

STAND. COM. REP. NO. 2604

Honolulu, Hawaii

FEB 16 2024

RE: S.B. No. 3237
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committees on Agriculture and Environment and Transportation and Culture and the Arts, to which was referred S.B. No. 3237 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Facilitate the control and eradication of invasive species and pests;
- (2) Establish a plant nursery licensing program;
- (3) Require the Department of Agriculture to designate certain species as pests for control or eradication;
- (4) Impose certain limits on imports and transportation; and
- (5) Update the method by which the Department's noxious weed list is updated.

Your Committees received testimony in support of this measure from the Coordinating Group on Alien Pest Species; Greenpeace Hawaii; Big Island Invasive Species Committee; Sierra Club of Hawai'i; Conservation Council for Hawai'i; Kua'āina Ulu 'Auamo; Council for Native Hawaiian Advancement; O'ahu Invasive Species



Committee; We Are One, Inc.; The Outdoor Circle; Free Access Coalition; Hawaii Reef and Ocean Coalition; ROAR; and twenty-three individuals.

Your Committees received testimony in opposition to this measure from the Hawaii Floriculture and Nursery Association.

Your Committees received comments on this measure from the Department of the Attorney General, Department of Agriculture, and Hawai'i Farm Bureau.

Your Committees find that invasive species pose a significant threat to the State's native ecosystems. As the State has a high concentration of endemic species, many of which are endangered, greater action is needed to protect native plant species. This measure provides for enhanced limitations on imported plant species to ensure protection of the State's natural resources.

Your Committees have amended this measure by:

- (1) Clarifying that the Department of Agriculture is required to designate other pests for control or eradication by rule, and update designated taxa no less than once every two years;
- (2) Allowing the Department of Agriculture to proceed to adopt an emergency rule for the eradication of a pest or incipient infestation that is or is likely to become injurious or deleterious to native species or the environment;
- (3) Allowing the applicable county, invasive species committee, or Hawaii Ant Lab to develop or implement a program for a pest that is, or is likely to be, a threat to public health and welfare, or private property, if the Department of Agriculture does not develop and implement a detailed control or eradication program for a taxa designated as a pest for control or eradication;
- (4) Replacing references to "state plant regulatory official" with the Chairperson of the Board of Agriculture;



- (5) Requiring the Board of Agriculture to give a prompt hearing to the Chairperson of the Board of Agriculture and the appellant of a decision of Chairperson or any inspector of the Department of Agriculture;
- (6) Inserting language to include a pest that the Department of Agriculture or other government entity, including the appropriate invasive species committee for an island, attempts to contain, suppress, or reduce within the State or an area of the State as a "high-priority pest";
- (7) Inserting language to require a temporary plant nursery licensee demonstrate to the Department of Agriculture's satisfaction that the person does not sell any plant species designated by the Department as a noxious weed or restricted plant;
- (8) Deleting language that would have required a temporary plant nursery license produce nursery stock with a person with a valid plant nursery license;
- (9) Inserting language to require a temporary plant nursery licensee to import necessary stock subject to rules;
- (10) Inserting language prohibiting a small seller plant nursery licensee from selling any plant species designated by the Department of Agriculture as a noxious weed or restricted plant;
- (11) Inserting language to require a small seller plant nursery licensee import necessary stock subject to rules;
- (12) Deleting language that would have required the Department of Agriculture to place a stop sale on an affected nursery stock or location where a high-priority pest is present, low priority pests are not under effective control, or that the holder of a full plant nursery license, temporary plant nursery license, or a small seller plant nursery license is otherwise not in compliance with certain requirements;
- (13) Inserting language requiring the Department of Agriculture to mitigate, by whatever means necessary,



the potential spread of a pest in an affected nursery stock or location where a high-priority pest is present, low priority pests are not under effective control, or that the holder of a full plant nursery license, temporary plant nursery license, or a small seller plant nursery license is otherwise not in compliance with certain requirements;

- (14) Inserting language allowing an applicant or person affected by the Department of Agriculture's actions in response to an affected nursery stock or location where a high-priority pest is present, low priority pests are not under effective control, or that the holder of a full plant nursery license, temporary plant nursery license, or a small seller plant nursery license is otherwise not in compliance with certain requirements to request a contested case hearing with the Department in writing within thirty days following the date of the Department's notice;
- (15) Inserting language requiring the Department of Agriculture's suspension or revocation of or refusal to issue or renew a full plant nursery license, temporary plant nursery license, or small seller plant nursery license be subject chapter 91, Hawaii Revised Statutes, and the rules adopted by the Board of Agriculture;
- (16) Deleting language that would have required the Department of Agriculture to consider certain taxa to be pests;
- (17) Deleting language that would have allowed the Department of Agriculture to designate the infested area of a pest by rules, including interim rules;
- (18) Deleting language that would have allowed the Department of Agriculture to enter into cooperative agreements with the United States Department of Agriculture and other federal, state, or county agencies to assist in the enforcement of federal quarantines;



- (19) Deleting language that would have prohibited certain articles relating to citrus pests and diseases from entering the State;
- (20) Deleting language that would have included a written agreement that serves as a permit issued by the Department of Agriculture to a person who carries out commercial activities and includes any terms or conditions the state plant regulatory official determines will slow or prevent the spread of a pest as a "compliance agreement";
- (21) Clarifying that inspectors have the authority to administratively inspect whenever the inspector has good cause to believe that the provisions of chapter 150A, Hawaii Revised Statutes, are being violated;
- (22) Replacing the term "item or material" with "article" or "articles" when referring to certain articles subject to certain conditions for importation into the State;
- (23) Inserting language establishing penalties for a person who violates conditions of importation of certain articles;
- (24) Inserting language clarifying that the Department of Agriculture is authorized to specify the flora, fauna, pest host material, and any other article, without being subject to chapter 201M, Hawaii Revised Statutes, or rulemaking requirements under chapter 91, Hawaii Revised Statutes;
- (25) Inserting language to repeal the criminal penalty for section 150A-5, Hawaii Revised Statutes;
- (26) Inserting language allowing the Department of Agriculture to submit an application seeking a change to the list of noxious weeds;
- (27) Inserting language requiring the Department of Agriculture to adopt rules and implement the Plant Nursery Licensing Program within two years;



- (28) Inserting language allowing persons to sell nursery stock without a license issued pursuant to the Plant Nursery Licensing Program in the two years before the Department of Agriculture is required to adopt rules and implement the Plant Nursery Licensing Program; and
- (29) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Agriculture and Environment and Transportation and Culture and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3237, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3237, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Agriculture and
Environment and Transportation
and Culture and the Arts,



CHRIS LEE, Chair



MIKE GABBARD, Chair



