

JAN 19 2024

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1 PART I

2 SECTION 1. The legislature finds that invasive species are
3 a significant threat to the State's economy and natural
4 environment. Invasive species in Hawaii have damaged habitats,
5 increased wildfire risks, increased agricultural and livestock
6 production costs, and contributed to the extinction of native
7 species. To prevent and control invasive species, the State
8 must prevent their entry into the State, contain any spread, and
9 eradicate any existing infestations.

10 Accordingly, the purpose of this Act is to clarify the law
11 on the detection and management of pests and invasive species to
12 better facilitate prevention, containment, and eradication
13 efforts.

14 PART II

15 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
16 amended by adding a new section to part I to be appropriately
17 designated and to read as follows:



1 "§141- Definitions. As used in this part:
2 "Invasive species committee" means an island-based
3 voluntary partnership, organized under the university of
4 Hawaii's pacific cooperative studies unit and staffed by
5 employees of the research corporation of the university of
6 Hawaii, that works to prevent, control, or eliminate invasive
7 species, and includes the Big Island invasive species committee,
8 Kauai invasive species committee, Oahu invasive species
9 committee, Maui invasive species committee, and Molokai invasive
10 species committee."

11 SECTION 3. Section 141-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§141-2 Rules.** Subject to chapter 91, the department of
14 agriculture shall adopt, amend, and repeal rules not
15 inconsistent with law, for and concerning:

16 (1) The introduction, transportation, and propagation of
17 trees, shrubs, herbs, and other plants;

18 (2) The quarantine, inspection, fumigation, disinfection,
19 destruction, or exclusion, either upon introduction
20 into the State, or at any time or place within the
21 State, of any nursery-stock, tree, shrub, herb, vine,

1 cut-flower, cutting, graft, scion, bud, seed, leaf,
2 root, or rhizome; any nut, fruit, or vegetable; any
3 grain, cereal, or legume in the natural or raw state;
4 any moss, hay, straw, dry-grass, or other forage; any
5 unmanufactured log, limb, or timber; or any other
6 plant growth or plant product unprocessed or in the
7 raw state; any sand, soil, or earth; any live bird,
8 reptile, insect, or other animal, in any stage of
9 development, that is in addition to the so-called
10 domestic animals, which are provided for in
11 section 142-2; and any box, barrel, crate, or other
12 containers in which the articles, substances, or
13 objects have been transported or contained, and any
14 packing material or any other pest host material used
15 in connection therewith, that is or may be diseased or
16 infested with insects or likely to assist in the
17 transmission or dissemination of any insect or plant
18 disease injurious, harmful, or detrimental, or likely
19 to become injurious, harmful, or detrimental to the
20 agricultural or horticultural industries [~~or~~], the
21 forests of the State, or the public health or welfare,



1 or that is or may be in itself injurious, harmful, or
2 detrimental to the same; provided that included
3 therein may be rules governing the transportation of
4 any of the articles, substances, or objects enumerated
5 above in this section between different localities on
6 any one of the islands within the State;

7 (3) The prohibition of importation into the State, from
8 any or all foreign countries or from other parts of
9 the United States, or the shipment from one island
10 within the State to another island therein, or the
11 transportation from one part or locality of any island
12 to another part or locality of the same island, of any
13 [~~specific~~] article, substance, or object or class of
14 articles, substances, or objects [~~, among those~~
15 ~~enumerated above in this section,~~] that is diseased or
16 infested with insects or likely to assist in the
17 transmission or dissemination of any insect or plant
18 disease injurious, harmful, or detrimental or likely
19 to be injurious, harmful, or detrimental to the
20 agricultural or horticultural industries, or the

1 forests of the State, or that is or may be in itself
2 injurious, harmful, or detrimental to the same;

3 (4) The preparation by cargo carriers of manifests of
4 cargo transported into the State or between islands of
5 the State and the submission of the manifests to the
6 department;

7 (5) The establishment, maintenance, and enforcement of
8 compliance agreements with federal or state
9 departments of agriculture authorizing agriculture
10 inspectors from the state of origin in the case of
11 imports to the State, or state agricultural inspectors
12 in the case of state exports, to monitor the growing
13 and packing of plant commodities and any treatment
14 procedures to ensure compliance with quarantine laws,
15 and further authorizing the assessment of fees for
16 conducting inspections required under the compliance
17 agreement; and

18 (6) The manner in which agricultural product promotion and
19 research activities may be undertaken, after
20 coordinating with the agribusiness development
21 corporation.



