

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
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**WRITTEN ONLY
TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON WAYS AND MEANS
AND COMMERCE AND CONSUMER PROTECTION**

**APRIL 2, 2024
10:45 AM
CONFERENCE ROOM 211 & VIDEOCONFERENCE**

**HOUSE BILL NO. 2136, HD2, SD1
RELATING TO AGRICULTURE**

Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and Members of the Committees:

Thank you for the opportunity to testify on House Bill 2136, HD2, SD1 relating to agriculture. The bill requires the Department of Agriculture to establish and implement a pesticide inspection program to increase compliance with the proper use of restricted use pesticides by agricultural producers. The Department respectfully offers comments on this bill.

Through the delegated authority of the U.S. Environmental Protection Agency and the authority granted by HRS 149A, the Pesticides Branch implements an inspection and compliance program to regulate the use, distribution, licensing, and certification of pesticides and pesticide applicators statewide. The Department currently has a fully functioning "pesticide inspection program" which inspects and regulates both restricted use (RUP) and general use pesticides.

All pesticide inspection results and actions are available through filing a Uniform Information Practices Act request or in summary at the following link:

<https://hdoa.hawaii.gov/pi/pest/pesticides-reports/>.



Section 1(b)(2) notes development of an online reporting tool for restricted use pesticides. The Department is unsure of the intent of this reporting tool. The Department has already developed an online RUP use reporting mobile application and portal and plans to conduct more effective outreach to promote the application, as staffing increases allow.

We respectfully request the following changes:

Amend (2) to read, "Provide outreach to certified applicators for the current online RUP use reporting mobile application, with the summary data available to the public."

Delete (c) as the Department currently has the results summarized at the following link:

<https://hdoa.hawaii.gov/pi/pest/pesticides-reports/>

Thank you for the opportunity to testify on this measure.



Food+ Policy Internship 2024

food@purplemaia.org

February 22, 2024

To: Chairs Nakashima and Dela Cruz, Vice-Chairs Sayama and Moriwaki, and both the Members of the Senate Committee on Consumer Protection and Commerce and Senate Committee on Ways and Means

Subject: **IN SUPPORT** of *HB2136 HD2, Relating to Agriculture*

Aloha mai kākou,

We, Hawai'i Food+ Policy, are writing to express our strong support of HB2136, which suggests the introduction of a Pesticide Inspection Program in Hawaii. This proposal is a vital stride towards ensuring the correct application of pesticides in agriculture, which concerns public health, helps preserve the environment, and enhances transparency within the farming sector.

With a pesticide inspection program in the State of Hawai'i, will show an increased effort in the support of our local farmers. This program will empower farmers with the necessary resources and knowledge to adhere to pesticide regulations and correct usage. By offering farmers access to such tools and information, the program not only bolsters compliance but also fosters a culture of ethical agricultural practices in our pae 'āina. Hawaii's commitment to a prosperous agricultural sector will be greatly evident in this initiative, which will additionally address local demands from the residents of the state.

By implementing this program, the state showcases its dedication to sustainability, ensuring that our agricultural practices not only thrive but also prioritize the well-being of our environment and communities.

Mahalo for your time and attention on this important issue.

Sincerely

Kawika Kahiapo + Hawaii Food+ Policy Team

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2024, the cohort of interns are undergrads and graduate students from throughout the UH System. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.



Food+ Policy Internship 2024

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P.O. Box 253, Kunia, Hawai'i 96759
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e-mail info@hfbf.org; www.hfbf.org

April 2, 2024

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
and
SENATE COMMITTEE ON WAYS AND MEANS

**TESTIMONY ON HB 2136 HD2 SD1
RELATING TO AGRICULTURE**

Conference Room 211 & Via Videoconference
10:45 AM

Aloha Chairs Keohokalole and Dela Cruz, Vice Chairs Fukunaga and Moriwaki, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

HFB understands the legislature's desire to increase compliance with pesticide laws and to develop an online reporting tool for restricted use pesticides, with information available to the public.

We appreciate the modifications made in this Senate Draft 1 and respectfully offer the following important amendments for clarification and to ensure due process regarding information published on the HDOA website.

On page 1, line 14-15:

(1) Develop a system to conduct periodic inspections [~~annually~~] or in response to a complaint to determine if any violations of section 149A-31(3), (4), or (7) were committed; and

On page 2, lines 1 through 6:

(2) Develop an online reporting tool for restricted use pesticides, with [~~the~~] a summary of data available to the public.

