
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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 section to part VI to be appropriately
3 designated and to read as follows:

4 "§150A- Biosecurity emergency. (a) The department,
5 with the approval of the governor, may declare a biosecurity
6 emergency if:

7 (1) There has been in the State an outbreak or occurrence
8 of a pest or prohibited or restricted organism that
9 has the potential to cause significant economic or
10 environmental loss if the pest or organism becomes
11 established in the State;

12 (2) There is established in one area of the State a pest
13 or prohibited or restricted organism that has the
14 potential to cause significant economic or
15 environmental loss if the pest or organism becomes
16 established in another area of the State; or



1 (3) A pest or prohibited or restricted organism is, or
2 threatens to be, beyond the State's ability to
3 control.

4 (b) A biosecurity emergency shall automatically terminate
5 one hundred calendar days after its declaration, unless the
6 declaration is extended by the department with the approval of
7 the governor.

8 (c) For the purposes of a declared biosecurity emergency:

9 (1) The department shall be exempt from chapter 103D;

10 (2) The Hawaii invasive species council shall report
11 directly to the chairperson of the board of
12 agriculture; and

13 (3) The governor may transfer moneys to the department
14 from any account within the governor's control.

15 (d) The governor may requisition and take over any goods,
16 real property, or watercraft required for the purposes of this
17 section, or requisition and take over the temporary use thereof,
18 provided that:

19 (1) The requisition shall be made by serving notice upon
20 any person found in occupation of the premises or
21 having the property in the person's custody,



1 possession, or control and a like notice shall also be
2 served upon any person who has filed with the
3 governor, or with a person the governor designates for
4 the purpose, a request for notice with respect to the
5 property; provided that if any person entitled to
6 compensation for the property is unable to be served
7 in the aforesaid manner, the governor shall publish a
8 notice of the requisition at the earliest practicable
9 date; and

10 (2) A requisition shall terminate automatically one
11 hundred days after the declaration of a biosecurity
12 emergency, or by a separate proclamation of the
13 governor, whichever occurs first.

14 (e) If the governor requisitions and takes over any
15 property or the temporary use thereof, the owner, or other
16 person entitled thereto, shall be paid a sum, determined by the
17 governor to be fair and just compensation for the property or
18 use, within twenty days after the property has been
19 requisitioned and taken, or in monthly or lesser installments if
20 the property is taken for temporary use.



1 If any person is unwilling to accept the sum determined by
2 the governor as full and complete compensation for the property
3 or property use, the person shall be paid seventy-five per cent
4 of that sum and may sue the State for an additional sum that,
5 when added to the sum already received by the person, the person
6 may consider fair and just compensation for the property or
7 property use, in the manner provided by chapter 661 for actions
8 against the State; provided that any suit under this section
9 shall be instituted within two years after the requisition in
10 the case of the taking of real property in fee simple, or within
11 one year after the requisition in all other cases, subject to
12 sections 657-13 to 657-15, which are hereby made applicable to
13 the suit; provided further that no more than six months shall be
14 allowed for the bringing of a suit after the appointment of a
15 conservator of a person under disability, or the removal of the
16 disability, or after the appointment of personal
17 representatives; and provided further that recovery shall be
18 confined to the fair market value of the property or its fair
19 rental value, as the case may be, without any allowance for
20 prospective profits, or punitive or other damages. If the owner
21 of property, or other person entitled to compensation for the



1 requisitioning of property or use thereof, is under a
2 disability, or has died, and no conservator or personal
3 representative has been appointed, the State, acting through the
4 attorney general, may apply for the appointment of a conservator
5 or for the appointment of a personal representative.