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

3 SECTION 4. Section 141-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department of agriculture shall [~~designate~~]:
6 (1) Designate the coqui frog (*Eleutherodactylus coqui*),
7 coconut rhinoceros beetle (*Oryctes rhinoceros*), and
8 little fire ant (*Wasmannia auropunctata*) as [~~a pest.~~
9 All other pest designations shall be established]
10 pests for control or eradication;
11 (2) Designate other taxa as pests for control or
12 eradication by rule[~~, including~~]; and
13 (3) Set out by rule the criteria and procedures for the
14 designation of pests for control or eradication."

15 SECTION 5. Section 141-3.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§141-3.5 Control or eradication programs.** (a) The
18 department of agriculture shall develop and implement a detailed
19 control or eradication program for [~~any pest~~] each taxa
20 designated [~~in~~] as a pest for control or eradication pursuant to
21 section 141-3, using the best available technology in a manner



1 consistent with state and federal law. Each program shall
2 include actions to prevent the spread of the pest, including

3 (1) The quarantine of appropriate materials within the
4 infested area;

5 (2) Treatment to control or eradicate the pest; and

6 (3) Outreach to affected communities.

7 (b) If the department of agriculture has not developed or
8 implemented a detailed control or eradication program for a taxa
9 designated as a pest for control or eradication pursuant to
10 section 141-3 on an island where the pest is a public nuisance,
11 the applicable county, or an invasive species committee, may
12 develop and implement on the island a control or eradication
13 program for the pest.

14 ~~[-b-]~~ (c) For any pest designated by emergency rule as
15 provided in section 141-3, the department of agriculture,
16 applicable county, or invasive species committee, shall
17 implement an emergency program using the best available
18 technology in a manner consistent with state and federal law.

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



1 (1) In conjunction with the Hawaii Ant Lab, may identify
2 best practices for the treatment of little fire ants;
3 and

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

6 SECTION 6. 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, or invasive species committee shall give at
11 least five days notice to the landowner and the occupier of any
12 private property of its intention to enter the property [~~for the~~
13 ~~control or eradication of a pest.~~] to carry out a control or
14 eradication program developed under section 141-3.5, including
15 the quarantine of materials. Written notice sent to the
16 landowner's last known address by certified mail, postage
17 prepaid, return receipt requested, shall be deemed sufficient
18 notice. If certified mail is impractical because the department
19 [~~or~~], county, or invasive species committee, despite diligent
20 efforts, cannot determine land ownership or because of urgent
21 need to initiate control or eradication measures, notice given



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

7 (b) After notice as required by subsection (a), any member
8 of the department, employee of the county, or member of the
9 invasive species committee, or any agent authorized by the
10 department or county may enter at reasonable times any private
11 property other than dwelling places to [~~maintain a pest~~] carry
12 out a control or eradication program[~~, being~~] developed under
13 section 141-3.5, and shall be liable only for damage caused by
14 acts beyond the scope of the person's authority, or the person's
15 negligence, gross negligence, or intentional misconduct. If
16 entry is refused, the department member, county employee, or
17 committee member, or any authorized agent may apply to the
18 district court in the circuit in which the property is located
19 for a warrant to enter on the premises to effectuate the
20 purposes of this chapter. The district court may issue a
21 warrant directing a [~~police~~] law enforcement officer of the



1 circuit to assist the department member, county employee,
2 committee member, or any authorized agent in gaining entry onto
3 the premises during regular working hours or at other reasonable
4 times."