(c) The department shall post the results of [~~all~~] pesticide inspections conducted pursuant to this section on the department's website [~~and update the results upon completion of each inspection~~] upon completion of a final order issued by the department for violation of this section or any rules adopted pursuant to this section [~~of completion of each inspection~~].

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawai'i's agricultural community.



**Senate Committee on Commerce and Consumer Protection / Senate Committee
on Ways and Means**

Hawai'i Alliance for Progressive Action (HAPA) Comments: HB2136 HD2 SD1

Tuesday, April 2nd, 2024 10:45a.m. Conference Room 211

Aloha Chairs Keohokalole/Dela Cruz, Vice Chairs Fukunaga/Moriwaki and Members of the Committees,

HAPA supports the intent of HB2136 HD2 SD1 and submits comments suggesting the following amendments.

While HAPA supports the legislature providing the Pesticide Branch of DOA with more authority for regulatory inspections to be mandatory (without the ability for users to refuse inspection) we don't see how this bill will do anything outside of what the department's existing programs and capacity already are.

This is the only measure still alive this session related to pesticide regulation and seems to tell the department to do what it's already doing, providing little to no relief for impacted communities in close proximity to significant pesticide drift. Despite over a decade of community efforts to pass measures to provide meaningful Restricted Use Pesticides (RUP) use disclosure and protective RUP buffer zones Hawai'i's communities are still lacking critical information and public health protections.

We humbly ask you to consider incorporating the following amendments:

Include RUP Disclosure Provisions from SB3316:

SB3316 would have provided the level of geographic specificity of RUP usage reporting needed to conduct epidemiological/public health studies. California leads the nation in pesticide related epidemiological/public health studies because RUP users are required to report within a square mile of application. This level of geographic specificity is required to study the potential health impacts of RUP usage on adjacent communities. Multiple health experts, pediatricians, former EPA pesticide investigators and the American Academy of Pediatrics have testified in support of this level of specificity in reporting for many years. SB3316 and similar measures in past years have received the overwhelming support of public health and medical experts.

Suggested amendments:

- *Requiring quarterly rather than annual reporting of all use of restricted use pesticides;*



- *Amending the contents of the reports to include detailed geospatial information and increased detail and uniformity regarding the amount of product and chemicals applied; and*
- *Requiring the department of agriculture to develop an online reporting tool for restricted use pesticides.*

The department shall adopt rules pursuant to chapter 91 requiring that the [annual] quarterly reports include the following information: A listing, by federal and state registrations or permit numbers, commercial product names, and active ingredients, of all restricted use pesticides used;

The total quantities used for each restricted use pesticide; listed by type in pounds of active ingredient applied and percentage of active ingredient found in any restricted use pesticide applied;

A [general] detailed description of the geographic location, including, at a minimum[, the]:

- *Geospatial data and information up to an area of one square mile; and*
- *The tax map key number, at which the restricted use pesticides were used; and*
- *The date on which the restricted use pesticide application occurred."*

The department shall produce a summary, for public disclosure, by county, that includes:

- *The total quantities used, by federal and state registrations or permit numbers, commercial product names, and active ingredients, for each restricted use pesticide used[; and], including a breakdown by type in pounds of active ingredient applied and percentage of active ingredient found in any restricted use pesticide applied;*
- *The amount of area in the county in which the restricted use application occurred[.]; and*
- *Geospatial data and information up to an area of one square mile where the restricted use pesticide application occurred."*

Include Buffer Zone Provisions from SB3315:

The ½ mile buffer zone provisions in SB3315 are informed by public health studies on pesticide drift. Certain pesticides used in Hawai'i are known to drift and cause public health impacts at over ½ mile¹². Some of the most heavily used RUP's in Hawaii (according to the HDOA reported 2019 RUP data) are fumigants which are highly prone to drift and known carcinogens. The ½

¹ Soo-Jeong Lee et al. "Acute Pesticide Illnesses Associated with Off-Target Pesticide Drift from Agricultural Applications: 11 States, 1998–2006" Environmental Health Perspectives [2011]

² J. Milton Clark PhD, October 3rd 2021, Pesticide Buffer Zones Are Needed Near Schools and Day Care Centers (Attached)



mile buffers would provide some level of public health protections for communities living adjacent to heavy fumigant usage in Central/North Shore O'ahu and Upcountry Maui.

