



HAWAII PEST CONTROL ASSOCIATION

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February 5, 2021

Testimony To: House Committee on Agriculture
Representative Mark J. Hashem, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: H.B. 779 – RELATING TO PESTICIDES.

Chair Hashem and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association and we oppose part of this bill and have a suggested amendment for the balance of the bill.

As the Committee knows, the purpose of this bill is to increase the maximum fines. We have not heard any evidence or examples of where the current maximum fines were insufficient as a deterrent particularly as it relates to structural pest control operators. Every dollar out in fine money is money that cannot be reinvested into the business to make it run better, smoother or even legally. Taking \$10,000.00 out of your pocket or even under the worst of cases, \$35,000.00, is a heavy burden for a small independent operator to handle.

This is not to say that they should not suffer repercussions for violations however, there must be a balance between those actions and the financial repercussions. It must also be

remembered that in wide variety of cases, a violation or administrative penalty assessed under 149A is also a violation under FIFRA and if severe enough EPA can also enter the picture and assess their fines and penalties. In the case of structural pest control operators, they are also licensed through the Department of Commerce and Consumer Affairs and RICO has the ability to assess monetary penalties and fines on top of that.

If there are examples where operators wrote a check for \$5,000.00 and turned around and committed the same offense, we would certainly like to know about it because maybe that would convince us that the fines do need to be raised. However, until that time we are opposed to this bill.

Thank you.

HB-779

Submitted on: 2/3/2021 5:50:46 PM

Testimony for AGR on 2/5/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuenue Holland	Individual	Support	No

Comments:

Strong support for this bill! Mahalo Representatives.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

**FEBRUARY 5, 2021
10:00AM
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 779
RELATING TO PESTICIDES**

Chairperson Hashem and Members of the Committee:

Thank you for the opportunity to testify on House Bill 779, relating to pesticides. The bill appropriates funds from the general fund for fiscal year 2022-2023 to the Hawaii Department of Agriculture to develop, in consultation with the Hawaii Department of Health, and implement a pesticide disposal program to provide a one-time, affordable, and environmentally accessible means for the disposal of restricted use pesticides and non-restricted use pesticides from a bona fide agricultural entity and directs the Department to convene a steering committee to guide and monitor the pesticide disposal amnesty program, and increases fines for pesticide use violations. The Department strongly supports this bill.

The Department strongly supports the concept of a one-time pesticide disposal program. Currently, there exists in most counties in the State of Hawaii, a pesticide disposal program for household pesticide products, but not for commercial and other types of pesticide products. The proposed disposal program will make a positive impact on the health and wellbeing of residents and the environment by removing unused and unwanted pesticide products from the State.



The Department is aware of a number of growers with excess products that are not able to be safely stored, transported, or used. The condition of the containers are usually questionable at best and many have directions for use that may not be legible due to time in the elements. Moreover, the Department has received numerous calls where family has inherited land with pesticides found in the storage. The family has either no desire, or ability to use the products but wants to dispose of them safely and legally. However, disposal of agricultural pesticide products is beyond the financial means of many families and businesses. The need for an agricultural pesticide disposal program in Hawaii is imminent and essential to the safety of Hawaii's people and the environment.

The Department supports increased fines for pesticide use violations. The Department is provided discretion in all violations and fines but usually starts violators off with small fines. The Department only increases fines as violators made repeat violations or if there are other major environmental or human health or safety violations. Granting the Department with the ability to fine repeat violators does not stop the Department from beginning with minimal fines for first and second-time violators.

Currently, if the Department feels that our maximum possible fine has not deterred a violator from violating again, either due to the egregiousness of the violation or due to lack of compliance history by the applicator, we refer the case to the U.S. Environmental Protection Agency (EPA). If the EPA takes enforcement action, enforcement and closure of the case takes a longer period of time than if the matter is resolved within our current system. The fines from EPA can also be substantial; up to and including hundreds of thousands of dollars, and any collected fines go to the EPA rather than the State.

After the passage of Act 45 SLH 2018, all fines collected by HDOA for violations of 149A, HRS are placed into the pesticide use revolving fund, where they may be used for training, educational workshops, environmental surveys, and other pesticide branch related activities. The Department, as well as local growers and companies would

3

benefit from fines going to Department, rather than going to EPA. The Department would only use these highest end fines for businesses and individuals who repeatedly violate pesticide law without any attempt to better their practices.

