

JAN 21 2021

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that coffee is one of the
2 largest agricultural crops in the State and is a highly valued
3 commodity in Hawai'i's economy, with an annual production of over
4 54.3 million dollars and representative of approximately nine
5 hundred coffee farms over each of the islands, especially in the
6 Kona and Ka'u regions of Hawai'i island.

7 In October 2020, the United States Department of
8 Agriculture confirmed the presence of the fungus *Hemileia*
9 *vasatrix* (coffee leaf rust) in the Hōlualoa area of the Kona
10 region. To date, coffee leaf rust has been identified in the
11 United States only in the State of Hawai'i, specifically in
12 Hōlualoa, Hawai'i Ha'ikū, Maui, and on Lāna'i. Coffee leaf rust
13 can cause severe defoliation of coffee plants that greatly
14 reduces the photosynthetic capacity of the plants. Vegetative
15 and berry growth are reduced depending on the intensity of rust
16 in the current year. Long-term effects of coffee leaf rust may
17 include dieback, which would likely have a significant impact on



1 the following year's yield, with some researchers estimating
2 losses between thirty per cent and eighty per cent if left
3 unchecked.

4 Research shows that subsidizing the cost of pesticides in
5 an effective and necessary incentive to encourage farmers to
6 adopt recommended pest management strategies. Currently, there
7 are a limited number of contact fungicides available for crops
8 with a low presence of coffee leaf rust. However, systemic
9 fungicides are necessary to provide greater resistance and
10 suppression for active infections for coffee leaf rust, thus
11 curbing the spread of coffee leaf rust in the State.

12 The department of agriculture is seeking a pesticide
13 emergency exemption from the Environmental Protection Agency
14 under Section 18 of the Federal Insecticide, Fungicide, and
15 Rodenticide Act (FIFRA) for the use of the fungicide Priaxor to
16 assist in the coffee leaf rust mitigation effort. One gallon of
17 Priaxor will cover twenty acres and can be sprayed a maximum of
18 two times a year with a cost of five hundred dollars per gallon
19 or roughly twenty-five dollars per acre per spray.

20 The legislature finds that as the state addresses the
21 fiscal implications of the coronavirus disease 2019 (COVID-19)



1 pandemic, revenue streams that are not contingent on tourism
2 will be essential to the State's recovery. Additionally, the
3 legislature finds that ongoing efforts to control the coffee
4 leaf rust pathogen are critical, and the State must take
5 immediate action to support these efforts to protect coffee, a
6 highly valued commodity in the economy.

7 The purpose of this Act is to appropriate moneys for the
8 development and implementation of a pesticide subsidy program to
9 assist coffee growers with offsetting the cost of purchasing
10 fungicides, such as Priaxor, that combat coffee leaf rust.

11 SECTION 2. Section 149A-13.5, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) There is established within the treasury of the
14 State, a pesticide use revolving fund. The fund shall be
15 administered by the department for the purposes of this section.
16 The fund shall consist of:

- 17 (1) Licensing and registration fees and charges collected
18 by the department under section 149A-13(b);
19 (2) All fees collected by the department through the
20 collection of training fees in accordance with
21 subsection (c);



(3) Funds appropriated for the pesticide subsidy program established under Act 105, Session Laws of Hawaii 2014; [and]

(4) Funds appropriated for the fungicide subsidy program established under Act , Session Laws of Hawaii 2021; and

~~[-(4)]~~ (5) All penalties and fines collected by the department under section 149A-41.

(b) Moneys in the pesticide use revolving fund shall be expended by the department:

(1) To support the pesticide program's registration and licensing, certification and education, and compliance monitoring activities;

(2) To establish pesticide training workshops and educational programs, including, but not limited to, eradication and control programs for pests designated in section 141-3, using the best available technology and best practices in a manner consistent with state and federal law;

(3) To develop integrated pest management strategies, the pesticide subsidy program created under Act 105,



1 Session Laws of Hawaii 2014, and other services for
2 pesticide users such as the agricultural pest control
3 industry, the structural pest control industry, and
4 consumer users of pesticides, which provide pesticide
5 instruction in areas, including but not limited to the
6 collection, disposal, and recycling of pesticide
7 containers; and

8 (4) For all other pesticide services deemed necessary by
9 the department.

