
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 PART I

2 SECTION 1. The legislature finds that invasive species
3 collectively present one of the single greatest threats to
4 Hawaii's economy and natural environment, its native species,
5 and the health and lifestyle of Hawaii's people. Impacts of
6 invasive species have been severe, negative and expensive, and
7 have included serious habitat degradation, extinction of native
8 species, increased wildfire risk, increases in the cost of
9 agriculture and livestock production, and many other impacts.
10 For example, this State's horticultural and agricultural
11 industries face a serious threat from the introduction of the
12 plant diseases citrus greening (or huanglongbing) (*Candidatus*
13 *Liberibacter asiaticus*), citrus canker (*Xanthomonas axonopodis*),
14 citrus black spot (*Phyllosticta citricarpa*) and fruit flies
15 (species in the family Tephritidae).

16 The legislature also finds that protecting Hawaii from
17 invasive pests requires more than the mere application of



1 chemicals to each new infestation. Necessary actions include
2 efforts to prevent pests from entering the State and spreading
3 within the State.

4 The legislature, like the federal government, recognizes
5 the value of preventing the movement of invasive pests.

6 Section 10811 of the Farm Security and Rural Investment Act
7 of 2002 requires the United States Department of Agriculture to
8 inspect all passengers, baggage, cargo, and any other articles
9 moving from Hawaii to other areas of the United States.

10 However, federal law does not require any similar inspections of
11 passengers or material arriving in Hawaii from the continental
12 United States. The legislature believes that this State should
13 have the authority to conduct those inspections if the federal
14 government will not do so.

15 The legislature finds that if an invasive pest infestation
16 that will seriously impact residents, businesses, or native
17 species is found within the State, the infested material should
18 be contained to prevent the spread of the pest so it does not
19 move across an island. Further, the infested material or area
20 should be treated to control or eradicate the pest. Preventing
21 the spread of invasive species protects agricultural producers



1 and businesses. Preventing the sale of merchandise that is
2 infested with pests addresses the highest-risk situations where
3 unsuspecting consumers purchase pest-infested merchandise and
4 bring the merchandise home, spreading the pest across an island.
5 Notably, there exists a serious danger to the forests and the
6 horticultural and agricultural industries of Hawaii from the
7 introduction of plant pathogens and other pests transported in
8 or on firewood from outside the State, including *Agrilus*
9 *planipennis* (emerald ash borer), *Anoplophora glabripennis* (Asian
10 longhorned beetle), *Solenopsis invicta* (red imported fire ant),
11 and bark and ambrosia beetles, including *Euwallacea* species and
12 associated fungal pathogens.

13 The legislature notes that other states routinely
14 quarantine areas infested with a high impact pest and prevent
15 the sale of infested merchandise. In cases of high impact
16 species, other States quarantine the infested areas. For
17 instance, in June 2023, after the highly invasive Giant African
18 land snail was detected north of Miami, the State of Florida
19 declared a quarantine and treatment area of several square miles
20 in Broward County. Florida quarantined the movement of the
21 snails themselves and other materials that could be harboring



1 the snails, including plants, soil, and certain building
2 materials. Florida subsequently commenced a robust program
3 using molluscicide, or snail bait, on properties in the area,
4 followed by multiple surveys to assess the effectiveness of the
5 quarantine and treatment.

6 In Oregon, the state's agricultural department took steps
7 to eradicate the Japanese beetle, a serious pest of ornamental
8 plants, turfgrass, and crops grown in the state. The
9 department's efforts included the quarantine of yard debris,
10 including grass clippings and plants with soil, and the
11 implementation of sod. The quarantine required residents to
12 contain their yard waste and deliver it to a specific location.
13 The State also treated private property, either with the consent
14 of the landowner or pursuant to an administrative warrant, with
15 appropriate pesticide.

16 The legislature notes that the prevention of the spread of
17 invasive pests in Hawaii is part of the state department of
18 agriculture's responsibility to promote agriculture in this
19 State. However, the department has limited staff and resources,
20 and has not been able to update its administrative rules to
21 adapt to new invasive pests and control methods. The department



1 has not developed a list of restricted plants pursuant to
2 section 150A-6.1, Hawaii Revised Statutes, since that statutory
3 section was enacted on July 1, 2000. Further, the department
4 last updated its list of noxious weeds and their distribution
5 more than thirty years ago. The department has also not had the
6 capacity to add many high impact pests, including the two-lined
7 spittlebug (*Prosapia bicincta*) that is devastating ranch lands
8 on Hawaii Island since its detection in 2016, to its list of
9 pests for control and eradication, which was last undated in
10 2008.

11 The purpose of this Act is to:

- 12 (1) Facilitate the control and eradication of invasive
13 species and pests; and
14 (2) Assist the department of agriculture in carrying out
15 its responsibilities.

16 PART II

17 SECTION 2. Section 141-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§141-2 Rules. Subject to chapter 91, the department of
20 agriculture shall adopt, amend, and repeal rules not
21 inconsistent with law, for and concerning:



- 1 (1) The introduction, transportation, and propagation of
2 trees, shrubs, herbs, and other plants;
- 3 (2) The quarantine, inspection, fumigation, disinfection,
4 destruction, or exclusion, either upon introduction
5 into the State, or at any time or place within the
6 State, of any [~~nursery stock,~~] nursery stock, tree,
7 shrub, herb, vine, cut-flower, cutting, graft, scion,
8 bud, seed, leaf, root, or rhizome; any nut, fruit, or
9 vegetable; any grain, cereal, or legume in the natural
10 or raw state; any moss, hay, straw, dry-grass, or
11 other forage; any unmanufactured log, limb, or timber;
12 or any other plant growth or plant product unprocessed
13 or in the raw state; any sand, soil, or earth; any
14 live bird, reptile, insect, or other animal, in any
15 stage of development, that is in addition to the
16 so-called domestic animals, which are provided for in
17 section 142-2; and any box, barrel, crate, or other
18 containers in which the articles, substances, or
19 objects have been transported or contained, and any
20 packing material used in connection therewith, or any
21 other pest host material that is or may be diseased or



1 infested with insects or likely to assist in the
2 transmission or dissemination of any insect or plant
3 disease injurious, harmful, or detrimental, or likely
4 to become injurious, harmful, or detrimental to the
5 agricultural or horticultural industries or the
6 forests of the State, or the public health and
7 welfare, or that is or may be in itself injurious,
8 harmful, or detrimental to the same; provided that
9 included therein may be rules governing the
10 transportation of any of the articles, substances, or
11 objects enumerated above in this section between
12 different localities on any one of the islands within
13 the State;

- 14 (3) The prohibition of importation into the State, from
15 any or all foreign countries or from other parts of
16 the United States, or the shipment from one island
17 within the State to another island therein, or the
18 transportation from one part or locality of any island
19 to another part or locality of the same island, of any
20 [~~specific~~] article, substance, or object or class of
21 articles, substances, or objects [~~among these~~



1 ~~enumerated above in this section,~~] that is diseased or
2 infested with insects or likely to assist in the
3 transmission or dissemination of any insect or plant
4 disease injurious, harmful, or detrimental or likely
5 to be injurious, harmful, or detrimental to the
6 agricultural or horticultural industries, or the
7 forests of the State, or that is or may be in itself
8 injurious, harmful, or detrimental to the same;

9 (4) The preparation by cargo carriers of manifests of
10 cargo transported into the State or between islands of
11 the State and the submission of the manifests to the
12 department;

13 (5) The establishment, maintenance, and enforcement of
14 compliance agreements with federal or state
15 departments of agriculture authorizing agriculture
16 inspectors from the state of origin in the case of
17 imports to the State, or state agricultural inspectors
18 in the case of state exports, to monitor the growing
19 and packing of plant commodities and any treatment
20 procedures to ensure compliance with quarantine laws,
21 and further authorizing the assessment of fees for



1 conducting inspections required under the compliance
2 agreement; [and]

3 (6) The manner in which agricultural product promotion and
4 research activities may be undertaken, after
5 coordinating with the agribusiness development
6 corporation[-]; and

7 (7) The protection of members of the public and property.

8 All rules adopted under this section shall have the force
9 and effect of law."

10 SECTION 3. Section 141-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§141-3 Designation of pests; control or eradication of**
13 **pests; emergency power.** (a) The department of agriculture
14 shall [~~designate~~]:

15 (1) Designate the coqui frog (Eleutherodactylus coqui),
16 the coconut rhinoceros beetle (Oryctes rhinoceros),
17 the little fire ant (Wasmannia auropunctata), and the
18 two-lined spittlebug (Prosapia bicincta) as [a pest.
19 ~~All other pest designations shall be established by~~
20 ~~rule, including] pests for control or eradication;~~



- 1 (2) Designate other taxa as pests for control or
2 eradication by rule, and update designated taxa no
3 less than once every two years; and
- 4 (3) Establish, by rule, the criteria and procedures for
5 the designation of pests for control or
6 eradication[-]; provided that criteria shall be
7 written with the understanding that:
- 8 (A) Pests designated for control or eradication shall
9 be:
- 10 (i) High-risk pests upon which statewide or
11 local control is necessary to prevent
12 serious impacts to native species and the
13 environment; or
- 14 (ii) Injurious, deleterious, or likely to become
15 injurious or deleterious to the public
16 health and welfare, private property, or the
17 agricultural, horticultural, aquacultural,
18 or livestock industries of the State; and
- 19 (B) Not every invasive species poses a risk that
20 warrants designation of the species as a pest for
21 control or eradication.



1 (b) The department of agriculture [~~shall~~], so far as
2 reasonably practicable, shall assist, free of cost to
3 [~~individuals,~~] persons, in the control or eradication of
4 insects, mites, diseases, noxious weeds, or other pests or any
5 other taxa injurious to the environment or vegetation of value;
6 and in the investigation, suppression, and eradication of
7 contagious, infectious, and communicable diseases among domestic
8 animals; and shall in like manner distribute to points where
9 needed, beneficial insects, or pathogens and other antidotes for
10 the control of insects, mites, diseases, or other pests or any
11 other taxa injurious to the environment or vegetation of value,
12 and for the control or eradication of vegetation of a noxious
13 character.

