
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 . PEST PLACARD PROGRAM

5 §150A-A Definitions. As used in this part,
6 "establishment" means a nursery, farm, or other agriculture-
7 related business.

8 §150A-B Inspection; notice. (a) The department shall
9 inspect an establishment at a frequency based upon the risk of
10 spreading pests as determined by the department. Inspections
11 shall be conducted in response to a complaint of alleged pest
12 infestation, of nearby infestations, or of infestations found in
13 operations from which pest host material may be procured,
14 donated, or traded.

15 (b) The department shall give at least five days notice to
16 the owner and the operator of the establishment of its intention
17 to enter the property to inspect for pests or access information



1 and records specified in part. Written notice sent to the
2 owner's last known address by certified mail, postage prepaid,
3 return receipt requested, shall be deemed sufficient notice. If
4 certified mail is impractical because the department, despite
5 diligent efforts, cannot determine ownership or because of
6 urgent need to initiate control or eradication measures, notice
7 given once in a daily or weekly publication of general
8 circulation, in the county where any action or proposed action
9 will be taken, or notice made as otherwise provided by law,
10 shall be deemed sufficient notice. The notice shall set forth
11 the purpose and reason for the inspection and the scope of the
12 search.

13 (c) After notice as required by subsection (b), any
14 department member or agent authorized by the department may
15 enter and inspect at reasonable times the establishment to
16 inspect for pests or access information and records specified in
17 this part, being liable only for damage caused by acts beyond
18 the scope of the person's authority, or the person's negligence,
19 gross negligence, or intentional misconduct. If entry is
20 refused, the department member or any authorized agent may apply
21 to the district court in the circuit in which the property is



1 located for a warrant to enter on the premises to effectuate the
2 purposes of this part. The district court may issue a warrant
3 directing a state law enforcement officer or police officer of
4 the county in which the establishment is located to assist the
5 department member or any authorized agent in gaining entry onto
6 the premises during regular working hours or at other reasonable
7 times.

8 (d) The department may examine the records of the
9 establishment to get pertinent information regarding plants,
10 supplies, and services purchased, received, stored, or used and
11 persons employed.

12 (e) The department may prioritize and conduct more
13 frequent inspections based upon its assessment of an
14 establishment's history of compliance with this part and the
15 establishment's potential as a spreader of pests by evaluating:

- 16 (1) Past performance, in cases of nonconformance with this
17 part;
- 18 (2) Past performance, in cases of complaints investigated
19 and found to be valid; and
- 20 (3) The hazards associated with the particular products
21 that are purchased, received, stored, and sold.



1 (f) After an inspector presents official credentials and
2 indicates an intent to conduct an inspection, the person in
3 charge of the establishment shall allow the inspector to
4 determine if the establishment is in compliance with this part
5 by allowing access to the establishment, allowing inspection,
6 and providing information and records specified in this part and
7 to which the department is entitled according to law, during the
8 establishment's hours of operation and other reasonable times.

9 (g) An inspection report shall be used to document the
10 conditions observed and any noncompliance of this part that
11 requires correction, which may include any of the following:

- 12 (1) Nonconformance with requirements of this part;
- 13 (2) Failure of the appropriate establishment employees to
14 demonstrate their knowledge of, and ability to perform
15 in accordance with, the procedural, monitoring,
16 verification, and corrective action practices required
17 by the department as specified by this part;
- 18 (3) Failure of the person in charge of the establishment
19 to provide records as required by the department for
20 determining compliance with the pest management plan
21 established pursuant to section 150A-H; and



1 (4) Deviation from the pest management plan established
2 pursuant to section 150A-H.

3 (h) The department shall specify on the inspection report
4 the time frame for correction of the violations in accordance
5 with this part.

6 (i) At the conclusion of the inspection, the inspector
7 shall request a signature by the person in charge of the
8 establishment acknowledging receipt of the inspector's findings.

9 (j) Refusal to sign the acknowledgment of the inspector's
10 findings shall not affect the owner or operator's obligation of
11 the establishment to correct the violations noted in the
12 inspection report within the time frames specified.

13 (k) Upon request, the department shall provide a copy of
14 the completed inspection report to the owner or operator or
15 person in charge of the establishment.

16 (l) The department shall treat the inspection report as a
17 public document and shall make the report available for
18 disclosure to any person who requests the report as provided by
19 law.

20 **§150A-C Quarantine of products and self-reporting.** An
21 owner or operator of an establishment shall immediately



1 quarantine all potentially infested material on site and notify
2 the department that an imminent pest hazard may exist because of
3 detection or suspected detection of the pest; provided that an
4 owner or operator of an establishment may be allowed to continue
5 operations in an area of an establishment that is cleared of
6 pest infestation.