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

7 "**§141-6 Appeal from [~~inspector's~~] decision.** Any person
8 who feels aggrieved at any decision of the state plant
9 regulatory official, the official's designee, or any inspector
10 of the department of agriculture shall have the right to appeal
11 from the decision to the board of agriculture. The board shall
12 give a prompt hearing to the appellant and the inspector upon
13 the appeal, and decide the question at issue, which decision
14 shall be subject to judicial review as provided in chapter 91."

15 PART III

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

19 "**§150A- _____ Designation of infested and restricted areas.**

20 (a) The department may designate by rule any area infested by
21 pests. If an infested area is designated by rule, including



1 interim rule, the area may be expanded by an order of the board
2 to reflect the spread of a specific pest infestation and to
3 implement quarantine measures to prevent movement of the pest
4 and its pest host material from the infested area to restricted
5 areas; provided that:

6 (1) The board first obtains advice from qualified persons
7 with relevant expertise, but the board need not obtain
8 an advisory committee review;

9 (2) The board designates the expanded infested area,
10 identifying the revised geographical extent of the
11 infestation;

12 (3) The department issues a press release describing the
13 expansion of the infested area, prior to the effective
14 date of the designation; and

15 (4) Notice of the board's action, including its effective
16 date, is:

17 (A) Posted on the department's website within one day
18 of the board's action; and

19 (B) Published in a daily or weekly publication of
20 statewide circulation, or in separate daily or
21 weekly publications with a combined statewide



1 circulation, within twelve days of the board's
2 action.

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

6 (c) If a pest is found outside the infested area
7 designated under subsection (a), the state plant regulatory
8 official may make an emergency, temporary designation making the
9 area where the pest was found an infested area. The emergency,
10 temporary designation shall expire in thirty days or at the next
11 meeting of the board, whichever is later."

12 SECTION 9. Chapter 150A, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§150A- **Examples of pests.** (a) Taxa that are pests
16 include:

17 (1) Oriental beetle - *Anomala orientalis* Waterhouse, a
18 serious insect pest of sugarcane;

19 (2) Fern weevil - *Syagrius fulvitarisis* Pascoe, an insect
20 pest injurious to fern plants;



- 1 (3) Giant African snail - *Achatina fulica* Bowdich, a
2 serious pest of horticultural and vegetable crops;
- 3 (4) Cactus mealybug - *Dactylopius opuntiae* Cockerell and
4 other insects that feed on *Opuntia* species of cactus,
5 pests injurious to cactus utilized for forage or
6 ornamental purposes;
- 7 (5) Hunting billbug - *Sphenophorus venatus vestitus*
8 Chittenden, a serious insect pest of turf and range
9 grasses;
- 10 (6) Coconut scale - *Aspidiotus destructor* Signoret, a
11 serious insect pest of palms, bananas, and more than
12 four hundred more plants;
- 13 (7) Sugarcane smut - *Ustilago scitaminea* Syd., a serious
14 fungus disease of sugarcane;
- 15 (8) Papaya ringspot virus, a serious virus disease of
16 papaya;
- 17 (9) Orange spiny whitefly - *Aleurocanthus spiniferus*
18 Quaintance, a serious insect pest of rose and citrus;
- 19 (10) Bristly rose slug - *Cladius differmis* Panzar, a pest
20 injurious to the rose plant;



