

ACT 281

S.B. NO. 2090

A Bill for an Act Relating to Pesticides.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 149A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§149A- Pesticide use revolving fund; pesticide training workshops; training fee. (a) There is established within the treasury of the State, a pesticide use revolving fund. The fund shall be administered by the department for the purposes of this section. The fund shall consist of:

- (1) Licensing and registration fees and charges collected by the department under section 149A-13(b); and
- (2) All fees collected by the department through the collection of training fees in accordance with subsection (c).

(b) Moneys in the pesticide use revolving fund shall be expended by the department to support the pesticide program’s registration and licensing, certification and education, and compliance monitoring activities. The department shall also expend revolving fund moneys on the establishment of pesticide training workshops, educational programs, and other services for pesticide users such as the agricultural pest control industry, the structural pest control industry, and consumer users of pesticides, which provide pesticide instruction in areas, including but not limited to,

the collection, disposal, and recycling of pesticide containers and all other pesticide services deemed necessary by the department. Moneys from the revolving fund may be used for the purchase of services, materials, and equipment.

Moneys expended by the department from the pesticide use revolving fund for training workshops, educational programs, and other services for the agricultural pest control industry, the structural pest control industry, and consumer groups shall be done so in a manner that appropriately addresses the needs of each category of pesticide user.

(c) The department may set fees for the educational services and training provided under this section.

(d) All interest earned on the deposit or investment of the moneys in the fund shall become a part of the fund.

(e) The balance in the revolving fund shall not exceed \$250,000. All amounts in excess of the \$250,000 shall be deposited to the credit of the state general fund."

SECTION 2. Section 149A-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The licensee shall pay [a minimum fee of \$10] \$75 for each year, or fraction thereof, that the pesticide is licensed[, provided that the minimum annual fee for a restricted use pesticide shall be \$30.]¹ Licensing fees may be increased or decreased from time to time by rules and may vary according to the amount or quantity of pesticide to be sold, offered for sale, or distributed. The term of the license shall be for a period of up to three years], beginning January 1, 1982, expiring on December 31, 1984, and on December 31 of each third year thereafter]. A license shall expire on December 31 of the third year. In case of renewal of license, a statement shall be required only with respect to information which is different from that furnished when the pesticide was licensed or last relicensed. [All fees collected shall be deposited in the general fund of the State.]"

SECTION 3. Section 149A-41, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Warning notice. Any person who violates this chapter or any rule issued under this [section] chapter may upon the first violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Civil penalties.

(1) In general, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this chapter may be assessed a civil penalty by the board of not more than \$5,000 for each offense.

(2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter relating to the use of pesticides while on property owned or rented by that person or the person's employer, subsequent to receiving a written warning from the department or following a citation for a prior violation, may be assessed a civil penalty by the board of not more than \$1,000 for each offense. Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter relating to licensing, transport, sale, distribution, or application of a pesticide for commercial purposes may be assessed a civil penalty as provided in paragraph (1).

(3) No civil penalty shall be assessed unless the person charged shall have been given notice and an opportunity for a hearing on the specific charge in the county of the residence of the person charged. The civil

penalty and any proposed action contained in the notice of finding of violation shall become a final order unless, within twenty days of receipt of the notice, the person or persons charged make a written request for a hearing. In determining the amount of penalty, the board shall consider the appropriateness of the penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation.

- (4) In case of inability to collect the civil penalty or failure of any person to pay all or such portion of the civil penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover the amount by action in the appropriate court."

SECTION 4. The board of agriculture shall prepare and submit annual reports to the legislature for the next five years on the impact of the increase in the minimum annual pesticide licensing fee to \$75 and the elimination of the two-tier pesticide licensing fee structure, including the impact on the number and types of pesticides licensed in this State, the number of new applications filed with the department of agriculture, the number of renewals of previously licensed pesticides filed with the department of agriculture, and the amounts spent for training workshops, educational programs, and other services for the agricultural pest control industry, the structural pest control industry, and consumer groups. The reports shall be submitted no later than twenty days prior to the convening of the regular sessions of 1997, 1998, 1999, 2000, and 2001.

SECTION 5. There is appropriated out of the pesticide use revolving fund the sum of \$250,000, for fiscal year 1996-1997, to be expended by the department of agriculture for the purposes of section 1 of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 7. This Act shall take effect on July 1, 1996.

(Approved June 18, 1996.)

Notes

1. Period should not be bracketed out.
2. Edited pursuant to HRS §23G-16.5.