14 (c) Notwithstanding subsection (a), if the department
15 finds the incipient infestation of a pest that has an adverse
16 effect on native species or the environment or that is injurious
17 or deleterious or that is likely to become injurious or
18 deleterious to the public health and welfare, private property,
19 or the agricultural, horticultural, aquacultural, or livestock
20 industries of the State without immediate action, it may proceed
21 without prior notice or upon a minimum of forty-eight hours



1 notice and hearing to adopt an emergency rule for the
2 eradication of the pest ~~[to]~~, or incipient infestation,
3 regardless of whether the pest is currently designated as a pest
4 for control or eradication. The emergency rule shall be
5 effective for a period of not longer than one hundred eighty
6 days without renewal."

7 SECTION 4. Section 141-3.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§141-3.5 Control or eradication programs.** (a) The
10 department of agriculture shall develop and implement a detailed
11 control or eradication program for ~~[any pest]~~ each taxa
12 designated [~~in~~] as a pest for control or eradication pursuant to
13 section 141-3, using the best available technology in a manner
14 consistent with state and federal law. Each program shall
15 include actions to prevent the introduction or spread of the
16 pest, including the quarantine of appropriate material within
17 the infested area, treatment to control or eradicate the pest,
18 and outreach to the affected communities.

19 (b) If the department does not develop and implement a
20 detailed control or eradication program for a taxa designated as
21 a pest control or eradication pursuant to section 141-3 on an



1 island where the pest in a public nuisance, the applicable
2 county or invasive species committee, or the Hawaii ant lab, may
3 develop or implement a program for the pest on that island or
4 the impacted area of that island.

5 ~~[(b)]~~ (c) For any pest designated by emergency rule as
6 provided in section 141-3, the department of agriculture or the
7 applicable county or invasive species committee, or the Hawaii
8 ant lab, shall implement an emergency program using the best
9 available technology in a manner consistent with state and
10 federal law.

11 ~~[(e)]~~ (d) The department of agriculture:

12 (1) In conjunction with the Hawaii ~~[Ant Lab,]~~ ant lab, may
13 identify best practices for the treatment of little
14 fire ants; and

15 (2) Shall post on its website any best practices
16 identified for the treatment of little fire ants.

17 (e) For the purposes of this section, "invasive species
18 committee" means one of the island-based, voluntary partnerships
19 under the university of Hawaii's Pacific cooperative studies
20 unit staffed by employees of the research corporation of the
21 university of Hawaii that work to prevent, control, or eliminate



1 invasive species. "Invasive species committee" includes the big
2 island invasive species committee, the Kauai invasive species
3 committee, the Oahu invasive species committee, the Maui
4 invasive species committee, and the Molokai invasive species
5 committee."

6 SECTION 5. Section 141-3.6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§141-3.6 **Entry of private property to control or**
9 **eradicate any pests.** (a) The department of agriculture [~~or~~],
10 applicable county, applicable invasive species committee as
11 defined in section 141-3.5(e), or the Hawaii ant lab shall give
12 at least five days notice to the landowner and the occupier of
13 any private property of its intention to enter the property [~~for~~
14 ~~the control or eradication of a pest.~~] to carry out a control or
15 eradication program developed under section 141-3.5, including
16 the quarantine of materials. Written notice sent to the
17 landowner's last known address by certified mail, postage
18 prepaid, return receipt requested, shall be deemed sufficient
19 notice. If certified mail is impractical because the department
20 [~~or~~], county, invasive species committee, or Hawaii ant lab,
21 despite diligent efforts, cannot determine land ownership or



1 because of urgent need to initiate control or eradication
2 measures, notice given once in a daily or weekly publication of
3 general circulation, in the county where any action or proposed
4 action will be taken, or notice made as otherwise provided by
5 law, shall be deemed sufficient notice. The notice shall set
6 forth all pertinent information on the pest control program and
7 the procedures and methods to be used for control or
8 eradication.

9 (b) After notice as required by subsection (a), any member
10 of the department, employee of the county, employee of the
11 invasive species committee, employee of the Hawaii ant lab, or
12 any agent authorized by the department [~~or~~], county, or invasive
13 species committee may enter at reasonable times any private
14 property other than dwelling places to [~~maintain a pest~~] carry
15 out a control or eradication program[~~7~~] developed under section
16 141-3.5, being liable only for damage caused by acts beyond the
17 scope of the person's authority, or the person's negligence,
18 gross negligence, or intentional misconduct. If [~~entry is~~
19 ~~refused,~~] the landowner or occupier does not consent, the
20 department member, county employee, committee employee, Hawaii
21 ant lab employee, or any authorized agent may apply to the



1 district court in the circuit in which the property is located
2 for a warrant to enter on the premises to effectuate the
3 purposes of this chapter. The district court may issue a
4 warrant directing a [~~police~~] law enforcement officer of the
5 circuit to assist the department member, county employee,
6 committee employee, Hawaii ant lab employee, or any authorized
7 agent in gaining entry onto the premises during regular working
8 hours or at other reasonable times."

9 SECTION 6. Section 141-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§141-6 Appeal from [~~inspector's decision.~~] certain**
12 **decisions.** Any person who feels aggrieved at any decision of
13 the state plant regulatory official, the official's designee, or
14 any inspector of the department of agriculture shall have the
15 right to appeal from the decision to the board of agriculture.
16 The board shall give a prompt hearing to the appellant and the
17 inspector upon the appeal, and decide the question at issue,
18 which decision shall be subject to judicial review as provided
19 in chapter 91."



1 PART III

2 SECTION 7. Chapter 150A, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 "PART

6 PLANT NURSERY LICENSING PROGRAM

7 §150A-A Definitions. For the purposes of this part,
8 unless the context requires otherwise:

9 "Best management practices" means processes and actions
10 based on the best available science that provide the most
11 cost-effective and efficacious way to address an issue,
12 including the prevention or reduction of pest and pathogen
13 problems.

14 "Effective control" means the elimination or reduction of
15 low-priority pests to the point of an acceptable economic and
16 environmental risk.

17 "High-priority pest" means a pest, including a noxious
18 weed:

19 (1) That is not known to appear frequently within the
20 State;

21 (2) That has a limited distribution within this State;



1 (3) That the department or other government entity
2 attempts to contain, suppress, or reduce within this
3 State, including any pest or noxious weed designated
4 by the department; and

5 (4) Whose introduction causes or is likely to cause
6 economic or environmental harm or harm to human
7 health.

8 "Low-priority pest" means a pest that is not a
9 high-priority pest and may be controlled so that the pest does
10 not pose an unacceptable economic or environmental risk.

11 "Plant nursery license" means a license issued pursuant to
12 this part.

13 "Sale" or "sell" means offering, exposing, or possessing
14 for sale, exchange, barter, or trade.

15 "Standards of nursery cleanliness", with respect to a
16 location where nursery stock is produced or sold, means:

17 (1) The implementation at the location of any method of
18 treatment required by the department for any pest;

19 (2) That nursery stock or other material infested or
20 infected with pests at the location is isolated
21 pending treatment or disposal;



1 (3) That actions are carried out to the extent that is
2 reasonably necessary to ensure the location and all
3 nursery stock produced or sold at the location are
4 free from pests; and

5 (4) The fulfillment of any other standard required by the
6 department for the location.

7 **§150A-B Plant nursery licenses required; exemption.** (a)

8 Except as provided in subsection (b), a person engaged with the
9 sale of nursery stock shall inform the department of the
10 existence of the person's operation and obtain a valid plant
11 nursery license pursuant to this part for the operation.

12 (b) Subsection (a) shall not apply to a person that sells
13 seeds and does not sell or ship any other nursery stock.

14 (c) A person shall obtain a plant nursery license for each
15 location where the person sells or grows nursery stock.

16 (d) A person is not eligible for any certificate or
17 service under part III of this chapter with respect to nursery
18 stock unless the person holds a valid plant nursery license.

19 (e) The department may publish on the internet website
20 maintained by the department and in other appropriate form a
21 list of persons that hold a valid plant nursery license.



1 **§150A-C Full plant nursery licenses; requirements;**
2 **duration.** (a) Each person seeking a full plant nursery license
3 or a renewal of a full plant nursery license shall submit the
4 department:

5 (1) An application; and

6 (2) A fee pursuant to section 150A-D.

7 (b) A person shall be eligible to receive and continue
8 operating under a full plant nursery license for a location if
9 the person:

10 (1) Demonstrates good faith in seeking to carry on the
11 business of selling nursery stock;

12 (2) Does not sell any plant species designated by the
13 department as a noxious weed or restricted plant;

14 (3) Consents to and agrees to cooperate with all
15 inspections authorized by section 150A-F;

16 (4) Passes all authorized inspections;

17 (5) Maintains the location free from high-priority pests;

18 (6) Has effective control of low-priority pests;

19 (7) Implements standards of nursery cleanliness at the
20 location; and



1 (8) Implements any best management practices required by
2 the department for the location.

3 (c) A full plant nursery license:

4 (1) Shall be valid for a period of one year; and

5 (2) May be renewed for additional periods of one year per
6 renewal.

7 **§150A-D Full plant nursery licenses; fees.** (a) Each
8 application for the issuance or renewal of a full plant nursery
9 license shall be accompanied by a license fee in an amount
10 determined by the department.

11 (b) The fee required by subsection (a) shall be determined
12 based on:

13 (1) Quantity and dollar value of nursery stock sales;

14 (2) Acreage used by the applicant to produce, store, or
15 sell nursery stock; and

16 (3) Any other criteria the department determines is
17 appropriate.

18 (c) No portion of the fee required by subsection (a) may
19 be refunded to a person if the department denies an application
20 for a full plant nursery license or renewal or revokes the
21 license pursuant to section 150A-G.



1 (d) All fees collected under this section shall be paid to
2 the department and deposited into the pest inspection,
3 quarantine, and eradication fund under section 150A-4.5.

4 **§150A-E Temporary plant nursery licenses; small seller**
5 **plant nursery licenses.** (a) A person is eligible to receive
6 and continue operating under a temporary plant nursery license
7 if the person:

- 8 (1) Applies for a temporary plant nursery license;
- 9 (2) Is a non-profit, charitable, educational, or religious
10 organization;
- 11 (3) Demonstrates to the department's satisfaction that:
12 (A) The person will sell nursery stock for no more
13 than days in a calendar year;
14 (B) The person's total annual sales of nursery stock
15 will not exceed \$; and
16 (C) The person will use the proceeds of the sale of
17 nursery stock for charitable, educational, or
18 religious purposes;
- 19 (4) Produces nursery stock with, or obtains nursery stock
20 from, a person with a valid plant nursery license
21 issued pursuant to this part; and



1 (5) Uses best management practices for nursery stock and
2 the sale of the nursery stock required by the
3 department for temporary plant nursery license
4 holders.