- 1 (11) Croton whitefly - *Orchamplatus mammaeferus* Quaintance
2 and Baker, a serious insect pest of croton and citrus;
- 3 (12) Anthurium whitefly - *Aleurotulus* sp., a serious insect
4 pest of anthurium;
- 5 (13) An anthurium whitefly - *Crenidorsum* sp., a serious
6 insect pest of anthurium, philodendron, and monstera;
- 7 (14) Eurasian pine aphid - *Pineus pini* Koch, a serious
8 insect pest of pine;
- 9 (15) Fiery skipper - *Hylephila phyleus* Drury, a serious
10 pest of turf and pasture grasses and ornamental
11 sedges;
- 12 (16) Taro root aphid - *Pemphigus* sp., a serious pest of
13 dryland taro;
- 14 (17) Eucalyptus canker - *Cryphonectria cubensis* Bruner
15 Hodges, a serious disease of *Eucalyptus* species;
- 16 (18) Giant salvinia - *Salvinia molesta* Mitchell;
- 17 (19) Water spangles - *Salvinia minima* Baker;
- 18 (20) Water lettuce - *Pistia stratiotes* L.;
- 19 (21) Fusarium wilt of banana - *Fusarium* spp.;
- 20 (22) Citrus huanglongbing - *Candidatus Liberibacter* spp.,
21 responsible for citrus greening;



- 1 (23) Palm lethal yellows - Candidatus Phytoplasma spp.,
2 responsible for lethal diseases of palm;
- 3 (24) Colocasia bobone disease associated virus -
4 Cytorhabdovirus colocasiae, a lethal pathogen
5 associated with alomae bobone disease of taro;
- 6 (25) Sweet potato virus disease - Sweet potato chlorotic
7 stunt virus, a lethal disease of sweet potato;
- 8 (26) Hala scale - Thysanococcus pandani Stickney, a serious
9 pest of hala, an environmentally and culturally
10 significant indigenous plant;
- 11 (27) Macadamia felted coccid - Acanthococcus ironsidei
12 (Williams, 1973), a detrimental pest to the macadamia
13 nut industry in Hawaii;
- 14 (28) Acalolepta aesthetica (Olliff), an invasive longhorn
15 beetle that attacks many plant species;
- 16 (29) Two-lined spittlebug - Prosapia bicincta (Say), a
17 serious pest of range grasses;
- 18 (30) Citrus canker - Xanthomonas citri subsp. citri, a
19 serious disease of citrus;
- 20 (31) Citrus black spot - Phyllosticta citricarpa (McAlpine)
21 Aa, a serious disease of citrus; and



1 (32) Any taxa designated as a pest for control or
 2 eradication pursuant to chapter 4-69A, Hawaii
 3 Administrative Rules, including any taxa designated as
 4 a noxious weed pursuant to chapter 4-68, Hawaii
 5 Administrative Rules.

6 (b) If the scientific name or common name of a taxon
 7 referred to in this chapter is changed to a new scientific name
 8 or common name accepted by the International Code of Zoological
 9 Nomenclature or the International Plant Names Index, the
 10 reference in this chapter shall be construed to refer to the new
 11 scientific name or common name."

12 SECTION 10. Chapter 150A, Hawaii Revised Statutes, is
 13 amended by adding a new section to be appropriately designated
 14 and to read as follows:

15 "§150A- Abatement of a public nuisance. (a) Whenever
 16 it deems necessary, the department may require an inspection of
 17 any orchards, nurseries, trees, plants, vegetables, vines or
 18 field crops or any fruit packing house, storeroom, salesroom or
 19 any other place or thing within the State.

20 (b) Any places, orchards, nurseries, trees, plants,
 21 shrubs, vegetables, vines, fruit, field crops or articles found



1 to be infested or infected with any insects or other plant pests
2 that are injurious to fruits, plants, trees, vegetables, vines,
3 grain or other field crops, or with seeds, eggs, larvae or pupae
4 of injurious insects or other pests liable to spread to other
5 places or localities, or of such a nature as to be a public
6 danger, shall be declared a public nuisance. The department
7 shall give the record owner or owners written notice that the
8 articles, things or places are infested or infected.

9 (c) Any authorized officer, employee or inspector of the
10 department may, where an urgent situation exists, abate any
11 public nuisance; provided that the officer, employee, or
12 inspector shall:

13 (1) Do as little damage as possible to the things or
14 premises on which, or in which, the nuisance exists;
15 and

16 (2) Provide subsequent notice of the abatement, by mail,
17 to the property owner or owners.