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

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

17 (c) The owner or operator of an establishment shall
18 correct all critical and non-critical violations by a date and
19 time specified by the department in any inspection report or
20 other directive from the department.



1 **§150A-E Verification and documentation of correction.** (a)

2 After observing at the time of inspection a correction of a
3 critical violation or a pest management plan deviation, the
4 department shall enter the violation and information about the
5 corrective action on the inspection report.

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

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



1 approved by the chairperson, that ensures proper notice to the
2 general public and patrons.

3 (b) The placard shall not be defaced, marred, camouflaged,
4 hidden, or removed. It shall be unlawful to operate an
5 establishment unless the placard is posted in accordance with
6 this part, and tampering of any kind with the placard may result
7 in the immediate suspension of the business permit.

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

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

11 (1) A green placard shall indicate:

12 (A) Zero or one critical violation was observed
13 during an inspection, and the critical violation
14 was corrected or mitigated during the inspection;
15 or

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

18 (2) A yellow placard shall indicate:

19 (A) One violation remains uncorrected; or



1 (B) Two or more critical violations were observed
2 during an inspection and additional corrective
3 action is necessary;
4 provided that a follow-up inspection may be conducted
5 within two business days to ensure all critical
6 violations are corrected or mitigated and remain
7 corrected; provided further that the yellow placard
8 shall remain posted until all critical violations are
9 corrected or mitigated to the satisfaction of the
10 chairperson; and
11 (3) A red placard shall indicate there is an immediate
12 risk of spread of pests and closure of the
13 establishment is necessary to prevent spread of pests;
14 provided that a red placard may be posted upon a
15 finding by the department that an infestation exists;
16 provided further that upon the posting of a red
17 placard, product and material in the establishment
18 shall be quarantined and sales shall be immediately
19 suspended.
20 (e) Critical violations of this part may include but shall
21 not be limited to:



- 1 (1) Failure to separate products newly imported from known
- 2 infested areas in contained areas for the inspections
- 3 and testing period;
- 4 (2) Failure to conduct inspections and tests for listed
- 5 pests as indicated by the pest management plan
- 6 established pursuant to section 150A-H; and
- 7 (3) Failure to treat according to best practices while
- 8 keeping infested products contained and separate from
- 9 the rest of the stock in the establishment.

10 **§150A-G Quarantine and treatment.** (a) Based upon the
11 department's findings or other evidence, the chairperson or
12 chairperson's designee may quarantine products found to be a
13 potential pest hazard.

14 (b) The department may attach a tag or other appropriate
15 marking to products determined to be potentially infested;
16 provided that the marking shall be removed only by the
17 department. The tag or other marking indicating that product
18 has been quarantined shall:

- 19 (1) Provide the department's findings and conclusions with
- 20 respect to the pest infestation found; and



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

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

6 (d) Within seven days of the quarantine, the chairperson
7 shall:

8 (1) Extend the holding period for the period of time
9 needed to further investigate the elimination of the
10 infestation; or

11 (2) Rescind the action.

12 (e) If the owner of the product that has been quarantined
13 submits a written request to the department for a hearing to
14 contest the quarantine within seven days from the date the tag
15 or other marking was affixed to the product, the board shall
16 provide a hearing as soon as practicable. At the hearing, the
17 board shall:

18 (1) Determine whether the infestation on the quarantined
19 product is a hazard; and



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

4 §150A-H Pest management plan. The department shall
5 establish a pest management plan, as determined by rule.

6 §150A-I Rules. The department shall establish rules
7 pursuant to chapter 91 to implement the purposes of this part."

8 SECTION 2. In accordance with section 9 of article VII of
9 the Hawaii State Constitution and sections 37-91 and 37-93,
10 Hawaii Revised Statutes, the legislature has determined that the
11 appropriations contained in H.B. No. , will cause the state
12 general fund expenditure ceiling for fiscal year 2024-2025 to be
13 exceeded by \$ or per cent. In addition, the
14 appropriation contained in this Act will cause the general fund
15 expenditure ceiling for fiscal year 2024-2025 to be further
16 exceeded by \$ or per cent. The combined total
17 amount of general fund appropriations contained in only these
18 two Acts will cause the state general fund expenditure ceiling
19 for fiscal year 2024-2025 to be exceeded by
20 \$ or per cent. The reasons for exceeding the
21 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 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2024-2025 to
8 establish a pest placard program pursuant to this Act.

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

11 SECTION 4. In codifying the new sections added by section
12 1 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

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



Report Title:

DOA; Invasive Species; Pest Placard Program; Establishment;
Inspections; Expenditure Ceiling; Appropriation

Description:

Establishes a pest placard program. Requires the Department of Agriculture to inspect certain establishments that are at risk of spreading pests. Establishes correction and quarantine procedures. Declares that the general expenditure ceiling is exceeded. Makes an appropriation. (SD1)

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