5 (b) A person is eligible to receive and continue operating
6 under a small seller plant nursery license if the person:

7 (1) Applies for a small seller plant nursery license;

8 (2) Demonstrates to the department's satisfaction that the
9 person's total annual sales of nursery stock will not
10 exceed \$;

11 (3) Produces nursery stock or obtains nursery stock from a
12 person with a valid plant nursery license issued
13 pursuant to this part; and

14 (4) Uses best management practices for nursery stock and
15 the sale of the nursery stock required by the
16 department for small seller plant nursery license
17 holders.

18 (c) The department may inspect the plant nursery location,
19 all nursery stock at the plant nursery location, and any other
20 area used by an applicant or licensee to produce, store, or sell



1 nursery stock under a temporary plant nursery license or a small
2 seller plant nursery license.

3 (d) The department may charge a fee for the issuance of a
4 temporary plant nursery license or a small seller plant nursery
5 license; provided that all fees collected under this section
6 shall be deposited into the pest inspection, quarantine, and
7 eradication fund under section 150A-4.5.

8 **§150A-F Inspection; quarantine.** (a) After receiving an
9 application for issuance or renewal of a plant nursery license
10 for a location, an inspector shall inspect the location, all
11 nursery stock at the location, and any other area used by the
12 applicant to produce or store nursery stock to be sold at the
13 location before the issuance or renewal of the plant nursery
14 license.

15 (b) The department may conduct additional inspections of
16 any location issued a plant nursery license with or without
17 notice, at any time and in any manner as the department
18 determines appropriate.

19 (c) No applicant or licensee shall deny access or impede
20 an inspector conducting an inspection under this section or



1 hinder the inspection by misrepresenting or concealing facts or
2 conditions.

3 (d) To be eligible to receive and continue operating under
4 a plant nursery license, an applicant or licensee that sells
5 nursery stock shall ensure that each location at which the
6 applicant or licensee operates shall be found at each inspection
7 authorized under this section:

8 (1) To be free from high-priority pests;

9 (2) To have effective control of low-priority pests;

10 (3) To be implementing standards of nursery cleanliness;

11 and

12 (4) To be implementing any best management practices
13 required by the department.

14 (e) If the department is notified pursuant to an
15 inspection authorized under this section or any other means that
16 a high-priority pest is present in nursery stock or a location
17 where nursery stock is present, that low-priority pests are not
18 under effective control at a location, or that the holder of a
19 full plant nursery license, temporary plant nursery license, or
20 a small seller plant nursery license is otherwise not in
21 compliance with the requirements of this part, the department:



1 (1) Shall place a stop sale or quarantine order for the
2 affected nursery stock or location and, if
3 appropriate, a destruction order for affected nursery
4 stock;

5 (2) Shall notify the person applying for or holding the
6 full plant nursery license, temporary plant nursery
7 license, or a small seller plant nursery license for
8 the affected nursery stock or location of the
9 existence of the high-priority pest, low-priority
10 pest, or other compliance issue and advise the person
11 on acceptable mitigation methods; and

12 (3) May require the affected nursery stock or affected
13 material be mitigated by whatever means necessary,
14 including destruction, confiscation, treatment, return
15 shipment, or quarantine, at the expense of the nursery
16 or person without any form of compensation from the
17 department or State.

18 (f) During the period when an order under subsection (e)
19 is in effect for nursery stock or a location, the person
20 operating the plant nursey location shall not sell, ship,
21 transport, give away, or otherwise move, alter, or tamper with



1 affected nursery stock or material at the location, other than
2 for activities to mitigate the high-priority or low-priority
3 pests.

4 **§150A-G Revocation.** The department may refuse to issue or
5 renew a full plant nursery license, a temporary plant nursery
6 license, or a small seller plant nursery license or may suspend
7 or revoke a full plant nursery license, temporary plant nursery
8 license, or a small seller plant nursery license for a location
9 if the department determines that the licensee or the applicant:

- 10 (1) Has willfully refused to comply with this part or
11 other laws relating to nursery stock or to any pest
12 which might be carried by nursery stock;
- 13 (2) Has committed fraud or deception in obtaining the
14 plant nursery license;
- 15 (3) Has committed fraud or misrepresentation in the
16 handling or sale of nursery stock;
- 17 (4) Has failed to maintain the nursery stock or location:
18 (A) Free from high-priority pests;
19 (B) With effective control of low-priority pests; or
20 (C) In accordance with any best management practices
21 required by the department;



1 (5) Has failed to maintain nursery stock produced or sold
2 by the licensee or applicant in accordance with the
3 standards of nursery cleanliness; or

4 (6) Has failed to comply with any lawful order issued by
5 the department.

6 **§150A-H Civil penalties.** (a) A person who violates a
7 provision of this part or any rule adopted by the department
8 pursuant to this part shall be fined not more than \$ for
9 each separate offense. Each date of violation shall constitute
10 a separate offense. Any action taken to impose or collect the
11 penalty provided for in this subsection shall be considered a
12 civil action.

13 (b) All fines collected under this section shall be paid
14 to the department and deposited into the pest inspection,
15 quarantine, and eradication fund under section 150A-4.5."

16 SECTION 8. Chapter 150A, Hawaii Revised Statutes, is
17 amended by adding five new sections to be appropriately
18 designated and to read as follows:

19 "§150A- Pests; for purposes of chapter. (a) For the
20 purposes of this chapter, the department shall consider the
21 following taxa to be pests:



- 1 (1) Acalolepta aesthetica (Olliff), an invasive longhorn
2 beetle that attacks many plant species;
- 3 (2) Anthurium whitefly - Aleurotulus sp., a serious insect
4 pest of anthurium;
- 5 (3) Anthurium whitefly - Crenidorsum sp., a serious insect
6 pest of anthurium, philodendron, and monstera;
- 7 (4) Bristly rose slug - Cladius differmis Panzar, a pest
8 injurious to the rose plant;
- 9 (5) Cactus mealybug - Dactylopius opuntiae Cockerell and
10 other insects feeding on Opuntia species of cactus,
11 pests injurious to cactus utilized for forage or
12 ornamental purposes;
- 13 (6) Citrus black spot - Phyllosticta citricarpa (McAlpine)
14 Aa, a serious disease of citrus;
- 15 (7) Citrus canker - Xanthomonas citri subsp. citri, a
16 serious disease of citrus;
- 17 (8) Citrus huanglongbing - Candidatus Liberibacter spp.,
18 responsible for citrus greening;
- 19 (9) Coconut scale - Aspidiotus destructor Signoret, a
20 serious insect pest of palms, bananas, and more than
21 four hundred other plants;



- 1 (10) Colocasia bobone disease associated virus -
2 Cytorhabdovirus colocasiae, a lethal pathogen
3 associated with alomae bobone disease of taro;
- 4 (11) Croton whitefly - Orhamplatus mammaeferus Quaintance
5 and Baker, a serious insect pest of croton and citrus;
- 6 (12) Eucalyptus canker - Cryphonectria cubensis Bruner
7 Hodges, a serious disease of Eucalyptus species;
- 8 (13) Eurasian pine aphid - Pineus pini Koch, a serious
9 insect pest of pine;
- 10 (14) Fern weevil - Syagrius fulvitarisis Pascoe, an insect
11 pest injurious to fern plants;
- 12 (15) Fiery skipper - Hylephila phyleus Drury, a serious
13 pest of turf and pasture grasses and ornamental
14 sedges;
- 15 (16) Fusarium wilt of banana - Fusarium spp.;
- 16 (17) Giant African snail - Achatina fulica Bowdich, a
17 serious pest of horticultural and vegetable crops;
- 18 (18) Giant salvinia - Salvinia molesta Mitchell;
- 19 (19) Hala scale - Thysanococcus pandani Stickney, a serious
20 pest of hala, an environmentally and culturally
21 significant indigenous plant;



- 1 (20) Hunting billbug - Sphenophorus venatus vestitus
2 Chittenden, a serious insect pest of turf and range
3 grasses;
- 4 (21) Macadamia felted coccid - Acanthococcus ironsidei
5 (Williams, 1973), a detrimental pest to the macadamia
6 nut industry in Hawaii;
- 7 (22) Orange spiny whitefly - Aleurocanthus spiniferus
8 Quaintance, a serious insect pest of rose and citrus;
- 9 (23) Oriental beetle - Anomala orientalis Waterhouse, a
10 serious insect pest of sugarcane;
- 11 (24) Palm lethal yellows - Candidatus Phytoplasma spp.,
12 responsible for lethal diseases of palm;
- 13 (25) Papaya ringspot virus, a serious virus disease of
14 papaya;
- 15 (26) Sugarcane smut - Ustilago scitaminea Syd., a serious
16 fungus disease of sugarcane;
- 17 (27) Sweet potato virus disease - Sweet potato chlorotic
18 stunt virus, a lethal disease of sweet potato;
- 19 (28) Taro root aphid - Pemphigus sp., a serious pest of
20 dryland taro;



- 1 (29) Two-lined spittlebug - Prosapia bicincta (Say), a
2 serious pest of range grasses;
- 3 (30) Water lettuce - Pistia stratiotes L.;
- 4 (31) Water spangles - Salvinia minima Baker; and
- 5 (32) Any taxa designated as a pest for control or
6 eradication or as a noxious weed pursuant to rules
7 adopted by the board.

8 (b) The list established within subsection (a) shall not
9 be construed to restrict the department from treating other
10 species or taxa as pests; provided that the species or taxa
11 meets the definition of "pest" under section 150A-2.

12 (c) If the scientific name or common name of a taxon
13 referred to in this chapter is changed to a new scientific name
14 or common name accepted by the International Code of Zoological
15 Nomenclature or the International Plant Names Index, the
16 reference in this chapter shall be construed to refer to the new
17 scientific name or common name, as appropriate.