18 (d) The department shall not be liable for any loss
19 incurred during the abatement of a public nuisance pursuant to
20 this section; provided that this subsection shall not apply to



1 abatement-related losses caused by the application of a
2 pesticide in a faulty, careless or negligent manner.

3 (e) For purposes of this section, a public nuisance shall
4 include:

5 (1) A pest, other than a pest possessed or moved in under
6 a permit or compliance agreement; or

7 (2) A plant; crop; agricultural, horticultural, or forest
8 commodity; or product that is infested with or harbors
9 a pest."

10 SECTION 11. Section 150A-1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~+~~§150A-1~~+~~] **Short title.** This chapter may be cited as
13 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law"."

14 SECTION 12. Section 150A-2, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By adding six new definitions to be appropriately
17 inserted and to read:

18 "Compliance agreement" means a written agreement between
19 the department and a person who carries out commercial
20 activities and that includes any terms or conditions that the
21 state plant regulatory official determines will slow or prevent



1 the spread of a pest. A compliance agreement constitutes a
2 permit issued by the department.

3 "Infested" means harboring a pest.

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

6 "Person" means an individual, firm, corporation,
7 association, partnership or other entity, including a
8 governmental or nonprofit entity.

9 "Pest host material" means any plant, propagative plant
10 part, non-propagative plant part, soil, or any other thing that
11 is transporting or harboring a pest.

12 "Restricted area" means an island or locality within the
13 State where a specific pest is not known to be established, or
14 where an eradication or control project is being conducted by
15 the department, or another entity recognized by the state plant
16 regulatory official."

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

18 ""Pest" means [any]:

19 (1) Any plant, animal, insect, disease agent or other
20 organism in any stage of development that is
21 detrimental or potentially harmful to agriculture, or



1 horticulture, or animal or public health, or natural
2 resources including native biota or has an adverse
3 effect on the environment [as]; or

4 (2) A taxa determined by the board[-] to be a pest."

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

7 "**§150A-5 Conditions of importation.** (a) The importation
8 of any material that is infested or infected with a pest or that
9 is itself a pest is prohibited unless imported under an
10 appropriate permit or compliance agreement.

11 (b) The importation into the State of any of the following
12 articles, viz., nursery-stock, tree, shrub, herb, vine,
13 cut-flower, cutting, graft, scion, bud, seed, leaf, root, or
14 rhizome; nut, fruit, or vegetable; grain, cereal, or legume in
15 the natural or raw state; moss, hay, straw, dry-grass, or other
16 forage; unmanufactured log, limb, or timber, or any other
17 plant-growth or plant-product, unprocessed or in the raw state;
18 soil; microorganisms; live bird, reptile, nematode, insect, or
19 any other animal in any stage of development (that is in
20 addition to the so-called domestic animal, the quarantine of
21 which is provided for in chapter 142); box, vehicle, baggage, or



1 any other container in which such articles have been transported
2 or any packing material used in connection therewith shall be
3 made in the manner hereinafter set forth:

4 (1) Notification of arrival. Any person who receives for
5 transport or brings or causes to be brought to the
6 State as freight, air freight, baggage, or otherwise,
7 for the purpose of debarkation or entry therein, or as
8 ship's stores, any of the foregoing articles, shall,
9 immediately upon the arrival thereof, notify the
10 department, in writing, of the arrival, giving the
11 waybill number, container number, name and address of
12 the consignor, name and address of the consignee or
13 the consignee's agent in the State, marks, number of
14 packages, description of contents of each package,
15 port at which laden, and any other information that
16 may be necessary to locate or identify the same, and
17 shall hold such articles at the pier, airport, or any
18 other place where they are first received or
19 discharged, in such a manner that they will not spread
20 or be likely to spread any infestation or infection of
21 a pest, including insects or diseases that may be



