agriculture and the biodiversity committees, and find that our hard-working staffs are underfunded and understaffed for the tremendous work we face as a small island archipelago at the center of one of the world's most wide-ranging travel and trade destinations. The great care exercised by many generations of Hawaiians is being undone in a few decades of unbridled growth and global trade. Species adapted over millennia are being eradicated by inadequate protection, despite the best efforts of countless volunteers and scientists to preserve what we can.

HB2643 begins to correct the deficits in our landscape protections by installing pre-clearance quarantine inspections. The bill's introduction is graphic testimony to the dangers we face and the opportunity it provides to begin turning the situation in our favor. Very long-term changes in climate experienced in the islands have produced local species with adaptation to changing climatic conditions if not the predation and habitat overrun of invasive species. We need to protect species long adapted to our shores before climate destruction and invasive species overtakes the local environment and leaves us with nothing but a ruined landscape and obliterated farming capacity.

For these reasons, we urge you to vote favorably on this bill as an element of the initiative to assure self-reliant food production and habitat preservation in the State of Hawai'i.

Mahalo for the opportunity to testify,

Josh Frost
Co-Chair, Legislation Committee
Democratic Party of Hawai'i

Zahava Zaidoff
Co-Chair, Legislation Committee
Democratic Party of Hawai'i