A wealth of data shows that pesticides drift much further than ½ mile beyond their target application due to wind, dust migration and volatilization. For example, one national report³ on drift-related pesticide poisonings found that in eleven states, 85 percent of people impacted would have been protected by a one-mile buffer zone, and 76 percent of the cases occurred at distances more than one-quarter mile from the application site.

A UC Berkeley CHAMACOS study⁴ documented chlorpyrifos, (now banned in Hawaii, California and New York) in homes up to 1.8 miles from treated fields. Another UC Davis MIND Institute⁵ study documented significantly increased rates of autism in children of mothers who lived up to one mile from treated fields during pregnancy. The California Childhood Leukemia study⁶ found elevated concentrations of several pesticides in dust of homes up to three-quarters of a mile from treated fields.

Suggested amendments:

- *Prohibit restricted use pesticides from being applied within one-half mile of schools or state or county public parks.*

Without the incorporation of the amendments above we cannot support the measure in its current state. We are concerned that the passage of the measure as it gives communities a false sense that they are being meaningfully protected from pesticide drift.

Please consider the urgent need to create a structure for reporting that collects usable pesticide use data and provides actual public health protection mechanisms for communities.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick
Executive Director

³ Soo-Jeong Lee et al. "Acute Pesticide Illnesses Associated with Off-Target Pesticide Drift from Agricultural Applications: 11 States, 1998–2006" Environmental Health Perspectives [2011]

⁴ Harney et al. "Pesticides in Dust from Homes in an Agricultural Area" American Chemical Society, Oct 2006

⁵ Shelton et al. "Neurodevelopmental Disorders and Prenatal Residential Proximity to Agricultural Pesticides: The CHARGE Study" Environmental Health Perspectives, Oct. 2014

⁶ Gunier et al. "Determinants of Agricultural Pesticide Concentrations in Carpet Dust" Environmental Health Perspectives, July 2011

Date: October 3, 2021 (**DRAFT**)

Subject: Pesticide Buffer Zones Are Needed Near Schools and Day Care Centers

From: J. Milton Clark, Ph.D.

Former Senior Health and Science Advisor
U.S. Environmental Protection Agency, Region 5, Chicago
Former Associate Professor of Environmental and
Occupational Health Sciences
University of Illinois School of Public Health

I served as a pro bono expert to the Joint Fact Finding on Pesticide Use and GMOs in Kauai. While with U.S. EPA and the University of Illinois School of Public Health, I conducted over one hundred investigations and risk analyses dealing with exposure to pesticides and toxic chemicals.

To prevent autism and other neurological impacts to children the use of restricted pesticides needs to be prohibited within ½ mile of schools and day care centers. *Published literature by leading academic institutions, some of it funded by EPA, demonstrates that a ½ mile buffer zone is required to provide adequate health protection for children.*

Several studies have shown that proximity to agricultural fields at distances up to 0.9 mile results in maternal exposure to pesticides that is associated with neurological deficits in children, including autism, autism spectrum disorders, and cognitive impairments (1-6, 31-36). *The science is especially strong that children living within ¼ mile of agricultural fields show neurological impacts.* This science is based upon a statistical relationship with the amounts of pesticides in maternal umbilical cord blood or urine and the severity of adverse neurological health effects in their children.

In 2018, California passed regulations to restrict the application of *all* agriculturally applied pesticides within ¼ mile of schools and day care centers during the hours of 6 am to 6 pm and when schools are open. While an important step forward, the California's regulation did not go far enough. California decision was primarily based on pesticide incidences of airborne drift causing acute health effects. The California regulations include aerial spraying and also for pesticides applied using ground air blast sprayers and sprinklers. Pesticides as fumigants, powders and dusts are also subject to the ¼ mile restriction. Hawaii has a very limited data base on pesticide incidents as compared to California lands, so consideration of the California data is not unreasonable. However, the California regulatory approach provides limited protection as it is primarily based upon acute health effects.