18 **§150A- Designation of infested and restricted areas.**

19 (a) The department may designate the infested area of a pest by
20 rules, including interim rules. Any designated area may be
21 expanded by an order of the board to reflect the spread of a



1 specific pest infestation in order to implement quarantine
2 measures to prevent movement of the pest and its pest host
3 material from the infested area to restricted areas, provided
4 that:

- 5 (1) The board first obtains advice from qualified persons
6 with relevant expertise, with or without advisory
7 committee review;
- 8 (2) The board designates the expanded infested area,
9 identifying the revised geographical extent of the
10 infestation;
- 11 (3) The department issues a press release describing the
12 expansion of the infested area before the effective
13 date of designation of the expanded infested area;
- 14 (4) Notice of the board's action, including its effective
15 date, is posted by the following day on the
16 department's website and is placed in a daily or
17 weekly publication of statewide circulation or in
18 separate daily or weekly publications whose combined
19 circulation is statewide, within twelve days of the
20 board's action; and



1 (5) The board's designation of an expanded infested area
2 shall be effective the day following the board's
3 action, unless a later effective date is specified by
4 the board's action.

5 (b) If a pest is found outside the infested area
6 designated under subsection (a), the state plant regulatory
7 official may make an emergency, temporary designation that the
8 area where the pest was found is an infested area; provided that
9 the designation shall expire no later than thirty days after the
10 designation is made, or on the date of the next meeting of the
11 board, whichever duration is longer.

12 §150A- Firewood quarantine. (a) The import of
13 firewood into the State and the transportation or sale within
14 the State of firewood imported into the State are prohibited
15 except for:

- 16 (1) Firewood that is certified by an appropriate federal
17 or state agency as heat-treated and labeled in
18 accordance with subsection (b); or
19 (2) Firewood introduced pursuant to subsection (c) and
20 labeled in accordance with subsection (b).



1 (b) Firewood imported into the State shall bear a clear
2 and conspicuous label that contains the following information on
3 each package of firewood intended to be offered, exposed, or
4 held for sale:

5 (1) The state of origin of the firewood;

6 (2) If the firewood is imported pursuant to
7 subsection (a)(1):

8 (A) A statement that the firewood has been certified
9 as heat-treated; and

10 (B) The name of the federal or state certifying
11 agency and the certification number;

12 (3) Identification of the commodity as firewood, unless
13 the contents can be easily identified through the
14 wrapper or container; and

15 (4) The name and address of the manufacturer, packer, or
16 distributor of the firewood.

17 (c) The state plant regulatory official may allow the
18 importation or sale of firewood on a case-by-case basis if the
19 person producing, processing, or importing the firewood is
20 operating under a compliance agreement or other contract with an



1 appropriate federal or state agency that the state plant
2 regulatory official determines will ensure that the firewood:

3 (1) Is heat-treated; or

4 (2) Will not pose an unacceptable risk of introducing or
5 spreading an insect, disease, or other pest.

6 (d) The state plant regulatory official may at any time
7 revoke an exemption under subsection (c) due to a change in the
8 risk assessment.

9 (e) Any person that imports firewood into the State shall
10 maintain, and make available to the state plant regulatory
11 official upon request, records of those imports for at least two
12 years.

13 (f) Firewood harvested within the State of Hawaii is not
14 subject to the requirements of this section.

15 (g) As used in this section:

16 "Firewood" means any kindling, logs, timber, or other
17 portions of a tree of any species four feet or less in length,
18 cut or split, or intended to be cut or split, into a form and
19 size appropriate for use as fuel for fires in an open or closed
20 pit, grill, fireplace, stove, wood burning furnace, or in any



1 other form commonly used for burning in campfires, stoves, or
2 fireplaces.

3 "Heat-treated" with respect to firewood means firewood that
4 has been heated to at least one hundred sixty degrees Fahrenheit
5 for seventy-five minutes at wood core.

6 **§150A- Cooperative enforcement of federal and state**
7 **quarantines.** (a) The department may enter into cooperative
8 agreements with the United States Department of Agriculture and
9 other federal, state, or county agencies to assist in the
10 enforcement of federal quarantines. The department may
11 establish a quarantine and adopt rules relating to a pest or an
12 area not covered by a federal quarantine. The department may
13 seize, destroy or require treatment of products moved from a
14 federally-regulated area if they were not moved in accordance
15 with the federal quarantine requirements or, if certified, were
16 found to be infested with the pest.

17 (b) Interstate shipments for entry into the State are
18 subject to the following:

19 (1) Any regulated article that is prohibited from
20 interstate movement or is required to be certified, if



1 moved interstate from an area regulated by a state or
2 federal quarantine, shall not enter this State;

3 (2) The owner or carrier of regulated articles that are
4 reportedly originating in nonregulated areas of a
5 quarantined state shall provide proof of origin of the
6 regulated articles through an invoice, waybill or
7 other shipping document; and

8 (3) If only a portion of a state is under a state or
9 federal quarantine, the entry of the shipment into
10 this State shall not be refused nor shall a
11 certificate be required if the article originates from
12 a nonregulated area of the shipping state, unless the
13 article is found to be infested or prohibited.

14 §150A- Prevention of the introduction of citrus pests

15 and diseases. (a) The following articles shall not enter this
16 State:

17 (1) Any regulated article from an area quarantined due to
18 the presence of citrus greening or huanglongbing
19 (Candidatus Liberibacter asiaticus) by any federal
20 order in effect and issued pursuant to title 7 Code of
21 Federal Regulations part 301, subpart N;



1 (2) Any regulated article from an area quarantined due to
2 the presence of citrus canker (Xanthomonas axonopodis)
3 pursuant to title 7 Code of Federal Regulations
4 part 301, subpart M, including any federal order in
5 effect and issued pursuant to that subpart;

6 (3) Any regulated article from an area quarantined due to
7 the presence of citrus black spot (Phyllosticta
8 citricarpa) pursuant to a federal order in effect and
9 issued pursuant to title 7 United States Code 7712(a);
10 and

11 (4) Any regulated article from an area quarantined due to
12 the presence of any species of the family Tephritidae
13 pursuant to title 7 Code of Federal Regulations
14 part 301, including any federal order in effect and
15 issued pursuant to that part.

16 (b) If the Animal and Plant Health Inspection Service of
17 the United States Department of Agriculture modifies the
18 regulated articles or the area quarantined due to the presence
19 of citrus greening (or huanglongbing) (Candidatus Liberibacter
20 asiaticus), citrus canker (Xanthomonas axonopodis), citrus black



1 spot (Phyllosticta citricarpa), or any species in the family

2 Tephritidae:

3 (1) The board shall adopt the modified quarantines;

4 (2) The department shall issue a press release describing
5 the modification of the articles or areas quarantined
6 by the Animal and Plant Health Inspection Service of
7 the United States Department of Agriculture; and

8 (3) Notice of the board's action, including its effective
9 date, shall be posted by the following day on the
10 department's website and shall be posted in a daily or
11 weekly publication of statewide circulation or in
12 separate daily or weekly publications whose combined
13 circulation is statewide, within twelve days of the
14 board's action.

15 (c) This section shall be construed to be consistent with
16 federal regulations pursuant to title 7 United State Code
17 7756(b)(2)(A) and shall not be construed to exceed the
18 regulations or orders issued by the United States Secretary of
19 Agriculture related to citrus greening (or huanglongbing)
20 (Candidatus Liberibacter asiaticus), citrus canker (Xanthomonas



1 axonopodis), citrus black spot (Phyllosticta citricarpa), or any
2 species in the family Tephritidae."

3 SECTION 9. Chapter 150A, Hawaii Revised Statutes, is
4 amended by adding a new section to part III to be appropriately
5 designated and to read as follows:

6 "§150A- Plant nursery license required. No
7 certification or service related to nursery stock may be
8 provided under this part to a person who is required to obtain a
9 plant nursery license under part of this chapter for the
10 nursery stock unless the person has obtained the required plant
11 nursery license."

12 SECTION 10. Section 150A-1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~§150A-1[~~]~~] **Short title.** This chapter may be cited as
15 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law"."

16 SECTION 11. Section 150A-2, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding eight new definitions to be appropriately
19 inserted and to read:

20 ""Compliance agreement" means a written agreement:



1 (1) Between the department and a person who carries out
2 commercial activities;

3 (2) That includes any terms or conditions the state plant
4 regulatory official determines will slow or prevent
5 the spread of a pest; and

6 (3) That serves as a permit issued by the department to
7 that person.

8 "Infested" means harboring a pest.

9 "Infested area" means an island or locality within the
10 State where a specific pest is known to be established.

11 "Nursery stock" means any plant for planting, propagation,
12 or ornamentation, including all plants, trees, shrubs, vines,
13 perennials, grafts, cuttings, and buds that may be sold for
14 propagation, whether cultivated or wild, and all viable parts of
15 these plants.

16 "Person" means any individual, firm, corporation,
17 association, partnership, or other entity, including a
18 governmental entity or nonprofit organization.

19 "Pest host material" means any plant, propagative plant
20 part, non-propagative plant part, soil, or any other matter or
21 object that is found to be transporting or harboring a pest.



1 "Restricted area" means an island or locality within this
 2 State where a specific pest is not known to be established or
 3 where an eradication or control project for a specified pest is
 4 being conducted by the department or an entity recognized by the
 5 state plant regulatory official.

6 "State plant regulatory official" means the state plant
 7 regulatory official for this State, or the official's designee."

8 2. By amending the definition of "pest" to read:

9 " "Pest" means [~~any~~]:

10 (1) Any animal, insect, disease agent or other organism in
 11 any stage of development that is detrimental or
 12 potentially harmful to agriculture, or horticulture,
 13 or animal or public health, or natural resources
 14 including native biota or has an adverse effect on the
 15 environment [~~as~~]; or

16 (2) Any taxa determined by the board[~~-~~] to be a pest."

17 SECTION 12. Section 150A-4.5, Hawaii Revised Statutes, is
 18 amended by amending subsection (a) to read as follows:

19 "(a) There is established in the state treasury the pest
 20 inspection, quarantine, and eradication fund, into which shall
 21 be deposited:



- 1 (1) Legislative appropriations for biosecurity and
2 inspection, quarantine, and eradication services;
- 3 (2) Service fees, charges, and penalties collected under
4 section 150A-5.3;
- 5 (3) Fees and fines collected under the plant nursery
6 licensing program under part of this chapter;
- 7 [~~3~~] (4) Fees imposed for services pursuant to this
8 chapter or rules adopted under this chapter;
- 9 [~~4~~] (5) Fines for violations of this chapter;
- 10 [~~5~~] (6) Federal funds received for biosecurity, pest
11 inspection, control, management, quarantine, and
12 eradication programs;
- 13 [~~6~~] (7) Grants and gifts;
- 14 [~~7~~] (8) All interest earned or accrued on moneys
15 deposited in the fund; and
- 16 [~~8~~] (9) Any other moneys made available to the fund."