10 Moneys from the revolving fund may be used for personnel,
11 services, materials, and equipment for the purposes of this
12 section, including the fungicide subsidy program created under
13 Act , Session Laws of Hawaii, 2021.

14 Moneys expended by the department from the pesticide use
15 revolving fund for training workshops, educational programs, and
16 other services for the agricultural pest control industry, the
17 structural pest control industry, and consumer groups shall be
18 expended in a manner that appropriately addresses the needs of
19 each category of pesticide user."

20 SECTION 3. (a) There is established in the department of
21 agriculture a fungicide subsidy program to be administered by



1 the department for five years beginning on July 1, 2021, and
2 ending on June 30, 2026. The department shall grant subsidies
3 to coffee growers to assist in offsetting the costs of
4 purchasing any fungicide that is listed by the department of
5 agriculture pursuant to subsection (f).

6 (b) Applications for subsidies shall be submitted on a
7 form furnished by the department of agriculture and shall be
8 filed with accompanying documentation of the costs of purchasing
9 the fungicide; provided that:

10 (1) The applicant shall indemnify and hold harmless the
11 State and its officers, agents, and employees from all
12 claims arising out of or resulting from the fungicide
13 purchased; and

14 (2) The department may request an applicant to provide
15 necessary information for the purposes of verifying
16 the size or sale weight, as applicable, and amount of
17 the fungicide purchased.

18 (c) Documentation of pesticide purchase costs, as
19 requested by the department of agriculture shall be filed for
20 fungicides purchased within the immediate preceding fiscal year



1 and shall be effective for pesticide purchase costs incurred
2 after June 30, 2021, and before July 1, 2026.

3 (d) Funds shall be disbursed upon approval on an annual
4 basis by the department of agriculture to the subsidy recipient
5 for up to seventy-five per cent of the pesticide purchase costs
6 incurred before July 1, 2023, and for up to fifty per cent of
7 the pesticide purchase costs incurred after June 30, 2023, and
8 before July 1, 2026.

9 (e) The department of agriculture shall aggregate the
10 total subsidy applications pursuant to this section and divide
11 and distribute the available subsidy funds on a pro rata basis;
12 provided that:

13 (1) No single applicant shall receive subsidies that are
14 more than twenty five dollars per year per acre of
15 land in coffee production;

16 (2) No single applicant shall receive subsidies that are
17 more than \$10,000 per year.

18 (f) The department of agriculture shall establish a list
19 of pesticides that are registered with the Environmental
20 Protection Agency and are licensed with the State that are
21 compatible to eradicate coffee leaf rust.



1 (g) No later than twenty days prior to the convening of
2 the regular session of 2026, the department of agriculture shall
3 submit a report of its findings and recommendations, including
4 any proposed legislation, to the legislature on the results of
5 the pesticide subsidy program and whether the program should be
6 allowed to expire or be extended, and if extended, with or
7 without modification.

8 (h) Actions taken by the department of agriculture
9 pursuant to this section shall be exempt from the rulemaking
10 requirements of section 91-3, Hawaii Revised Statutes.

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$400,000 or so much
13 thereof as may be necessary for fiscal year 2021-2022 and the
14 same sum or so much thereof as may be necessary for fiscal year
15 2022-2023 for deposit into the pesticide use revolving fund
16 established under section 149A-13.5, Hawaii Revised Statutes.

17 There is appropriated out of the pesticide use revolving
18 fund the sum of \$500,000 or so much thereof as may be necessary
19 for fiscal year 2021-2022 and the same sum or so much thereof as
20 may be necessary for fiscal year 2022-2023 for the department of



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1 agriculture to develop, operate, and implement a pesticide
2 subsidy program established under section 3 of this Act.

3 The sums appropriated shall be expended by the department
4 of agriculture for the purposes of this Act.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2021;
8 provided that section 3 shall be repealed on June 30, 2026.

9

INTRODUCED BY:





S.B. NO. 128

Report Title:

Coffee Leaf Rust; Appropriations; Fungicides; Subsidy Program

Description:

Establishes a Fungicide Subsidy Program until June 30, 2026, to subsidize coffee growers for the purchase of fungicides to combat coffee leaf rust.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