Thank you for the opportunity to testify on this measure.



Testimony from Jeff Case, Senior Director Government Affairs, CropLife America

In support of HB 779 – Relating to Pesticides

Friday, Feb. 5, 10 am

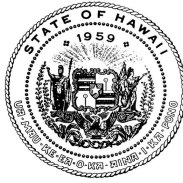
House Committee on Agriculture

Aloha Chair Hashem and members of the committee,

CropLife America (CLA) is the national association representing manufacturers, formulators, and distributors of pesticides products used in agriculture production. We support and promote scientific-based policy in the regulation of pesticide products at both the state and federal level. We support HB 779.

All farmers struggle with ensuring the viability of their crops and they face a number of challenges including access to water, affordable transportation, manpower, pest and disease, and financial sustainability. With so many issues, there is always the chance that farmers are unable to keep up with the ever-changing pesticide regulatory system which appropriately reviews pesticides for their environmental, health and safety impact. We believe HB 779 provides all farmers with an important tool to legally respond to discontinued pesticides that might still be present on their farms and dispose of them in a manner safe for the community, their farm, and their families.

Thank you very much for your consideration.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of HB0779
RELATING TO PESTICIDES**

REPRESENTATIVE MARK J. HASHEM, CHAIR
HOUSE COMMITTEE ON AGRICULTURE

Hearing Date: 2/5/2021

Room Number:

Via Videoconference

- 1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.
- 4 **Department Testimony:** The Department supports this measure directing the Department of
5 Agriculture, in consultation with the Department, to develop and implement a one-time pesticide
6 disposal program offering safe collection and lawful disposal of unwanted pesticides from bona
7 fide farmers. These waste chemicals can become a serious public health and environmental threat
8 when not managed properly and if accumulated for long periods of time.
- 9 This bill has tremendous potential to provide environmental and human health benefits for the
10 community by removing threats to residents, waterways, and the environment. This measure is
11 timely, as legal disposal options are limited in Hawaii, and the longer waste pesticides are left
12 unmanaged, the more likely the container will leak, the label will become unreadable,
13 someone will be exposed, or the chemicals will leach into the ground or wash into nearby
14 waterways.
- 15 Farmers and other businesses have a legal obligation to properly dispose of the waste pesticides
16 that they generate, including those qualifying as hazardous waste. Waste pesticide collection
17 programs have been established in other states that require farmers to provide inventories of
18 waste materials being received by the waste contractors conducting the events. With proper

- 1 documentation, hazardous waste pesticides can be properly managed as universal waste under
- 2 such a collection program.
- 3 **Offered Amendments:** None
- 4 Thank you for the opportunity to testify on this measure.



HAWAII CROP IMPROVEMENT ASSOCIATION

In Support of the Intent of HB779
Relating to Pesticides

House Committee on Agriculture

Date: Friday, February 5, 2021
Time: 10:00 a.m.
Place: Via Video Conference
Conference Room 325

Chair Hashem, Vice-Chair Perruso, and members of the committee:

Thank you for allowing the Hawaii Crop Improvement Association the opportunity to provide testimony in support of the intent of HB779 which requires the department of agriculture, in consultation with the department of health, to develop and implement a one-time pesticide disposal collection program, for a duration to be determined by the department; requires the department of agriculture to convene a steering committee to guide and monitor the pesticide disposal collection program; and increases the civil and criminal penalties for violating the Hawaii pesticides law.

The Hawaii Crop Improvement Association applauds the Hawaii State Legislature for taking up this important measure to support local farmers, ranchers, responsible pesticide applicators, and communities across the State. This proposed program is a proactive step towards empowering the Hawaii Department of Agriculture (HDOA) to regulate, educate, and support Hawaii's pesticide applicators.

In respect of the wider agricultural community, the Hawaii Crop Improvement Association defers to the comments of the Hawaii Farm Bureau Federation regarding the proposed changes to the administrative and criminal penalties in Part 2, Section 4 of this measure.

Mahalo for this opportunity to testify in support of the intent of HB779. If you have any questions, please contact me at your convenience.