17 SECTION 13. Section 150A-5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§150A-5 Conditions of importation.** (a) The importation
20 into the State of any material that is infested or infected with



1 a pest or that is itself a pest is prohibited unless imported
2 under an appropriate permit or compliance agreement.

3 (b) The importation into the State of any of the following
4 articles, viz., [~~nursery stock,~~] nursery stock, tree, shrub,
5 herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf,
6 root, or rhizome; nut, fruit, or vegetable; grain, cereal, or
7 legume in the natural or raw state; moss, hay, straw, dry-grass,
8 or other forage; unmanufactured log, limb, or timber, or any
9 other plant-growth or plant-product, unprocessed or in the raw
10 state; soil; microorganisms; live bird, reptile, nematode,
11 insect, or any other animal in any stage of development (that is
12 in addition to the so-called domestic animal, the quarantine of
13 which is provided for in chapter 142); box, vehicle, baggage, or
14 any other container in which such articles have been transported
15 or any packing material used in connection therewith shall be
16 made in the manner hereinafter set forth:

17 (1) Notification of arrival. Any person who receives for
18 transport or brings or causes to be brought to the
19 State as freight, air freight, baggage, or otherwise,
20 for the purpose of debarkation or entry therein, or as
21 ship's stores, any of the foregoing articles, shall,



1 immediately upon the arrival thereof, notify the
2 department, in writing, of the arrival, giving the
3 waybill number, container number, name and address of
4 the consignor, name and address of the consignee or
5 the consignee's agent in the State, marks, number of
6 packages, description of contents of each package,
7 port at which laden, and any other information that
8 may be necessary to locate or identify the same, and
9 shall hold such articles at the pier, airport, or any
10 other place where they are first received or
11 discharged, in such a manner that they will not spread
12 or be likely to spread any infestation or infection of
13 pests, including insects or diseases that may be
14 present until inspection and examination can be made
15 by the inspector to determine whether or not any
16 article, or any portion thereof, is infested or
17 infected with or contains any pest. The department
18 may adopt rules to require identification of specific
19 articles on negotiable and non-negotiable warehouse
20 receipts, bills of lading, or other documents of title
21 for inspection of pests. In addition, the department



1 shall adopt rules to designate restricted articles
2 that shall [~~require~~]:

3 (A) [~~A~~] Require a permit from the department in
4 advance of importation; [~~or~~]

5 (B) [~~A~~] Require a department letter of authorization
6 or registration in advance of importation[~~or~~]; or

7 (C) Be imported pursuant to a compliance agreement.

8 The restricted articles shall include but not be
9 limited to certain microorganisms or living insects.
10 Failure to obtain the permit, letter of authorization,
11 or registration in advance is a violation of this
12 section;

13 (2) Individual passengers, officers, and crew.

14 (A) It shall be the responsibility of the
15 transportation company to distribute, prior to
16 the debarkation of passengers and baggage, the
17 State of Hawaii plant and animal declaration form
18 to each passenger, officer, and crew member of
19 any aircraft or vessel originating in the
20 continental United States or its possessions or
21 from any other area not under the jurisdiction of



1 the appropriate federal agency in order that the
2 passenger, officer, or crew member can comply
3 with the directions and requirements appearing
4 thereon. All passengers, officers, and crew
5 members, whether or not they are bringing or
6 causing to be brought for entry into the State
7 the articles listed on the form, shall complete
8 the declaration, except that one adult member of
9 a family may complete the declaration for other
10 family members. Any person who defaces the
11 declaration form required under this section,
12 gives false information, fails to declare
13 restricted articles in the person's possession or
14 baggage, or fails to declare in cargo manifests
15 is in violation of this section;

16 (B) Completed forms shall be collected by the
17 transportation company and be delivered,
18 immediately upon arrival, to the inspector at the
19 first airport or seaport of arrival. Failure to
20 distribute or collect declaration forms or to



- 1 immediately deliver completed forms is a
2 violation of this section; and
- 3 (C) It shall be the responsibility of the officers
4 and crew of an aircraft or vessel originating in
5 the continental United States or its possessions
6 or from any other area not under the jurisdiction
7 of the appropriate federal agency to immediately
8 report all sightings of any plants and animals to
9 the plant quarantine branch. Failure to comply
10 with this requirement is a violation of this
11 section;
- 12 (3) Plant and animal declaration form. The form shall
13 include directions for declaring domestic and other
14 animals cited in chapter 142, in addition to the
15 articles enumerated in this chapter;
- 16 (4) Labels. Each container in which any of the
17 above-mentioned articles are imported into the State
18 shall be plainly and legibly marked, in a conspicuous
19 manner and place, with the name and address of the
20 shipper or owner forwarding or shipping the same, the
21 name or mark of the person to whom the same is



1 forwarded or shipped or the person's agent, the name
2 of the country, state, or territory and locality
3 therein where the product was grown or produced, and a
4 statement of the contents of the container. Upon
5 failure to comply with this paragraph, the importer or
6 carrier is in violation of this section;

7 (5) Authority to inspect. [~~Whenever the inspector has~~
8 ~~good cause to believe that the provisions of this~~
9 ~~chapter are being violated, the]~~ An inspector [~~may~~]:

10 (A) May conduct inspections of person, baggage,
11 cargo, and any other articles destined for
12 movement between the islands of Hawaii or
13 importation into this State from the continental
14 United States, Guam, Puerto Rico, or the United
15 States Virgin Islands for the purpose of
16 determining whether an insect, pest, disease, or
17 regulated or restricted taxa is present;

18 [~~(A) Enter~~] (B) May enter and inspect any aircraft,
19 vessel, or other carrier at any time after its
20 arrival within the boundaries of the State,
21 whether offshore, at the pier, or at the airport,



1 and enter into or upon any pier, warehouse,
 2 airport, or any other place in this State for the
 3 purpose of [~~determining whether any of the~~
 4 ~~articles or pests enumerated in this chapter or~~
 5 ~~rules adopted thereto, is present,~~

6 ~~(B) Enter into or upon any pier, warehouse, airport,~~
 7 ~~or any other place in the State where any of the~~
 8 ~~above mentioned articles are moved or stored, for~~
 9 ~~the purpose of ascertaining, by inspection and~~
 10 ~~examination, whether or not any of the articles~~
 11 ~~is infested or infected with any pest or disease~~
 12 ~~or contaminated with soil or contains prohibited~~
 13 ~~plants or animals; and] conducting inspections~~
 14 authorized by subparagraph (A);

15 (C) [~~Inspect any baggage or personal effects of~~
 16 ~~disembarking passengers, officers, and crew~~
 17 ~~members on aircraft or vessels arriving in the~~
 18 ~~State to ascertain if they contain any of the~~
 19 ~~articles or pests enumerated in this chapter.~~
 20 ~~No] Shall inform passengers and crew members that~~
 21 their baggage [~~e~~] and other personal effects [~~e~~



1 ~~the passengers or crew members]~~ shall not be
2 released until the baggage [~~or~~] and personal
3 effects have been passed[~~.— Baggage or~~]; and
4 (D) Shall have the discretion to inspect baggage and
5 cargo [~~inspection shall be made at the discretion~~
6 ~~of the inspector,~~] on the pier, vessel, or
7 aircraft or in any quarantine or inspection
8 area[~~.~~

9 ~~Whenever the inspector has good cause to believe~~
10 ~~that the provisions of this chapter are being~~
11 ~~violated, the inspector may require that any box,~~
12 ~~package, suitcase, or any other container carried as~~
13 ~~ship's stores, cargo, or otherwise by any vessel or~~
14 ~~aircraft moving between the continental United States~~
15 ~~and Hawaii or between the Hawaiian Islands, be opened~~
16 ~~for inspection to determine whether any article or~~
17 ~~pest prohibited by this chapter or by rules adopted~~
18 ~~pursuant thereto is present. It is a violation of~~
19 ~~this section if any prohibited article or any pest or~~
20 ~~any plant, fruit, or vegetable infested with plant~~
21 ~~pests is found];~~



1 (6) Request for importation and inspection. In addition
2 to requirements of the appropriate United States
3 [~~customs~~] authorities concerning invoices or other
4 formalities incident to importations into the State,
5 the importer shall be required to file a written
6 statement with the department, signed by the importer
7 or the importer's agent, setting forth the importer's
8 desire to import certain of the above-mentioned
9 articles into the State and:

10 (A) Giving the following additional information:

11 (i) The kind (scientific name), quantity, and
12 description;

13 (ii) The locality where same were grown or
14 produced;

15 (iii) Certification that all animals to be
16 imported are the progeny of captive
17 populations or have been held in captivity
18 for a period of one year immediately prior
19 to importation or have been specifically
20 approved for importation by the board;



1 (iv) The port from which the same were last
2 shipped;

3 (v) The name of the shipper; and

4 (vi) The name of the consignee; and

5 (B) Containing:

6 (i) A request that the department, by its duly
7 authorized agent, examine the articles
8 described;

9 (ii) An agreement by the importer to be
10 responsible for all costs, charges, or
11 expenses; and

12 (iii) A waiver of all claims for damages incident
13 to the inspection or the fumigation,
14 disinfection, quarantine, or destruction of
15 the articles, or any of them, as hereinafter
16 provided, if any treatment is deemed
17 necessary.