1 present until inspection and examination can be made
 2 by the inspector to determine whether or not any
 3 article, or any portion thereof, is infested or
 4 infected with or contains any pest. The department
 5 may adopt rules to require identification of specific
 6 articles on negotiable and non-negotiable warehouse
 7 receipts, bills of lading, or other documents of title
 8 for inspection of pests. In addition, the department
 9 shall adopt rules to designate restricted articles
 10 that shall [~~require~~]:

- 11 (A) [~~A~~] Require a permit from the department in
 12 advance of importation; [~~or~~]
- 13 (B) [~~A~~] Require a department letter of authorization
 14 or registration in advance of importation[~~-~~]; or
- 15 (C) Be imported pursuant to a compliance agreement.

16 The restricted articles shall include but not be
 17 limited to certain microorganisms or living insects.
 18 Failure to obtain the permit, letter of authorization,
 19 or registration in advance is a violation of this
 20 section;

- 21 (2) Individual passengers, officers, and crew.



1 (A) It shall be the responsibility of the
2 transportation company to distribute, prior to
3 the debarkation of passengers and baggage, the
4 State of Hawaii plant and animal declaration form
5 to each passenger, officer, and crew member of
6 any aircraft or vessel originating in the
7 continental United States or its possessions or
8 from any other area not under the jurisdiction of
9 the appropriate federal agency in order that the
10 passenger, officer, or crew member can comply
11 with the directions and requirements appearing
12 thereon. All passengers, officers, and crew
13 members, whether or not they are bringing or
14 causing to be brought for entry into the State
15 the articles listed on the form, shall complete
16 the declaration, except that one adult member of
17 a family may complete the declaration for other
18 family members. Any person who defaces the
19 declaration form required under this section,
20 gives false information, fails to declare
21 restricted articles in the person's possession or



1 baggage, or fails to declare in cargo manifests
2 is in violation of this section;

3 (B) Completed forms shall be collected by the
4 transportation company and be delivered,
5 immediately upon arrival, to the inspector at the
6 first airport or seaport of arrival. Failure to
7 distribute or collect declaration forms or to
8 immediately deliver completed forms is a
9 violation of this section; and

10 (C) It shall be the responsibility of the officers
11 and crew of an aircraft or vessel originating in
12 the continental United States or its possessions
13 or from any other area not under the jurisdiction
14 of the appropriate federal agency to immediately
15 report all sightings of any plants and animals to
16 the plant quarantine branch. Failure to comply
17 with this requirement is a violation of this
18 section;

19 (3) Plant and animal declaration form. The form shall
20 include directions for declaring domestic and other

1 animals cited in chapter 142, in addition to the
2 articles enumerated in this chapter;

3 (4) Labels. Each container in which any of the above-
4 mentioned articles are imported into the State shall
5 be plainly and legibly marked, in a conspicuous manner
6 and place, with the name and address of the shipper or
7 owner forwarding or shipping the same, the name or
8 mark of the person to whom the same is forwarded or
9 shipped or the person's agent, the name of the
10 country, state, or territory and locality therein
11 where the product was grown or produced, and a
12 statement of the contents of the container. Upon
13 failure to comply with this paragraph, the importer or
14 carrier is in violation of this section;

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

18 (A) Conduct inspections on the pier, vessel,
19 aircraft, or in any quarantine area, of any
20 persons, baggage, cargo, and any other articles
21 destined for movement between the islands of



1 Hawaii or being imported into the State from the
2 continental United States, Guam, Puerto Rico, or
3 the United States Virgin Islands, for purposes of
4 determining whether a regulated or restricted
5 insect, pest, disease, or taxa is present; and
6 [-(A)] (B) Enter and inspect any aircraft, vessel, or
7 other carrier at any time after its arrival
8 within the boundaries of the State, whether
9 offshore, at the pier, or at the airport, and
10 enter into or upon any pier, warehouse, or any
11 other place in the State, for the purpose of
12 ~~[determining whether any of the articles or pests~~
13 ~~enumerated in this chapter or rules adopted~~
14 ~~thereto, is present,]~~ conducting an inspection
15 pursuant to subparagraph (A);