Sincerely,

Emmanuel Zibakalam

Executive Director, Hawaii Crop Improvement Association

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.



House Committee on Agriculture

Hawai'i Alliance for Progressive Action (HAPA) Supports: HB 779

Friday, February 5th, 2021 10:00 a.m.

Aloha Chair Hashem, Vice Chair Perruso and Members of the Committee,

HAPA supports safe and responsible disposal of pesticides to better protect our community and environment. We strongly support increasing the maximum fines for pesticide use violations.

It is critical to our environment and public health that these pesticides are not dumped into rivers, backyards and sewage facilities and HB 779 helps to accomplish this. The impacts of improper dumping of pesticides in surrounding environments and sewage facilities are devastating and cascading.

HAPA is concerned with how location sites will be selected for collection and disposal. Historically such dump sites have often been placed near economically disadvantaged communities and native Hawaiian communities. The bill should clarify that the steering committee includes representatives from OHA and other stakeholders from an appropriate environmental justice organization.

HAPA also strongly supports the provision to increase to the maximum fine amounts for pesticide use violations.

Pesticide violations are a threat to our keiki, farmworkers and communities living near heavily sprayed fields. Improper use, disposal and drift threatens to harm adjacent, non-target plants and species, to lead to short and long-term contamination of the state's soil, air and water and takes a toll on human health and quality of life. Despite these risks, pesticide misuse has, and continues to occur.

In 2016¹ and 2017², Syngenta failed to adhere to pesticide use instructions on Kaua'i exposing 77 farmworkers to the now banned neurotoxin, *chlorpyrifos*. This led to the hospitalization of ten farmworkers.

¹<https://www.staradvertiser.com/2016/01/23/hawaii-news/kauai-farmworkers-hospitalized-after-being-exposed-to-pesticide/>

² <https://www.civilbeat.org/2018/02/epa-settles-syngenta-pesticide-claim-for-pennies-on-the-dollar/>

In 2019³, Monsanto/Bayer pleaded guilty to using an illegal banned pesticide, *Penncap-M*, on Maui and Moloka'i. This is linked to impaired neurological development, chronic fatigue syndrome, and Parkinson's disease.

Too often pesticide violations are considered an acceptable "cost of doing business" by large multi-billion dollar industrial operations. Increasing fines will help create a better deterrent for future violations.

For the disposal program, we suggest that the thresholds are set to ensure accountability for large corporate users who can afford to dump appropriately. In other measures large pesticide users have been defined as those using more than 5 lbs or 15 gallons of any specific pesticide (formulated product). To ensure that the state is not allowing large multi-billion dollar agricultural corporations to shift their financial and legal responsibility to taxpayers, a threshold of 5 lbs/15 gallons should be adopted as the cut off for any amnesty program.

This bill is an important step towards better protecting our farmworkers, frontline communities and the environment from pesticide misuse, please support HB 779 .

Respectfully,

A handwritten signature in black ink, appearing to read "Anne Frederick", with a long horizontal stroke extending to the right.

Anne Frederick
Executive Director

³<https://www.earthisland.org/journal/index.php/articles/entry/monsanto-guilty-of-spraying-banned-pesticide-on-maui-fields/>

LATE

**LARRY JEFTS FARMS, LLC
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(808) 688-2892**

HB779, Relating to Pesticides
House AGR Hearing
Friday, February 5, 2021
Videoconference

Testimony By: Larry Jeffs
Position: Support

Chair Hashem, Vice Chair Perruso, and Members of the House AGR Committee:

I am Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC, which is part of our family-run business of farms on Oahu and Molokai, under the administrative umbrella of Sugarland Growers, Inc. We have more than 35 years of Hawaii farm experience on Molokai and Oahu. I am a volunteer director for the West Oahu Soil and Water Conservation District (SWCD).

Support is expressed for this proposal to establish an affordable and accessible RUP and non-RUP pesticide disposal program. This would provide farmers a means for legal and safe disposal of outdated, banned or no longer used pesticides.

The \$800,000 appropriations proposed for FY 2021-2022 and FY 2022-2023 to establish and operate the pesticide disposal collection program is especially meaningful during these times of severe State budget shortfall.

Thank you for the opportunity to present testimony.

