

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
AGRICULTURE & ENVIRONMENT

Monday, January 12, 2024
1:31 PM

State Capitol, Conference Room 224 & Via Videoconference

In consideration of
SENATE BILL 572 SENATE DRAFT 1
RELATING TO AGRICULTURE

Senate Bill 572 SD1 amends Chapter 150A, Hawai'i Revised Statutes (HRS), by authorizing the Department of Agriculture to declare a biosecurity emergency in certain circumstances with the approval of the Governor and outlines terms to carry out this authority. **The Department of Land and Natural Resources (Department) supports this measure.**

In 2002 the Hawai'i Department of Agriculture conducted a series of inspection "blitzes" at the Kahului Airport to perform a risk assessment on the movement of invasive alien species. The results of that assessment determined that on average one new insect or plant disease arrives every day.

That assessment took place over twenty years ago and in that time Hawai'i has succumbed to the arrival of Coconut Rhinoceros Beetle, Coffee Leaf Rust, Varroa Mite, and the devastating impacts of Rapid 'Ōhi'a Death. With these major pest arrivals, there was no State mechanism in place that would allow the Department of Agriculture to rapidly respond and address new detections. This measure would allow the Department of Agriculture and the Governor to declare a biosecurity emergency and take actions that would prevent the further spread of the target pest.

The Department through HRS Chapter 194 administers the Hawai'i Invasive Species Council (HISC), which is referenced so that "[f]or the purposes of a declared biosecurity emergency the Hawai'i Invasive Species Council shall report directly to the chairperson of the board of agriculture". The Department recommends adding language to this bill clarifying the role of the HISC in a declared biosecurity emergency. For example, "the Hawai'i Invasive Species Council shall report directly to the chairperson

of the board of agriculture for coordination and planning among the State departments, federal agencies, and partner organizations”.

The Department recognizes that this measure is specific to terrestrial species, but would like to highlight that a similar measure would be important to address aquatic species, allowing the Department’s Division of Aquatic Resources to have similar authority. Currently, Stony Coral Tissue Loss disease is devastating coral reefs and spreading across the Caribbean and Atlantic. It was confirmed that the disease can be moved by shipping vessels creating a real threat to Hawai‘i and the Pacific Region. Such a measure could greatly benefit a rapid response if this disease or other high-impact aquatic pests are detected in Hawai‘i.

Mahalo for the opportunity to provide testimony in support of this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT

FEBRUARY 12, 2024
1:31 PM
CONFERENCE ROOM 224 & VIDEOCONFERENCE

SENATE BILL NO. 572, SD1
RELATING TO AGRICULTURE

Chair Gabbard, Vice Chair Richards and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill No. 572, SD1 relating to agriculture. This bill allows the Department of Agriculture (Department) 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. Allows the Department to fine agricultural commodity importers who fail to comply with the requirements. Allows the Department to subpoena necessary documentation from agricultural commodity importers relating to a known or suspected infestation of pests. Allows the Department to quarantine any farm, facility, or business that is known to be infested with pests.

The Department supports this measure and offers comments.



While HRS 91-3 contains provisions for emergency rulemaking, the Department believes that the ability to declare a biosecurity emergency, with the Governor's approval is a substantial step in being able to acquire the necessary resources to rapidly respond to new pest introductions while being mindful of the Department's limited resources.

Regarding the proposed change to HRS 150A-52(1), the Department suggests the following to clarify the intent for pest surveys: "(1) Establish a multi-dimensional system to survey for, and prevent the entry into the State and interisland movement of, pests and prohibited or restricted organisms without a permit;"

Regarding the proposed addition HRS 150A-53(6), the Department agrees with the intent of incentivizing pest reporting and seeking ways for importers and transporters of goods that may have pests, to do their part to minimize the risk of introduction and spread of pests in the State. The Department suggests that this section be incorporated within the public education component of this section. As the Department is the primary agency tasked with biosecurity, importers and transporters need robust education about how to report and minimize pest infestations. Section (C) can be removed as the Department will be notified immediately and can take regulatory action to prevent further sale or distribution. Upon regulatory action, subsequently selling or movement of a quarantined item for would subject the importer or transporter to penalties in HRS 150-14.