18 Failure or refusal to file a statement, including
19 the agreement and waiver, is a violation of this
20 section and may, in the discretion of the department,



1 be sufficient cause for refusing to permit the entry
2 of the articles into the State;

3 (7) Place of inspection. If, in the judgment of the
4 inspector, it is deemed necessary or advisable to move
5 any [~~of the above mentioned articles, or any portion~~
6 ~~thereof,~~] item or material to a place more suitable
7 for inspection than the pier, airport, or any other
8 place where they are first received or discharged, the
9 inspector is authorized to do so. All costs and
10 expenses incident to the movement and transportation
11 of the [~~articles~~] items or material to such place
12 shall be borne by the importer or the importer's
13 agent. If the importer, importer's agent, or
14 transportation company requests inspection of sealed
15 containers [~~of the above mentioned articles~~] at
16 locations other than where the [~~articles~~] containers
17 are first received or discharged and the department
18 determines that inspection at such place is
19 appropriate, the department may require payment of
20 costs necessitated by these inspections, including
21 overtime costs;



1 (8) Disinfection or quarantine. If, upon inspection, any
2 [~~article~~] item or material received or brought into
3 the State for the purpose of debarkation or entry
4 therein or moved between islands of the State is found
5 to be infested or infected or there is reasonable
6 cause to presume that it is infested or infected and
7 the infestation or infection can, in the judgment of
8 the inspector, be eradicated, a treatment shall be
9 given such [~~article.~~] item or material. The treatment
10 shall be at the expense of the owner or the owner's
11 agent, and the treatment shall be as prescribed by the
12 department. The article shall be held in quarantine
13 at the expense of the owner or the owner's agent at a
14 satisfactory place approved by the department for a
15 sufficient length of time to determine that
16 eradication has been accomplished. If the infestation
17 or infection is of such nature or extent that it
18 cannot be effectively and completely eradicated, or if
19 it is a potentially destructive pest or it is not
20 widespread in the State, or after treatment it is
21 determined that the infestation or infection is not



1 completely eradicated, or if the owner or the owner's
2 agent refuses to allow the article to be treated or to
3 be responsible for the cost of treatment and
4 quarantine, the article, or any portion thereof,
5 together with all packing and containers, may, at the
6 discretion of the inspector, be destroyed or sent out
7 of the State at the expense of the owner or the
8 owner's agent. Such destruction or exclusion shall
9 not be made the basis of a claim against the
10 department or the inspector for damage or loss
11 incurred;

12 (9) Disposition. Upon completion of inspection, either at
13 the time of arrival or at any time thereafter should
14 any [~~article~~] item or material be held for inspection,
15 treatment, or quarantine, the inspector shall affix to
16 the [~~article~~] item or material or the container or to
17 the delivery order in a conspicuous place thereon, a
18 tag, label, or stamp to indicate that the [~~article~~]
19 item, material, or container has been inspected and
20 passed. This action shall constitute a permit to



1 bring the [~~article~~] item, material, or container into
2 the State; and

3 (10) Ports of entry. None of the articles mentioned in
4 this section shall be allowed entry into the State
5 except through the airports and seaports in the State
6 designated and approved by the board."

7 SECTION 14. Section 150A-5.5, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) In legal effect, articles landed for the purpose of
10 inspection or quarantine shall be construed to be still outside
11 the State seeking entry, and shall not, in whole or in part, be
12 considered suitable for entry into the State unless a tag,
13 label, or stamp has been affixed to the article, its container,
14 or its delivery order by the inspector as provided in
15 section [~~150A-5(9)~~], 150A-5(b)(9), except that articles
16 quarantined in the biocontrol containment facilities of the
17 department or of other government agencies engaged in joint
18 projects with the department may be released upon issuance of a
19 permit approved by the board."

20 SECTION 15. Section 150A-6.1, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) The department shall designate, by rule, as
3 restricted plants, specific plants that may be detrimental or
4 potentially harmful to agriculture, horticulture, the
5 environment, or animal or public health, or that spread or may
6 be likely to spread an infestation or infection of an insect,
7 pest, or disease that is detrimental or potentially harmful to
8 agriculture, horticulture, the environment, or animal or public
9 health. In addition, plant species designated [~~by rule~~]
10 pursuant to chapter 152 as noxious weeds are designated as
11 restricted plants."

12 2. By amending subsections (d) and (e) to read:

13 "(d) Noxious weeds may be imported only for research, by
14 permit, and shall not be offered for sale [~~or~~], sold [~~in~~], or
15 transported within the State[-], except for the purposes of
16 appropriate disposal under or permit or methods approved by the
17 state plant regulatory official.

18 (e) No person shall import, offer for sale, or sell within
19 the State any plant or propagative portion of Salvinia molesta
20 [~~or~~], Salvinia minima [~~and~~], Pistia stratiotes[-], or Falcataria
21 moluccana (Albizia)."



1 SECTION 16. Section 150A-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§150A-8 Transporting in State.** (a) Flora [~~and~~], fauna,
4 pest host material, and any other item or material specified by
5 [~~rules and regulations of~~] the department shall not be moved
6 from one island to another island within the State or from one
7 locality to another on the same island except by a permit issued
8 by the department[-], or pursuant to a compliance agreement
9 approved by the department.

10 (b) The transport, harboring, rearing, or breeding of any
11 pest is prohibited.

12 (c) The transportation of any pest host material that is
13 infested or infected with an insect, disease, or pest between
14 the islands or from one part or locality of any island to
15 another part or locality of the same island is prohibited unless
16 the pest host material has been subjected to an appropriate
17 treatment, as approved by the state plant regulatory official.
18 Appropriate treatment may include pesticide or fumigation
19 treatment. The state plant regulatory official may, however,
20 authorize the transportation of an untreated infested or



1 infected pest host material to an island or location where the
2 pest is known to be established.

3 (d) Notwithstanding subsections (a), (b), and (c), pests
4 or plants, plant parts, soil, or pest host material infested or
5 infected with a pest may be transported without inspection
6 between islands or between parts or localities of the same
7 island:

8 (1) For diagnostics, research, testing, or educational
9 purposes by the department; or

10 (2) Pursuant to a permit approved by the state plant
11 regulatory official and issued to an institution
12 approved by the board, a government agency, or a
13 university for research, testing, or educational
14 purposes at a site inspected and approved by the state
15 plant regulatory official before the transport occurs.

16 (e) The state plant regulatory official may prohibit the
17 movement of any pest host material that is offered for sale, for
18 barter, or by donation or otherwise to be given away to the
19 public if the state plant regulatory official determines that
20 the pest host material is infested or infected with an insect,
21 disease, or pest. The state plant regulatory official may



1 compel treatment or destruction of the material as set out in
2 this section. If such material was or is stored in an area that
3 is infested or infected with an insect, disease, or pest, the
4 state plant regulatory official may require appropriate
5 treatment of the area prior to authorizing the movement of the
6 material.

7 (f) An item subject to the prohibition in subsection (e)
8 shall be:

- 9 (1) Subjected to a treatment to eradicate the insect,
10 disease, or pest, as approved and supervised by the
11 state plant regulatory official;
- 12 (2) Destroyed using a method approved and supervised by
13 the state plant regulatory official;
- 14 (3) Transported only pursuant to a permit issued by the
15 state plant regulatory official; or
- 16 (4) Subject to any other disposition approved by the state
17 plant regulatory official, including the
18 transportation of untreated infested or infected pest
19 host material or an insect, disease, or pest to an
20 island or location where the target insect, disease,
21 or pest is known to be established.



1 (g) The State shall not be responsible for any economic
2 loss or damages related to any actions by the department
3 pursuant to this section, including the treatment, quarantine,
4 or destruction of any item."

5 SECTION 17. Section 150A-53, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§150A-53 General actions to achieve objectives.** (a) To
8 achieve the objectives of the biosecurity program, the
9 department shall plan for and, within available legislative
10 appropriations or through funding from other sources, implement
11 the following:

- 12 (1) Work with government agencies and agricultural
13 commodity exporters of other states and countries to
14 establish pre-entry inspection programs under which
15 inbound cargo into the State is inspected at the ports
16 of departure or other points outside the State;
- 17 (2) Establish, operate, or participate in operating
18 port-of-entry facilities where multiple government
19 agencies may inspect, quarantine, fumigate, disinfect,
20 destroy, or exclude as appropriate, articles that may



1 harbor pests or exclude articles that are prohibited
2 or restricted without a permit, with the goals of:

3 (A) Performing inspections in an efficient,
4 effective, and expeditious manner for the
5 government agencies involved and for cargo
6 owners, carriers, and importers; and

7 (B) Providing for the proper and safe storage and
8 handling of cargo, especially agricultural and
9 food commodities, awaiting inspection;

10 (3) Develop, implement, and coordinate post-entry measures
11 to eradicate, control, reduce, and suppress pests and,
12 as appropriate, eradicate or seize and dispose of
13 prohibited or restricted organisms without a permit
14 that have entered the State;

15 (4) Collaborate with relevant government agencies,
16 agricultural commodity importers, and other persons to
17 examine and develop joint integrated systems to better
18 implement the biosecurity program;

19 (5) Improve cargo inspection capabilities and methods,
20 including enhancement of the content and submission



1 requirements for cargo manifests and agricultural
2 commodity ownership and movement certificates;

3 (6) Promote the production of agricultural commodities in
4 the State to reduce cargo shipments of imported
5 commodities into the State; and

6 (7) Provide public education on the negative effects of
7 pests and prohibited or restricted organisms without a
8 permit, to the environment and economy of the State.

9 (b) The department shall establish parameters and
10 construction requirements for biosecurity facilities that
11 provide for and ensure the safety of agricultural and food
12 commodities consumed by Hawaii residents, including cold storage
13 facilities established by private-public partnerships to
14 preserve the quality and ensure the safety of the commodities
15 arriving at the State's airports and harbors.

16 (c) The plant nursery licensing program established under
17 part of this chapter:

18 (1) Shall be considered to be a part of the biosecurity
19 program; and

20 (2) May be administered and enforced using the officials
21 of and funds available to the biosecurity program."



1 PART IV

2 SECTION 18. Chapter 152, Hawaii Revised Statutes, is
3 amended by adding nine new sections to be appropriately
4 designated and to read as follows:

5 "§152-A Noxious weed designations; changes. (a) The
6 board:

7 (1) At meetings held in May and November of each year,
8 shall accept applications for noxious weed
9 designations for consideration; and

10 (2) May accept applications at meetings held at other
11 times of year,

12 provided that the public shall be given timely notice of the
13 board's meetings and the board's acceptance of applications.

14 (b) The board shall accept applications in any form,
15 including electronic applications, permitted by the state plant
16 regulatory official.

17 (c) The state plant regulatory official:

18 (1) Shall review each application;

19 (2) May seek additional information from the applicant;

20 (3) May conduct additional research related to the

21 application, including research of literature reviews,



1 surveys, discussions with other states, and field
2 investigations;

3 (4) May submit to the advisory committee on plants and
4 animals established under section 150A-10, and any
5 subcommittee of that committee, the application for
6 review, for the purposes of assisting the board in
7 considering the application;

8 (5) Shall consider all oral and written comments submitted
9 under section 152-C(b) and may incorporate those
10 comments in the state plant regulatory official's
11 review of the application; and

12 (6) Shall make a recommendation to the board regarding
13 each application.