LATE

HB-779

Submitted on: 2/4/2021 11:46:09 AM

Testimony for AGR on 2/5/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rosie F Davis	Individual	Support	No

Comments:

Aloha,

I support HB779 relating to pesticides, please pass this bill,

Mahalo Rosie

LATE

HB-779

Submitted on: 2/4/2021 11:52:19 AM

Testimony for AGR on 2/5/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Faith Tuipulotu	Individual	Support	No

Comments:

I support HB779

LATE



PO Box 1177 Koloa HI 96756
808.652.5286 hawaiiSEED.org

February 4, 2021

Hawai`i SEED Supports: HB 719

House Committee on Agriculture

Aloha Chair Hashem, Vice Chair Perruso and Members of the Committee,

We strongly support HB 719, relating to proper Pesticide Disposal and fines for non-compliance and violations.

We have long advocated that these chemicals are much too dangerous for our fragile eco-system and unsafe for use by field workers, applicators, communities and especially our keiki.

While there may have been a time in the past where knowledge of harm and unintended consequences brought the substances here, we know better now and are changing our course and growing methods. Alternatives do exist and we should transition and make possible a vehicle for safe disposal/

We strongly support the Department of Health be consulted by the Department of Agriculture to develop a safe method and a proper destination to dispose of the collected pesticides. We champion the development and implementation of a disposal collection program which abides by the highest integrity.

It would be a requirement for the Department of Agriculture to convene a steering committee to guide and oversee the disposal collection program with transparency to the community of the end disposal site.

As shown in previous pesticide violation fines, increasing the civil and criminal penalties for violators can support the DOA, DLNR, as well as other groups responsible for protection of the environment.

We strongly support the intention of this bill.

Mahalo,

Jeri Di Pietro, President

LATE

HB-779

Submitted on: 2/4/2021 1:03:46 PM

Testimony for AGR on 2/5/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamalei Davis	Individual	Support	No

Comments:

Aloha,

I am submitting testimony in support of House Bill 779 regarding the use of pesticides in agriculture, specifically a pesticides collection program, I ask the committee to pass this bill. Thank you for your consideration.

Mahalo nui loa,

Kamalei Davis.



**HAWAII
FARM BUREAU**

LATE

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February 5, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

**TESTIMONY ON HB 779
RELATING TO PESTICIDES**

Conference Room 325
Via Videoconference
10:00 AM

Aloha Chair Hashem, Vice Chair Perruso, 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 strongly supports Part 1 of HB 779, which develops and implements the Pesticide Disposal Collection Program within the Department of Agriculture to provide a one-time, affordable, and environmentally accessible means for the disposal of pesticides from a bona fide agricultural entity, and convenes a Program Steering Committee to guide and monitor the program.

While some of Hawaii's counties already provide for periodic *residential household* hazardous waste collection, **farmers are not eligible to participate** in these events. The majority of states/counties across the country periodically hold unwanted pesticide collection events specifically for farmers and ranchers – from the very small to the largest farms. Unfortunately, Hawaii does not. Although our isolated location and the need for numerous island collection sites make this type of program logistically complex, and costly, it would certainly benefit farmers and ranchers, and their communities.

HFB agrees that the State Advisory Committee on Pesticides should guide and monitor the pesticide disposal program. This Committee is the appropriate body to hold that role and responsibility. Its members are vetted Governor-appointees, confirmed by the Senate, experienced in pesticide laws, regulations, and use, and include HDOA, HDOH, DLNR, the environmental community, pesticide user group representatives, and the public. They also have the farmer connections necessary to help make the program a success.

HFB would also be pleased to partner with HDOA to help with this program, as we have knowledge and experience in this area, having assisted the agency in the last agricultural pesticide disposal program conducted twelve years ago.

HFB respectfully disagrees with Part II of this bill, which would arbitrarily increase the administrative and criminal penalties, **doubling some and increasing others five-fold**. To our knowledge, there are **no** farms that intentionally violate pesticide laws and that would consider the already-significant penalties and terrible public relations as a “cost of doing business.” For the vast majority of farms in Hawaii, even the current penalties, not to mention the negative press, could quickly put them right out of business.

Thank you for the opportunity to testify on this important subject and for your support of Hawaii’s farmers and ranchers.