

JAN 19 2024

A BILL FOR AN ACT

RELATING TO INVASIVE PESTS.

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

1 SECTION 1. Chapter 150A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . INVASIVE PESTS PLACARD**

5 **§150A- Definitions.** Whenever used in this part, unless
6 a different meaning clearly appears from the context, "invasive
7 pest" means any animal, insect, disease agent or other organism
8 in any stage of development that is detrimental or potentially
9 harmful to agriculture, or horticulture, or animal or public
10 health, or natural resources including native biota or has an
11 adverse effect on the environment as determined by the board of
12 agriculture.

13 **§150A- Inspection.** (a) The department shall inspect a
14 nursery, farm, or other agriculture-related business at a
15 frequency based upon the risk of spreading invasive pests as
16 determined by the department. Inspections shall be conducted in
17 response to a complaint of alleged invasive pest infestation, of



1 nearby infestations, or of infestations found in operations from
2 which pest host material may be procured, donated, or traded.

3 (b) The department may examine the records of the nursery,
4 farm, or other agriculture-related business to get pertinent
5 information regarding plants, supplies, and services purchased,
6 received, stored, or used and persons employed.

7 (c) The department may prioritize and conduct more
8 frequent inspections based upon its assessment of an
9 establishment's history of compliance with this part and the
10 establishment's potential as a spreader of invasive pests by
11 evaluating:

12 (1) Past performance, in cases of nonconformance with this
13 part;

14 (2) Past performance, in cases of complaints investigated
15 and found to be valid; and

16 (3) The hazards associated with the particular products
17 that are purchased, received, stored, and sold.

18 (d) After an inspector presents official credentials and
19 indicates an intent to conduct an inspection, the person in
20 charge of the establishment shall allow the inspector to
21 determine if the establishment is in compliance with this part



1 by allowing access to the establishment, allowing inspection,
2 and providing information and records specified in this part and
3 to which the department is entitled according to law, during the
4 establishment's hours of operation and other reasonable times.

5 (e) An inspection report shall be used to document the
6 conditions observed and any noncompliance with this part that
7 requires correction, which may include any of the following:

- 8 (1) Nonconformance with requirements of this part;
9 (2) Failure of the appropriate establishment employees to
10 demonstrate their knowledge of, and ability to perform
11 in accordance with, the procedural, monitoring,
12 verification, and corrective action practices required
13 by the department as specified by this part;
14 (3) Failure of the person in charge of the establishment
15 to provide records as required by the department for
16 determining compliance with an invasive pest
17 management plan as specified by this part; and

18 (4) Nonconformance with an invasive pest management plan.

19 (f) The department shall specify on the inspection report
20 the time frame for correction of the violations in accordance
21 with this part.



1 (g) At the conclusion of the inspection, the inspector
2 shall request a signature by the person in charge of the
3 establishment acknowledging receipt of the inspector's findings.

4 (h) Refusal to sign acknowledgment of the inspector's
5 findings shall not affect the owner or operator's obligation of
6 the establishment to correct the violations noted in the
7 inspection report within the time frames specified.

8 (i) Upon request, the department shall provide a copy of
9 the completed inspection report to the owner or operator or
10 person in charge of the establishment.

11 (j) The department shall treat the inspection report as a
12 public document and shall make the report available for
13 disclosure to a person who requests the report as provided by
14 law.

15 **§150A- Quarantine of products and self-reporting.** An
16 owner or operator of an establishment shall immediately
17 quarantine all potentially infested material on site and notify
18 the department that an imminent invasive pest hazard may exist
19 because of detection or suspected detection of the invasive
20 pest; provided that an owner or operator of an establishment may



1 be allowed to continue operations in an area of an establishment
2 that is cleared of pest infestation.

3 **§150A- Correction of violations.** (a) Except as
4 otherwise directed by the department, an owner or operator of an
5 establishment shall immediately correct a critical violation of
6 this part and implement corrective actions for an invasive pest
7 management plan provision that is not in compliance.

8 (b) Considering the nature of the potential hazard
9 involved and the complexity of the corrective action needed, the
10 department may specify a longer time frame for the owner or
11 operator of an establishment to correct critical violations or
12 invasive pest management plan deviations.

13 (c) The owner or operator shall correct all critical and
14 non-critical violations by a date and time specified by the
15 department in any inspection report or other directive from the
16 department.

17 **§150A- Verification and documentation of correction.**

18 (a) After observing at the time of inspection a correction of a
19 critical violation or an invasive pest management plan
20 deviation, the department shall enter the violation and



1 information about the corrective action on the inspection
2 report.

3 (b) After receiving notification that the owner or
4 operator of an establishment has corrected a critical violation
5 or invasive pest management plan deviation, or at the end of the
6 specified period of time, the department shall verify correction
7 of the violation, document the information on an inspection
8 report, and enter the report in the department's records.

9 **§150A- Placarding.** (a) Upon completion of an
10 inspection, the department shall post at the establishment a
11 color-coded placard indicating the compliance status of that
12 establishment. The placard shall be posted in a location
13 clearly visible to the general public and patrons entering the
14 establishment; provided that the placard shall be posted within
15 five feet of the main entrance to the establishment on a post or
16 wall in a transparent, waterproof casing; provided further that
17 the placard may be posted in an alternative location, as
18 approved by the chairperson, that ensures proper notice to the
19 general public and patrons.