14 (d) The board shall vote on each change to a noxious weed
15 designation requested in an application at the subsequent
16 meeting timely held after the period for public notification and
17 input described in section 152-C.

18 (e) Upon approval by the board of a change to a noxious
19 weed designation, the order to make that change to the noxious
20 weed designation shall take effect ten days after the department
21 posts public notice of the order in a daily or weekly



1 publication of statewide circulation or in separate daily or
2 weekly publications whose combined circulation is statewide and
3 on the publicly available internet website of the department.

4 (f) Nothing in this section shall be construed to prevent
5 the department or the board from considering an action related
6 to a noxious weed on an expedited or emergency basis at any
7 time.

8 **§152-B Applications.** (a) An application seeking a change
9 to the list of noxious weeds may be submitted by any person.

10 (b) An application shall be submitted for the board's
11 consideration at a meeting described in section 152-A(a).

12 (c) Each application shall include:

13 (1) The name, address, and contact information of the
14 applicant;

15 (2) A description of the applicant's requested change to
16 the noxious weed designation;

17 (3) Evidence that the board may use to determine if the
18 requested change will be made; and

19 (4) Any other information the state plant regulatory
20 official may reasonably require, as specified on a
21 form provided by the state plant regulatory official.



1 (d) An application to designate a new taxon as a noxious
2 weed shall include:

3 (1) The taxon's:

4 (A) Scientific name and author;

5 (B) Common synonyms;

6 (C) Botanical classification; and

7 (D) Common names;

8 (2) The class of noxious weed requested for the taxon;

9 (3) A description of the geographic area in this State
10 that is free or reasonably free of the taxon;

11 (4) Information describing how the taxon can directly or
12 indirectly injure or cause damage to crops (including
13 nursery stock or plant products), livestock, poultry,
14 or other interests of agriculture, irrigation,
15 navigation, the natural resources of the State, the
16 public health, or the environment; and

17 (5) A list of references to support the information
18 provided in the application.

19 (e) An application to remove the designation of noxious weed
20 for a plant taxon shall include evidence that the plant:



1 (1) Cannot directly or indirectly injure or cause damage
2 to crops (including nursery stock or plant products),
3 livestock, poultry, or other interests of agriculture,
4 irrigation, navigation, the natural resources of the
5 State, the public health, or the environment; or

6 (2) Is eligible for special consideration for crops under
7 section 152-F.

8 (f) An application to change the class designation of a
9 noxious weed shall include evidence that the noxious weed meets
10 the description of the proposed class as established in
11 section 152-4.

12 **§152-C Public notification and input for changes to**
13 **noxious weed designations.** (a) No later than fourteen days
14 after an application is submitted at a board meeting pursuant to
15 section 152-A(a), the state plant regulatory official shall
16 issue a press release and provide notices to the office of
17 planning and sustainable development for publication and to each
18 person who has made a timely written request of the department
19 for notice of an application. The press release and notices
20 shall include:



- 1 (1) A statement summarizing each change to a noxious weed
2 designation requested in an application;
- 3 (2) A statement that a copy of the application will be
4 mailed to any interested person who requests a copy
5 upon payment in advance of costs for photocopying,
6 preparing, and mailing the copy and that a copy of the
7 application will be made available on the publicly
8 available website of the department;
- 9 (3) A statement as to where to obtain a copy of the
10 application for inspection, or for pickup after
11 payment in full for costs for photocopying and
12 preparing; and
- 13 (4) A statement that the department is soliciting comments
14 regarding the requested change to a noxious weed
15 designation, which shall include the procedure for
16 submitting comments.
- 17 (b) During the three-month period after an application is
18 submitted at a board meeting, any interested person, educational
19 institution, or government entity may:
- 20 (1) Provide oral comments on the application at any
21 regularly scheduled meeting of the board; and



1 (2) Provide written comments on the application to the
2 board and the state plant regulatory official.

3 **§152-D Emergency designations.** (a) Notwithstanding any
4 other provision of this chapter or any other law to the
5 contrary:

6 (1) If the department finds an incipient infestation of a
7 plant taxon is directly or indirectly injuring or
8 causing damage to crops (including nursery stock or
9 plant products), livestock, poultry, or other
10 interests of agriculture, irrigation, navigation, the
11 natural resources of the State, the public health, or
12 the environment without immediate action, the
13 department may proceed without prior notice or upon a
14 minimum of forty-eight hours notice and hearing to
15 adopt an emergency rule for the eradication of that
16 infestation;

17 (2) An emergency rule described in paragraph (1) shall be
18 effective for a period not longer than one hundred
19 eighty days, without the possibility of renewal; and

20 (3) The department may establish, implement, and enforce
21 interim rules governing the transportation of noxious



1 weeds or taxa eligible to be designated as noxious
2 weeds into or within the State, as provided in
3 section 150A-9.5.

4 (b) During the period that an emergency rule is in effect
5 under subsection (a), the state plant regulatory official shall
6 make an application for the board to order on an expedited basis
7 the designation of the taxon as a noxious weed.

8 **§152-E Publication of noxious weed designations.** The
9 state plant regulatory official shall make available to the
10 public and publish on the publicly available website of the
11 department the list of noxious weeds designated under this
12 chapter. The list shall include:

13 (1) Information on which noxious weeds are respectively
14 designated as class A, class B, and class C noxious
15 weeds; and

16 (2) The geographic area declared free or reasonably free
17 of each noxious weed.

18 **§152-F Special consideration for crops.** (a) The board
19 may defer designating a plant taxon as a noxious weed or
20 removing a noxious weed designation from a plant taxon if the
21 plant taxon:



1 (1) Is, or is intended to be, commercially cultivated in
2 the State as a crop; and

3 (2) Is, or will be, cultivated using practices that
4 prevent it from directly or indirectly injuring or
5 causing damage to crops (including nursery stock or
6 plant products), livestock, poultry, or other
7 interests of agriculture, irrigation, navigation, the
8 natural resources of this State, the public health, or
9 the environment.

10 (b) The board may require conditions, including a bond or
11 a compliance agreement, for the cultivation of a plant taxon for
12 which the board has deferred a designation or removed from
13 designation pursuant to subsection (a).

14 (c) The board shall designate as a noxious weed a plant
15 taxon that is cultivated as a crop that for which the board
16 deferred a designation or removed from designation pursuant to
17 subsection (a) if the plant becomes invasive or is otherwise no
18 longer described in subsection (a)(2).

19 **§152-G Noxious weed control or eradication programs.** (a)

20 The state plant regulatory official may develop and implement a
21 program to control or eradicate a specific noxious weed if the



1 state plant regulatory official determines that the control or
2 eradication program is feasible and practicable.

3 (b) Each control or eradication program developed under
4 subsection (a) shall:

5 (1) Use the best available technology and use the
6 technology in a manner consistent with State and
7 federal law;

8 (2) Specify the geographic area where the program will be
9 carried out, which may be a section of an island, an
10 island, a group of islands, or the entire State;

11 (3) Minimize collateral damage to crops, property, the
12 environment, and native species;

13 (4) Include a description of the specific methods to be
14 employed to control or eradicate the noxious weed;

15 (5) Include a description of the surveys and monitoring
16 that will be required before and after the specific
17 methods to control or eradicate are employed;

18 (6) Include an assessment of whether the department will
19 seek any quarantine related to the control or
20 eradication program; and



1 (7) Include an approximate time frame to carry out the
2 control or eradication program.

3 (c) If the department or agent of the department needs to
4 enter onto private property to conduct detection and
5 delimitation surveys or otherwise carry out or maintain the
6 control or eradication program, but the owner or occupier of the
7 property refuses to grant entry to the department or its agent,
8 the department or agent may gain entry pursuant to
9 section 141-3.6 to the extent necessary to carry out or maintain
10 the control or eradication program, unless the property is a
11 dwelling place.

12 (d) The state plant regulatory official may seek the
13 board's approval for a control or eradication program developed
14 under this section if the state plant regulatory official
15 believes that the board's approval is likely to make the program
16 more successful.

17 (e) This section shall not apply to efforts by the
18 department to control a noxious weed using only the release of a
19 biological control agent.

20 **§152-H Noxious weed control on leased state lands.** Any
21 person that leases state lands for livestock grazing or any



1 agricultural purpose shall agree in the lease agreement to
2 control any noxious weed on such lands to the extent required by
3 the department.

4 **§152-I Penalties.** (a) The department may establish,
5 impose, and collect administrative fines or bring legal action
6 to recover administrative costs of the department, payment for
7 damages, or costs to correct damages resulting from violations
8 of this chapter or any rule adopted thereunder.

9 (b) The department, at its discretion, may refuse entry
10 into this State of, confiscate, or destroy any noxious weed or
11 article infested with a noxious weed that a person brings or
12 attempts to bring into the State or that is offered for sale,
13 sold, or transported in violation of this chapter, or, in the
14 case of importation, order the return of any noxious weed or any
15 article infested with a noxious weed to its place of origin or
16 otherwise dispose of it or a part thereof as may be necessary to
17 comply with this chapter.

18 (c) The State shall not be responsible for any economic
19 loss or damages related to any actions by the department
20 pursuant to this chapter, including the treatment, quarantine,
21 destruction, or return of any item."



1 SECTION 19. Section 152-1, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding six new definitions to be appropriately
4 inserted and to read:

5 "Agent of the department" means:

6 (1) The applicable invasive species committee; or

7 (2) Any other person,

8 acting on behalf of the department of agriculture.

9 "Application" means an application seeking a change to the
10 list of noxious weeds.

11 "Board" means the board of agriculture.

12 "Invasive species committee" shall have the same meaning as
13 in section 141-3.5(e).

14 "Noxious weed designation" means a designation on the list
15 of noxious weeds.

16 "State plant regulatory official" shall have the same
17 meaning as in section 150A-2."

18 2. By amending the definition of "control noxious weed" to
19 read:

20 "Control noxious weed" means to limit the spread of a
21 specific noxious weed, including quarantining material infested



1 with the noxious weed, and to reduce its density to a degree
2 where its injurious, harmful, or deleterious effect is reduced
3 to a tolerable level."