Agricultural Pesticide Drift Occurs at Distances Up to 0.8 mile from Fields Causing Adverse Pesticide Health Effects in Children

While EPA defines spray drift as pesticides that are carried off target as mists, droplets or powders, it has been well documented that pesticides in agricultural soils and dusts are transported from fields at distances greater than ¼ mile, including as shown in homes photographed in Waimea, Hawaii (7,8,9,34-37). Pesticides are also transported by their volatilization from soils. Homes within 0.8 mile of agricultural fields have higher concentrations of pesticides than homes at greater distances (34). An analysis of several household pesticide dust studies revealed detectable residues of chlorpyrifos and other pesticides at distances up to 0.7 mile from fields and a statistically significant increase in pesticide levels within homes based upon proximity to agricultural fields (35). More importantly, health effects adverse health effects can be found at such distances. In a Berkeley study partially funded by U.S. EPA, proximity to agricultural fields were associated with a reduction in child IQ at distances up to 0.6 mile (31,32,34,36).

California's ¼ Mile Regulation

Lee et al., evaluated 2,945 acute cases of pesticide illnesses associated with 643 drift events in eleven states (37). California used the work of Lee to develop regulations for schools and day care centers (38). 1,565 (53%) of the acute cases were non-occupational and approximately 400 cases involved were children. Drift was defined as “pesticide exposures outside their intended area of application by: (1) spray, mist, fumes, or odor during application; (2) volatilization, odor from a previously treated field, or migration of contaminated dust; and (3) residue left by offsite movement. *Soil fumigation was responsible for the largest number of cases (738) with 606 (82%) occurring greater than 0.25 miles from the application site.* In 2012 EPA implemented new regulations for soil fumigants (size of field, distance, and 36 hour time for re-entry) that may reduce cases of acute exposure.

California's Department of Pesticide Regulation (DPR) considered (1) pesticide drift episodes causing acute cases near schools (2) greater neurological sensitivity of children to pesticides, including some epidemiological findings and (3) pesticide air monitoring data to implement the ¼ mile pesticide application restriction (between the hours of 6 am and 6pm or when schools are in session) (38). The primary basis for passing the regulations are as follows:

- From 2005-2014, California documented 34 cases of pesticide caused acute illnesses at schools related to five episodes of pesticide drift.
- DPR concluded that if the ¼ mile regulation had been in effect these pesticide related illnesses at schools would not have occurred.

- DPR concluded that a margin of safety for school children was required to reduce the chances of unintended pesticide drift caused by sudden change of weather conditions or equipment failure.
- DPR found that the costs of the ¼ mile regulation (with 3,500 schools possibly impacted) to each agricultural grower were low, ranging from \$1,300-\$3,500 per year. No significant impacts were found on jobs or small businesses.

Is a ¼ Mile Part Time Restriction Strong Enough?

While an important step forward, the California ¼ mile regulation does not adequately protect the developing child, infants, and young children from chronic lower level pesticide exposures that have known health impacts. The California regulation only applies part time (while teachers and children are at school) and does not fully address pesticide exposures caused by volatilization and the transport of pesticides from agricultural soils and dusts. Infants and children are exposed to pesticides in dusts and soils by hand to mouth contact in addition to breathing vapors.

To protect Hawaiian women and children, restricted use pesticides should not be applied within ½ mile of any occupied structures, including residential structures. The science shows adverse health effects in children up to distances of 0.6 mile from agricultural fields and agriculturally used pesticides in household dusts (7-9, 31-36).

There has often been discussion of a 100 foot spray buffer for schools and day care centers. A 100 foot buffer zone is scientifically insupportable and grossly inadequate. The minimum distance should be ¼ mile and ½ mile is justified based upon the science.

The best long-term strategy would be to have greater federal and state regulation on the types and amounts of restricted pesticides that can be used in agricultural and residential areas. Hawaii's, California's and New York's (and now U.S. EPA's) recent bans and phase-outs on chlorpyrifos is an excellent example of appropriate regulatory action to protect the public from a neurologically damaging pesticide that drifts over large distances.

A Hawaii Pesticide Buffer Regulation is Needed

The Hawaii legislature needs to provide children and women teachers protection from potentially harmful exposure to restricted use pesticides by prohibiting the application of restricted use pesticides within ½ mile of schools and day care centers.