6 (f) The governor shall appoint a board of three
7 disinterested certified appraisers with whom may be filed any
8 claim for damages arising out of any failure to return private
9 property, the temporary use of which was requisitioned, or which
10 was leased, or any claim for damages arising out of the
11 condition in which the private property is returned. No claim
12 may be filed for deterioration of property resulting from
13 ordinary wear and tear, and not for any deterioration or damage,
14 except any that is shown to have resulted from the taking or use
15 of the property; provided that any claim shall be filed within
16 thirty days after the return of the property or after the
17 governor proclaims that all private property has been returned
18 to the owners, whichever is earlier. The decision of the
19 appraisers shall be final and binding upon the governor and the
20 claimant. Either party may file a petition in the circuit court,
21 within sixty days after the rendering of a decision of the



1 board, praying for the decision of the court upon the
2 claim. The petition, if filed by the State, shall be entitled
3 in the name of the State, by the attorney general, and shall be
4 heard and decided by the circuit court without the intervention
5 of a jury. If filed by any other party, the petition shall be
6 filed, heard, and decided in the manner provided for suits
7 against the State. Appellate review may be had, subject to
8 chapter 602, in the manner provided for civil appeals from the
9 circuit courts. The court may order the joinder of other
10 parties or may allow other parties to intervene. Any award that
11 has become final shall be paid out of any funds available under
12 this chapter and, if not sufficient, out of the general revenues
13 of the State as appropriated or out of the general revenues of
14 the county as appropriated."

15 SECTION 2. Section 150A-52, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§150A-52[+] Objectives of biosecurity program. The
18 objectives of the biosecurity program shall be to:

19 (1) Establish a multi-dimensional system to survey for and
20 prevent the entry into the State and interisland



1 movement of pests and prohibited or restricted
 2 organisms without a permit; and
 3 (2) Respond effectively to eradicate, control, reduce, and
 4 suppress incipient pest populations and established
 5 pests and seize and dispose of prohibited or
 6 restricted organisms without a permit."

7 SECTION 3. Section 150A-53, Hawaii Revised Statutes, is
 8 amended to read as follows:

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

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



1 destroy, or exclude as appropriate, articles that may
2 harbor pests or prohibited or restricted organisms or
3 exclude articles that are prohibited or restricted
4 without a permit, with the goals of:

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

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

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

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



- 1 (5) Improve cargo inspection capabilities and methods,
2 including enhancement of the content and submission
3 requirements for cargo manifests and agricultural
4 commodity ownership and movement certificates;
- 5 (6) Require agricultural commodity importers to:
- 6 (A) Report to the department any pests that are known
7 or suspected to be present in imported products;
- 8 (B) Protect and contain all imported products to
9 prevent an infestation of pests; and
- 10 (C) Ensure that no product known or suspected to be
11 infested by pests is offered for sale or
12 exhibition;
- 13 [~~6~~] (7) Promote the production of agricultural
14 commodities in the State to reduce cargo shipments of
15 imported commodities into the State; and
- 16 [~~7~~] (8) Provide public education on the negative effects
17 of pests and prohibited or restricted organisms
18 without a permit, to the environment and economy of
19 the State.
- 20 (b) For purposes of the biosecurity program, the
21 department may:



1 (1) Subpoena any necessary documentation from agricultural
2 commodity importers relating to a known or suspected
3 infestation of a pest or prohibited or restricted
4 organism;

5 (2) Quarantine any farm, facility, or business that is
6 known to be infested with a pest or prohibited or
7 restricted organism to prevent the movement of
8 materials to or from the location; and

9 (3) Declare a biosecurity emergency pursuant to section
10 150A-_____.

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

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.



Report Title:

HDOA; Agriculture; Pests; Biosecurity Emergency

Description:

Authorizes the Department of Agriculture to declare a biosecurity emergency in certain circumstances and with the approval of the Governor. Outlines the terms of a declared biosecurity emergency. Requires the Department to implement certain requirements for agricultural commodity importers. Authorizes the Department to subpoena necessary documentation from agricultural commodity importers relating to a known or suspected infestation of pests. Authorizes the Department to quarantine any farm, facility, or business that is known to be infested with pests. (SD2)

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