Regarding the proposed addition of HRS 150A-53(b), the Department believes that section (1) can already be accomplished through the Department of the Attorney General as a part of the Department's processing of normal criminal investigations. As

such, this section can be removed. The Department also believes that section (2) should be removed as proving lack of reporting for a pest infestation would be difficult to prove, there is no realistic way to fully prevent a pest infestation, depending on the pest species, and movement or sale of items already under quarantine already are covered under existing penalties in HRS 150A-14. Regarding (3), the Department is currently in the final phases of administrative rulemaking, with a public hearing regarding changes to HAR 4-72 occurring on January 30, 2024, which include specific provisions that enable the prohibition of movement of commodities that are infested, which would essentially effectuate this section while also allowing for the movement of goods that are found pest-free or were subjected to a treatment that eradicated the pest. Additionally, violating the HAR may also result in penalties pursuant to HRS 150A-14. As such, the Department believes that 150a-53(b) should be amended to only retain section (4).

This bill is a major step in enabling the department to respond quickly in a biosecurity emergency. We also suggest future legislation to minimize other pathways pests enter the state.

Thank you for the opportunity to testify on this measure.



The Senate
Committee On Agriculture and Environment
Monday, February 12, 2024
1:31 PM Conference Room 224
State Capitol

Testimony Providing Comments on SB572 SD1

Aloha Chair Gabbard, Vice Chair Richards, and Members of the Committee,

The Coordinating Group on Alien Pest Species (CGAPS) appreciates the concern of this Committee regarding some serious biosecurity issues facing our State and we are providing our comments on SB572 SD1, *Relating to Biosecurity*, which,

- 1) Allows the Department of Agriculture to declare a biosecurity emergency in certain circumstances and with the approval of the Governor;
- 2) Outlines the terms of a declared biosecurity emergency;
- 3) Requires the Department to implement certain requirements for agricultural commodity importers;
- 4) Allows the Department to fine agricultural commodity importers who fail to comply with the requirements;
- 5) Allows the Department to subpoena necessary documentation from agricultural commodity importers relating to a known or suspected infestation of pests; and
- 6) Allows the Department to quarantine any farm, facility, or business that is known to be infested with pests.

Chapter 127A, Hawaii Revised Statutes, (HRS) provides the Governor and the Mayors the power and duty to declare an emergency, and Act 99, SLH 2022 added the word "environment" to several areas of the text, so that threats or damage to the environment may be one of the criteria for declaring an emergency or disaster. Before this change, agency directors, mayors, and sometimes even governors have been reluctant to declare an emergency for an invasive species issue (the 2013 discovery of coconut rhinoceros beetle is one example). Since this inclusion, there have been twelve proclamations related to axis deer on Maui.

This proposed addition would be to part VI of chapter 150A, HRS, instead of chapter 141, HRS, HDOA's other major statute which contains limited emergency rulemaking powers in section 141-3 HRS. We note that Act 108 in 2006, inserted the word "environment" to make it clear

that an emergency rule could be adopted due to threats or harm to the environment and not just “vegetation of value”. This same bill designated coqui frogs as a “pest,” The legislative amendment was needed because HDOA did not consider coqui a threat to “vegetation of value.”

Currently, HDOA has two options for emergency action on invasive pests (this does not include engaging USDA or other federal agencies on emergency response, which is an option for certain types of pests and not others), and both have their drawbacks. First, the Chair can go to the Governor and request an emergency declaration and use the established authorities and advisory committee laid out in chapter 127A HRS. The other option is for HDOA to use their existing authorities to make emergency rules, including the quarantine of an area or commodity. However, HDOA can't act on a species or its host or item/s it is carried on unless the pest in question is declared a pest by the Board of Agriculture, and the Board has never established a process for declaring something a pest. Even if a process were developed and adopted by the Board, the time it would take to get a petition on the Board agenda could be too lengthy and may prove to be the difference between a successful rapid response and eradication, and the establishment of yet another costly, harmful pest. An alternate approach could be to amend subsection (c) of section 141-3, HRS, so that it could be used, in emergency circumstances, immediately and without the time-consuming pest designation process. The amended subsection could read as follows (additions shown in bold):

“(c) Notwithstanding subsection (a), if the department finds the incipient infestation of a pest **or other plant, animal, or microorganism** that has, or is likely to have, an adverse effect on the environment or that is injurious or deleterious or that is likely to become injurious or deleterious to the agricultural, horticultural, aquacultural, or livestock industries of the State without immediate action, it may proceed without prior notice or upon a minimum of forty-eight hours notice and hearing to adopt an emergency rule for the eradication of the pest to be effective for a period of not longer than one hundred eighty days without renewal.”