16 [-(B)] ~~Enter into or upon any pier, warehouse, airport,~~
17 ~~or any other place in the State where any of the~~
18 ~~above mentioned articles are moved or stored, for~~
19 ~~the purpose of ascertaining, by inspection and~~
20 ~~examination, whether or not any of the articles~~
21 ~~is infested or infected with any pest or disease~~



1 ~~or contaminated with soil or contains prohibited~~
2 ~~plants or animals; and~~
3 ~~(C) Inspect any baggage or personal effects of~~
4 ~~disembarking passengers, officers, and crew~~
5 ~~members on aircraft or vessels arriving in the~~
6 ~~State to ascertain if they contain any of the~~
7 ~~articles or pests enumerated in this chapter. No~~
8 ~~baggage or other personal effects of the~~
9 ~~passengers or crew members shall be released~~
10 ~~until the baggage or effects have been passed.~~
11 ~~Baggage or cargo inspection shall be made at the~~
12 ~~discretion of the inspector, on the pier, vessel, or~~
13 ~~aircraft or in any quarantine or inspection area.~~
14 ~~Whenever the inspector has good cause to believe~~
15 ~~that the provisions of this chapter are being~~
16 ~~violated, the inspector may require that any box,~~
17 ~~package, suitcase, or any other container carried as~~
18 ~~ship's stores, cargo, or otherwise by any vessel or~~
19 ~~aircraft moving between the continental United States~~
20 ~~and Hawaii or between the Hawaiian Islands, be opened~~
21 ~~for inspection to determine whether any article or~~



1 ~~pest prohibited by this chapter or by rules adopted~~
2 ~~pursuant thereto is present. It is a violation of~~
3 ~~this section if any prohibited article or any pest or~~
4 ~~any plant, fruit, or vegetable infested with plant~~
5 ~~pests is found;]~~

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

15 (A) Giving the following additional information:

16 (i) The kind (scientific name), quantity, and
17 description;

18 (ii) The locality where same were grown or
19 produced;

20 (iii) Certification that all animals to be
21 imported are the progeny of captive



- 1 populations or have been held in captivity
2 for a period of one year immediately prior
3 to importation or have been specifically
4 approved for importation by the board;
- 5 (iv) The port from which the same were last
6 shipped;
- 7 (v) The name of the shipper; and
- 8 (vi) The name of the consignee; and
- 9 (B) Containing:
- 10 (i) A request that the department, by its duly
11 authorized agent, examine the articles
12 described;
- 13 (ii) An agreement by the importer to be
14 responsible for all costs, charges, or
15 expenses; and
- 16 (iii) A waiver of all claims for damages incident
17 to the inspection or the fumigation,
18 disinfection, quarantine, or destruction of
19 the articles, or any of them, as hereinafter
20 provided, if any treatment is deemed
21 necessary.



1 Failure or refusal to file a statement, including
2 the agreement and waiver, is a violation of this
3 section and may, in the discretion of the department,
4 be sufficient cause for refusing to permit the entry
5 of the articles into the State;

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



1 inspection at [~~such~~] the place is appropriate, the
2 department may require payment of costs necessitated
3 by these inspections, including overtime costs;

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



1 and completely eradicated, or if it is a potentially
2 destructive pest or it is not widespread in the State,
3 or after treatment it is determined that the
4 infestation or infection is not completely eradicated,
5 or if the owner or the owner's agent refuses to allow
6 the ~~[article]~~ item or material to be treated or to be
7 responsible for the cost of treatment and quarantine,
8 the ~~[article]~~ item or material, or any portion
9 thereof, together with all packing and containers,
10 may, at the discretion of the inspector, be destroyed
11 or sent out of the State at the expense of the owner
12 or the owner's agent. ~~[Such]~~ The destruction or
13 exclusion shall not be made the basis of a claim
14 against the department or the inspector for damage or
15 loss incurred;