4 3. By amending the definition of "eradicate noxious weed"
5 to read:

6 "Eradicate noxious weed" means to completely destroy and
7 eliminate existing plant growth, seeds, and vegetative
8 reproductive plant parts of a specific noxious weed from a given
9 locality. "Eradicate noxious weed" includes quarantining
10 material infested with the noxious weed."

11 4. By amending the definition of "noxious weed" to read:

12 "~~Noxious weed" means any plant [species which is, or which~~
13 ~~may be likely to become, injurious, harmful, or deleterious to~~
14 ~~the agricultural, horticultural, aquacultural, or livestock~~
15 ~~industry of the State and to forest and recreational areas and~~
16 ~~conservation districts of the State, as determined and~~
17 ~~designated by the department from time to time.] or plant~~
18 product that can directly or indirectly injure or cause damage
19 to crops (including nursery stock or plant products), livestock,
20 poultry, or other interests of agriculture, irrigation,



1 navigation, the natural resources of the State, the public
2 health, or the environment."

3 SECTION 20. Section 152-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§152-2 Rules.** Subject to chapter 91, the department may
6 [make] adopt rules [to effectuate] necessary for the purposes of
7 this chapter[, including but not limited to the following:

8 ~~(1) Establishment of criteria and procedures for the~~
9 ~~designation of plant species as noxious weeds for the~~
10 ~~purposes of this chapter;~~

11 ~~(2) Establishment of procedures and conditions for the~~
12 ~~initiation of cooperative agreements with landowners~~
13 ~~and land occupiers for the purpose of eradicating or~~
14 ~~controlling noxious weed infestations;~~

15 ~~(3) Control or eradication of noxious weeds when deemed~~
16 ~~economically feasible]."~~

17 SECTION 21. Section 152-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§152-3 Prohibited and permitted acts.** [~~It~~] (a) Except
20 as provided in subsection (b), it shall be unlawful to
21 [introduce or to transport specific] import into this State or



1 sell, offer for sale, or transport within this State noxious
2 weeds or their seeds or vegetative reproductive parts [~~into any~~
3 area designated pursuant to section 152-5 as free or reasonably
4 free of those noxious weeds; provided that the introduction or
5 transportation of those noxious weeds may be permitted for
6 educational or research purposes when authorized by a permit
7 issued by the department].

8 (b) The prohibition in subsection (a) does not apply to:

9 (1) A plant part that is processed, not vegetatively
10 propagative, or otherwise not capable of reproducing
11 the plant;

12 (2) The movement of a properly prepared herbarium
13 specimen; or

14 (3) The movement of plant material by authorized employees
15 of the department or an agent of the department acting
16 in the course of official duties;

17 (4) Noxious weed imported for research pursuant to a
18 permit issued by the state plant regulatory official;
19 or

20 (5) Noxious weed transported for educational or research
21 purposes or for proper disposal of removed material



1 under methods approved by, or pursuant to a permit
2 issued by, the state plant regulatory official.

3 (c) The department may establish fees for permits issued
4 under this section."

5 SECTION 22. Section 152-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§152-4 Designation of noxious [weed.] weeds; classes of**
8 noxious weeds. (a) The [~~department~~] board may designate
9 certain plant [~~species~~] taxa as noxious weeds [~~following the~~
10 ~~criteria and procedures established under section 152-2(1).~~]
11 pursuant to this chapter and rules adopted pursuant to this
12 chapter.

13 (b) The department shall publish and make available on its
14 website a list of noxious weeds [~~to interested persons.~~]
15 designated pursuant to this chapter.

16 (c) A plant taxon shall be designated as a noxious weed if
17 the board determines that that the plant could directly or
18 indirectly injure or cause damage to crops (including nursery
19 stock or plant products), livestock, poultry, or other interests
20 of agriculture, irrigation, navigation, the natural resources of
21 the State, the public health, or the environment.



1 (d) The board shall designate each noxious weed as a class
2 A, class B, or class C noxious weed; provided that in
3 determining the class to which a noxious weed should be
4 designated, the following standards shall apply:

5 (1) Class A noxious weeds:

6 (A) Are not known to occur or are of very limited
7 distribution in this State;

8 (B) Are a high priority for control or eradication if
9 an infestation was discovered in the State; and

10 (C) When detected, shall be subject to control or
11 eradication actions by the department or an
12 agent of the department, subject to the
13 availability of funds;

14 (2) Class B noxious weeds:

15 (A) Are known to occur in the State but are of
16 limited distribution on one or more islands;

17 (B) Are a high priority for control or eradication in
18 a given area; and

19 (C) Shall be managed on a priority basis, by the
20 department or an agent of the department, as
21 resources allow; and



1 (3) Class C noxious weeds are those noxious weeds that are
2 not a class A or class B noxious weeds."

3 SECTION 23. Section 152-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§152-5 Designation of areas declared free or reasonably**
6 **free of noxious weeds.** (a) The [~~department~~] board may declare
7 the entire State, an island, or a section of an island as free
8 or reasonably free of a specific noxious weed. The department
9 shall take necessary measures to restrict the introduction and
10 establishment of specific noxious weeds in areas declared free
11 or reasonably free of those noxious weeds.

12 (b) A change to the geographic area declared free or
13 reasonably free of a specific noxious weed shall be made by
14 order of the board under the procedures for a change to a
15 noxious weed designation set out in this chapter."

16 SECTION 24. Section 152-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§152-6 Duties of the department; noxious weed control and**
19 **eradication.** (a) The department shall maintain a constant
20 vigilance for incipient infestations of specific noxious weeds
21 [~~on islands~~] in locations declared reasonably free from those



1 weeds, and shall use those procedures and methods to control or
2 eradicate the infestations of noxious weeds as are determined to
3 [be]:

4 (1) Be feasible and practicable[-]; and

5 (2) Minimize collateral damage to crops, property, the
6 environment, and native species.

7 (b) [~~When the~~] The department [~~determines that an~~
8 ~~infestation of a certain noxious weed exists on an island~~
9 ~~declared reasonably free from the weed, the department shall~~
10 ~~immediately conduct investigations and surveys as are necessary~~
11 ~~to determine the feasibility and practicability of controlling~~
12 ~~or eradicating the infestation. The department may also conduct~~
13 ~~investigations and surveys to determine the feasibility and~~
14 ~~practicability of controlling widespread noxious weed~~
15 ~~infestations. The methods of control or eradication adopted by~~
16 ~~the department for any noxious weed infestation shall cause as~~
17 ~~little damage to crops and property as possible.] or an agent of
18 the department:~~

19 (1) Shall conduct detection and delimitation surveys of
20 noxious weeds, and to the extent necessary and



- 1 permitted by law, shall access private property in
2 areas declared reasonably free from those weeds;
3 (2) Shall determine the feasibility and practicability of
4 controlling or eradicating infestations; and
5 (3) May conduct control or eradication actions in any area
6 of the State, as determined appropriate by the state
7 plant regulatory official.

8 (c) Upon determining that control or eradication of an
9 infestation is practicable and feasible, the department shall
10 immediately serve notice, either oral or written, on both the
11 landowner of the property and the ~~[occupant]~~ land occupier of
12 the property ~~[on]~~ upon which the infestations exist. Written
13 notice sent to the landowner's address last known to the
14 department by certified mail, postage prepaid, return receipt
15 requested, shall be deemed sufficient notice. ~~[In the event~~
16 ~~that]~~ If certified mail is impractical because the department,
17 despite diligent efforts, cannot determine land ownership or
18 because of urgent need to initiate control or eradication
19 measures, notice given once in a daily or weekly publication of
20 general circulation, in the county where any action or proposed
21 action will be taken, or notice made as otherwise provided by



1 law, shall be deemed sufficient notice. The notice shall set
2 forth all pertinent information with respect to the infestation
3 and notify the landowner and the land [~~occupant~~] occupier of the
4 procedure and methods of control or eradication.

5 (d) [~~Upon the department's notification pursuant to~~
6 ~~subsection (c) above, the~~] The department or an agent of the
7 department may [~~enter into a cooperative agreement with the~~
8 ~~landowner and land occupier for the control or eradication of~~
9 ~~the noxious weed infestation. The procedures and conditions for~~
10 ~~executing the cooperative agreement shall be in accordance with~~
11 ~~rules adopted under section 152-2(2).~~] assist, free of cost, in
12 the control or eradication of noxious weeds, subject to the
13 availability of funds.

14 (e) [~~Upon the department's notification pursuant to~~
15 ~~subsection (c) above, the~~] The department may [~~entirely~~
16 ~~undertake the eradication or control project when it has been~~
17 ~~determined that the owner, occupier, or lessee of the land on~~
18 ~~which the noxious weed infestation is located will not benefit~~
19 ~~materially or financially by the control or eradication of the~~
20 ~~noxious weed; or when the noxious weed infestation is on~~
21 ~~state owned land not leased or under control of private~~



1 ~~interest.]~~ may work cooperatively with a landowner or land
2 occupier to provide chemicals, materials, equipment, personnel,
3 and services to the owner or occupier to assist with the control
4 or eradication of noxious weeds on private property.

5 (f) Assistance provided by the department to control or
6 eradicate noxious weeds in this State may include the
7 appropriate distribution and release of beneficial insects,
8 pathogens, and other biological control agents for the control
9 or eradication of noxious weeds."

10 PART V

11 SECTION 25. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 26. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

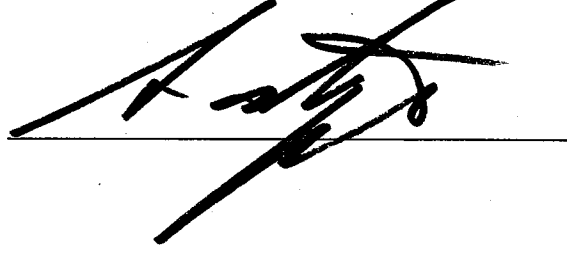
20 SECTION 27. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 28. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "A. J. ...", is written over a horizontal line. The signature is stylized and somewhat illegible.

JAN 24 2024



H.B. NO. 2758

Report Title:

HDOA; Invasive Species; Pests; Taxa; Environment; Quarantine

Description:

Facilitates the control and eradication of invasive species and pests. Establishes a plant nursery licensing program. Requires the Department of Agriculture to designate certain species as pests for control or eradication. Imposes certain limits on imports and transportation. Updates the method by which the Department's noxious weed list is updated.

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