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LATE

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Aloha Chairs Keohokalole & Dela Cruz, Vice Chairs Fukunaga & Moriwaki, and Members of the Senate Commerce and Consumer Protection & Ways and Means Committees,

Chapter Presidents

Clarence Baber
Kohala, Hawai'i

The Hawaii Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports HB2136.**

Odysseus Yacalis
East Hawai'i

This bill will contribute to increasing compliance with the proper use of restricted use pesticides by agricultural producers, while also ensuring the continued prohibition on the use of chlorpyrifos. Chlorpyrifos residue can pose serious health risks to humans, and the recent actions taken by the EPA to ban its use on food products are steps in the right direction towards protecting public health.

Puna, Hawai'i

Andrea Drayer
Ka'u, Hawai'i

The clarification amendment proposed to HRS §149A-31 Prohibited acts underscores the necessity of upholding the prohibition on the use of pesticides containing chlorpyrifos. The rejection of the EPA ban on chlorpyrifos by the 8th U.S. Circuit Court of Appeals highlights the importance of state-level regulations to protect our communities from harmful chemicals.

Kona, Hawai'i

Fawn Helekahi-Burns
Hana, Maui

As the draft states an intent to ensure the "continued prohibition on the use or application of pesticides containing chlorpyrifos pursuant to section 149A-31(7).

Mason Scharer
Haleakala, Maui

We request inclusion of the following clarifying amendment to HRS §149A-31 Prohibited acts:

Kaiea Medeiros
Mauna Kahalawai,
Maui

(7) Beginning January 1, 2019, use or apply any pesticide containing chlorpyrifos as an active ingredient; ~~provided that:~~

Kaipo Kekona
Lahaina, Maui

~~(A) The department shall grant to any person, upon request, a temporary permit authorizing the person, until December 31, 2022, to use or apply a pesticide containing chlorpyrifos as an active ingredient; and~~

Rufina Kaauwai
Molokai

By implementing a pesticide inspection program as outlined in HB2136, Hawaii can take proactive measures to ensure the safety and well-being of both agricultural producers and consumers.

Negus Manna
Lāna'i

Mahalo for the opportunity to testify.

India Clark
North Shore, O'ahu

Kaipo Kekona, President HFUU/HFUF

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Natalie Urminska
Kauai

HB-2136-SD-1

Submitted on: 3/28/2024 10:12:04 AM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Lu Ann Mahiki Lankford-Faborito	Individual	Support	Written Testimony Only

Comments:

As a homesteader farmer on Molokai, strong support to malama our aina

HB-2136-SD-1

Submitted on: 3/28/2024 11:28:25 AM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
John Bickel	Individual	Support	Written Testimony Only

Comments:

As a person with Parkinson's, I pay the price every hour of my life for damage inflicted by pesticides on my neurological system. Don't worry about being too careful. Pass this bil.

HB-2136-SD-1

Submitted on: 3/28/2024 2:41:18 PM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Klayton Kubo	Individual	Support	Written Testimony Only

Comments:

Strongly in support.

HB-2136-SD-1

Submitted on: 3/29/2024 5:56:25 AM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please support this important bill. Mahalo.

HB-2136-SD-1

Submitted on: 3/30/2024 12:37:15 PM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Stacey Alapai	Individual	Support	Written Testimony Only

Comments:

Hawai‘i needs more geographically specific reporting of pesticide use to accurately assess current risk. California requires reporting within a square mile of application. This level of specificity will allow for credible public health/epidemiological studies to be conducted.

HB-2136-SD-1

Submitted on: 3/31/2024 9:38:43 AM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am in support of this bill. While previous versions of this bill were better than the current, I appreciate the positive impacts this bill will have.

Mahalo,

Keoni Shizuma

HB-2136-SD-1

Submitted on: 3/31/2024 9:37:40 PM

Testimony for CPN on 4/2/2024 10:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Barbara Barry	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair and committee members,

I have had major concerns about the several corporate ag companies operating in Hawai'i for a very long time. Since I farm and live on Maui, home to Monsanto and now Mahi Pono, this hits close to home. They have been known to spray experimental and RUP chemicals without regard to wind conditions, drift or contamination of soil and water. They seem to have managed to make sure they are allowed to "self regulate " at the expense of the people and environment they are allowed to farm in. Please stop this harmful practice. These pesticides make humans ill and affect our keiki more than others . Please put more regulations and accountability on these agribusinesses.

Small fines are a cost of doing business for them. Put some teeth into this bill and funding for following through

Mahalo,