- 16 (9) Disposition. Upon completion of inspection, either at
17 the time of arrival or at any time thereafter should
18 any ~~[article]~~ item or material be held for inspection,
19 treatment, or quarantine, the inspector shall affix to
20 the ~~[article]~~ item or material or the container or to
21 the delivery order in a conspicuous place thereon, a



1 tag, label, or stamp to indicate that the [article]
2 item, material, or container has been inspected and
3 passed. This action shall constitute a permit to
4 bring the [article] item, material, or container into
5 the State; and

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

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

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



1 department may be released upon issuance of a permit approved by
2 the board."

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

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

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

16 2. By amending subsection (d) to read:

17 "(d) Noxious weeds may be imported only for research, by
18 permit, and shall not be offered for sale [~~or~~], sold, or
19 transported within in the State."

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



1 "**§150A-8 Transporting in State.** [~~Flora and~~] (a) No
2 flora, fauna, pest host material, or other item or material
3 specified by [~~rules and regulations of~~] the department shall
4 [~~not~~] be moved from one island to another island within the
5 State or from one locality to another on the same island except
6 by a permit issued by the department[~~-~~] or pursuant to a
7 compliance agreement approved by the department.

8 (b) No pest shall be transported, harbored, reared, or
9 bred in the State.

10 (c) No pest host material that is infested or infected
11 with an insect, disease, or pest shall be transported between
12 islands or from one part or locality of any island to another
13 part or locality of the same island, unless:

14 (1) Fumigated, treated with pesticide, or otherwise
15 treated, as determined by the state plant regulatory
16 official; or

17 (2) Approved by the state plant regulatory official for
18 transport to an island or location where the pest is
19 known to be established.

20 (d) Notwithstanding subsections (a), (b), and (c), any
21 pest or plant, plant parts, soil, or pest host material infested



1 or infected with a pest may be transported without inspection
2 between islands or between parts or localities of the same
3 island:

4 (1) By the department for diagnostics, research, testing,
5 or educational purposes; or

6 (2) By an institution approved by the board, a government
7 agency, or a university for research, testing, or
8 educational purposes; provided that the destination
9 site shall be inspected and approved by the state
10 plant regulatory official prior to transport.

11 (e) The state plant regulatory official may prohibit the
12 movement of any pest host material that is offered for sale,
13 barter, or donation or otherwise to be given away to the public
14 if the official determines that the pest host material is
15 infested or infected with an insect, disease, or pest. The state
16 plant regulatory official may compel the treatment or
17 destruction of the material as set out in subsection (c). If
18 the material was, or is, stored in an area that is infested or
19 infected with an insect, disease, or pest, then the official may
20 require appropriate treatment of the area prior to authorizing
21 the movement of the material.



1 (f) Pest host material subject to the prohibition in
2 subsection (e) shall be:

3 (1) Treated to eradicate the insect, disease, or pest, as
4 approved and supervised by the state plant regulatory
5 official;

6 (2) Destroyed using a method approved and supervised by
7 the state plant regulatory official; or

8 (3) If not treated or destroyed:

9 (A) Transported only pursuant to a permit issued by
10 the state plant regulatory official; or

11 (B) Subjected to any other disposition approved by
12 the state plant regulatory official, including
13 the transportation of untreated infested or
14 infected pest host material or an insect,
15 disease, or pest to an island or location where
16 the insect, disease, or pest is known to be
17 established.

18 (g) The State shall not be liable for any economic losses
19 or damages related to any actions taken by the department
20 pursuant to this section, including any treatment, quarantine,
21 or the destruction of any item."



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PART IV

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

INTRODUCED BY: 



S.B. NO. 2898

Report Title:

Invasive Species; Pests

Description:

Clarifies the law on the detection and management of pests and invasive species.

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