20 (b) The placard shall not be defaced, marred, camouflaged,
21 hidden, or removed. It shall be unlawful to operate an



1 establishment unless the placard is posted in accordance with
2 this part, and tampering of any kind with the placard may result
3 in the immediate suspension of the business permit.

4 (c) A placard shall remain valid from the time of issuance
5 until it is removed or replaced by the department.

6 (d) The color-coded placards shall be as follows:

7 (1) A green placard shall indicate:

8 (A) Zero or one critical violation was observed
9 during an inspection, and the critical violation
10 was corrected or mitigated during the inspection;
11 or

12 (B) A follow-up inspection has verified correction of
13 all critical violations;

14 (2) A yellow placard shall indicate:

15 (A) One violation remains uncorrected; or

16 (B) Two or more critical violations were observed
17 during an inspection and additional corrective
18 action is necessary;

19 provided that a follow-up inspection may be conducted
20 within two business days to ensure all critical
21 violations are corrected or mitigated and remain



1 corrected; provided further that the yellow placard
2 shall remain posted until all critical violations are
3 corrected or mitigated to the satisfaction of the
4 chairperson; and

5 (3) A red placard shall indicate there is an immediate
6 risk of spread of invasive pests and closure of the
7 establishment is necessary to prevent spread of
8 invasive pests; provided that a red placard may be
9 posted upon a finding by the department that an
10 infestation exists; provided further that upon the
11 posting of a red placard, product and material in the
12 establishment shall be quarantined and sales shall be
13 immediately suspended.

14 (e) Critical violations of this part may include but shall
15 not be limited to:

16 (1) Failure to separate products newly imported from known
17 infested areas in contained areas for the inspections
18 and testing period;

19 (2) Failure to conduct inspections and tests for listed
20 invasive pests as indicated by the invasive pest
21 management plan; and



1 (3) Failure to treat according to best practices while
2 keeping infested products contained and separate from
3 the rest of the stock in the establishment.

4 **§150A- Quarantine and treatment.** (a) Based upon the
5 department's findings or other evidence, the chairperson or
6 chairperson's designee may quarantine products found to be a
7 potential invasive pest hazard.

8 (b) The department may attach a tag or other appropriate
9 marking to products determined to be potentially infested;
10 provided that the marking shall be removed only by the
11 department. The tag or other marking indicating that product
12 has been quarantined shall:

13 (1) Provide the department's findings and conclusions with
14 respect to the invasive pest infestation found; and

15 (2) Notify the person whose product has been quarantined
16 of the person's right to request a hearing.

17 (c) Products quarantined pursuant to this section shall
18 not be moved or used unless quarantine has been rescinded by the
19 department.

20 (d) Within seven days of the quarantine, the chairperson
21 shall:



1 (1) Extend the holding period for the period of time
2 needed to further investigate the elimination of the
3 infestation; or

4 (2) Rescind the action.

5 (e) If the owner of the product that has been quarantined
6 submits a written request to the department for a hearing to
7 contest the quarantine within seven days from the date the tag
8 or other marking was affixed to the product, the chairperson
9 shall provide a hearing as soon as practicable. At such
10 hearing, the chairperson shall:

11 (1) Determine whether the infestation on the quarantined
12 product is a hazard; and

13 (2) Issue a final order for the continued quarantine and
14 ultimate disposition of the quarantined product, or
15 rescind the action.

16 §150A- **Invasive pest management plan.** The department
17 shall establish an invasive pest management plan, as determined
18 by rule.

19 §150A- **Rules.** The department shall establish rules
20 pursuant to chapter 91 to implement the purposes of this part."



1 SECTION 2. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2024-2025 to
4 establish an invasive pest placard program pursuant to this Act.

5 The sum appropriated shall be expended by the department of
6 agriculture for the purposes of this Act.

7 SECTION 3. In accordance with section 9 of article VII of
8 the Hawaii State Constitution and sections 37-91 and 37-93,
9 Hawaii Revised Statutes, the legislature has determined that the
10 appropriations contained in H.B. No. , will cause the state
11 general fund expenditure ceiling for fiscal year 2024-2025 to be
12 exceeded by \$ or per cent. In addition, the
13 appropriation contained in this Act will cause the general fund
14 expenditure ceiling for fiscal year 2024-2025 to be further
15 exceeded by \$ or per cent. The combined total
16 amount of general fund appropriations contained in only these
17 two Acts will cause the state general fund expenditure ceiling
18 for fiscal year 2024-2025 to be exceeded by
19 \$ or per cent. The reasons for exceeding the
20 general fund expenditure ceiling are that:



- 1 (1) The appropriation made in this Act is necessary to
2 serve the public interest; and
3 (2) The appropriation made in this Act meets the needs
4 addressed by this Act.

5 SECTION 4. This Act shall take effect on July 1, 2024.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "C. L. ...", written over a horizontal dashed line.

S.B. NO. 2559

Report Title:

Invasive Species; Placard; Establishments; Inspections;
Department of Agriculture; Appropriation; Expenditure Ceiling

Description:

Establishes and appropriates funds for an invasive species placard program. Requires the department of agriculture to inspect certain establishments that are at risk of spreading invasive pests. Establishes correction and quarantine procedures.

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