We also note that high-impact pests can be moved via many pathways, not just agricultural commodities, and areas infested with a pest or a prohibited or restricted organism include fallow lands, government-owned property, and private property in addition to farms, facilities, or businesses.

Finally, we note that on page 6, lines 19 and 20, the added language “and survey” may be ambiguous. For clarity, the Committee may wish to consider modifying paragraph (1) on beginning on page 6, line 19, through page 7, line 2, so it reads as follows (additions in bold):

“(1) Establish a multi-dimensional system to prevent the entry into the State and interisland movement of, **and survey for**, pests and prohibited or restricted organisms without a permit ; and”

CGAPS appreciates this opportunity to provide comments.

Aloha,

A handwritten signature in blue ink, appearing to read "Christy Martin".

Christy Martin
CGAPS Program Manager

A handwritten signature in blue ink, appearing to read "Stephanie Easley".

Stephanie Easley
CGAPS Legal Fellow



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON AGRICULTURE AND
ENVIRONMENT

Senator Mike Gabbard, Chair
Senator Herbert M. "Tim" Richards, III, Vice Chair

SB572 SD1
RELATING TO AGRICULTURE

Monday, February 12, 2024, 1:31 PM
Conference Room 224 & Videoconference

Chair Gabbard, Vice Chair Richards, and Members of the Committee,

The Hawaii Cattlemen's Council **supports SB572 SD1** which allows the Department of Agriculture to declare a biosecurity emergency in certain circumstances and with the approval of the Governor and outlines the terms of a declared biosecurity emergency. It requires the Department to implement certain requirements for agricultural commodity importers. It allows the Department to fine agricultural commodity importers who fail to comply with the requirements. It allows the Department to subpoena necessary documentation from agricultural commodity importers relating to a known or suspected infestation of pests, and it allows the Department to quarantine any farm, facility, or business that is known to be infested with pests.

We are aware that there are many pressing issues that need funding, but invasive species directly affects food production and natural resource conservation. For example, Hawaii Island is responsible for 80% of the state's cattle production, so an outbreak of twolined spittlebug will be devastating not only to cattle ranchers, but to our endeavor for food security.

As a vulnerable island state, we must take measures to secure ports-of-entry and prevent the negative effects of invasive species on the environment. We support the investment in invasive species preventative measures, and efforts to implement requirements for importers and follow up with fines. This effort will help the economy and the health of the land in the long run, and curb added expenses for agricultural entities to address invasive species after they arrive and spread.

Thank you for the opportunity to testify on this matter. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director



SB-572-SD-1

Submitted on: 2/10/2024 9:26:32 AM

Testimony for AEN on 2/12/2024 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Redfeather	Testifying for Ka Ohana O Na Pua	Support	Written Testimony Only

Comments:

Excellent step toward HDOA having the ability (authority) to take the necessary steps to lessen the impacts of invasive species by first declaring a bio-emergency with Governor's approval, fine agricultural commodity importers who fail to comply with requirements and also to have the ability to subpoena documentation from importers, and last but certainly not least, to quarantine any farm, facility or business known to be infested with pests.

That last statement needs clarification, as now all our farms are infested with usually many different types of pests.

I am in full support of HDOA ot be the lead Authority to coordinate our current invasive species challenges, instead of having that Authority spread out among countless State Agencies. Without a lead Authority, I don't think it will ever be possible to begin to eradicate species that are dismantling our food system, one crop at a time.

Mahalo to Chair Hurd, Deputy Kishida, and the entire staff of HDOA for their straight forward and bold plan of action. This action plan has been recommended in every Invasive Species Report to the Legislature dating back into the 1980s.

Of course, adequate funding for Staff and Programs from the Hawaii State Legislature must accompany such a designation. If we are ever to become more food self-sufficient, it is imperative that we move on these ideas. Also, the idea for a full time Grant Writer at HDOA is another part of this total program that will be working together with Legislative funding to bring other sources of revenues to the table, and will encourage private and family foundations and federal agencies to also participate.

We all care about lessening imports and increasing food self-sufficiency and NOW is the perfect time. Mahalo to Chair Gabbard and Vice-Chair Richards for your thoughtful action on this Bill.