

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

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

SECTION 1. Chapter 150A, Hawaii Revised Statutes, is amended by adding seven new sections to part II to be appropriately designated¹ and to read as follows:

“§150A-6.1 Plant import. (a) The board shall maintain a list of restricted plants that require a permit for entry into the State. Restricted plants shall not be imported into the State without a permit issued pursuant to rules.

(b) The department shall designate, by rule, as restricted plants, specific plants that spread or may be likely to spread an infestation or infection of an insect, pest, or disease that is detrimental or potentially harmful to agriculture, horticulture, the environment, or animal or public health. In addition, plant species designated by rule as noxious weeds are designated as restricted plants.

§150A-6.2 Animal import. (a) The board shall maintain:

- (1) A list of conditionally approved animals that require a permit for import into the State;
- (2) A list of restricted animals that require a permit for both import into the State and possession; and
- (3) A list of animals that are prohibited entry into the State.

(b) The board shall adopt rules, pursuant to chapter 91, to establish an advisory committee of no fewer than three members with applicable expertise in vertebrate biology to identify whether an animal is a prohibited hybrid animal when the department suspects that the lineage of the animal is not as stated by the owner or on other official documents.

(c) Animals on the lists of conditionally approved and restricted animals shall be imported only by permit. Any animal that is not on the lists of conditionally approved, restricted, or prohibited animals shall be prohibited until the board's review and determination for placement on one of these lists; provided that the department may issue a special permit on a case-by-case basis for the importation and possession of an animal that is not on the lists of prohibited, restricted, or conditionally approved animals, for the purpose of remediating medical emergencies or agricultural or ecological disasters, or conducting medical or scientific research in a manner that the animal will not be detrimental to agriculture, the environment, or humans, if the importer of the animal can meet permit requirements as determined by the board; and provided further that the department may issue a short-term special permit on a case-by-case basis not to exceed ninety days for the importation and possession of an animal that is not on the lists of prohibited, restricted, or conditionally approved animals for the purpose of filming, performance, or exhibition, if the importer of the animal can meet permit and bonding requirements as determined by the board.

§150A-6.3 Microorganism import. (a) The board shall maintain:

- (1) A list of nonrestricted microorganisms allowed entry into the State without a permit;

- (2) A list of restricted microorganisms that require a permit for import into the State and possession; and
- (3) A list of microorganisms that are select human pathogens allowed entry into the State without a permit but that require the department to notify the department of health of entry for the purpose of possible department of health inspection and monitoring.

Import of a microorganism on these lists, as well as import of any unlisted microorganism, shall be subject to the notification, labeling, and inspection requirements of section 150A-5, and is allowed only as provided herein.

(b) Import of a microorganism on the restricted list of microorganisms shall be by permit issued pursuant to rules and subject to conditions established by rules; provided that, if the department in its discretion determines that import of a microorganism on the restricted list or the microorganism's proposed use presents a high risk to agriculture, horticulture, the environment, or animal or public health, the import request shall be subject to advisory committee review and board approval, including a determination that the importer is able to comply with conditions established by the board, before a permit may be issued.

(c) Import and possession of an unlisted microorganism may be allowed based on the department's determination of the level of risk presented by the import, including its proposed use, to agriculture, horticulture, the environment, or animal or public health. Import shall be either by letter of authorization or special permit issued by the department, without advisory committee review or board approval, or, alternatively, by special permit issued by the department subsequent to advisory committee review and board approval, according to risk level as provided by rule; provided that in the latter instance the importer is able to comply with conditions established by the board.

(d) The department may issue an emergency permit on a case-by-case basis to a state or federal agency or state university to allow import and possession of a microorganism on the list of restricted microorganisms or an unlisted microorganism for the purpose of remediating any emergency or disaster affecting agriculture, horticulture, the environment, or animal or public health; provided that:

- (1) The board, without advisory committee review, first obtains advice from qualified persons with relevant expertise;
 - (2) The board determines that import in less time than is required for issuance of a special permit under subsections (b) and (c) as applicable, is necessary to remediate the emergency or disaster; and
 - (3) The importer is able to meet conditions established by the board;
- (e) Microbial products may be imported as follows:

- (1) Microbial products containing certain strains of microorganisms on the nonrestricted list of microorganisms, as identified by rule, may enter the State without a permit but shall not be imported without a registration issued pursuant to rules. Import of an unregistered microbial product required to be registered with the department is a violation of this section; and
- (2) Import of microbial products other than those products required to be registered pursuant to paragraph (1) shall be by permit or letter of authorization, as provided in subsections (b) and (c) as applicable.

§150A-6.4 Permit issuance; requirements. Except as otherwise provided in this part, all permits referenced in sections 150A-6 through 150A-6.3 shall be issued pursuant to rules. Any violation of conditions listed on the permits shall be a violation of this chapter.

§150A-6.5 Animals; prohibition against possession, etc.; exception. No person shall possess, propagate, sell, transfer, or harbor any animal included on the list of prohibited animals maintained by the board, except upon a determination that the species:

- (1) Was initially permitted entry and later prohibited entry into the State; or
- (2) Was continually prohibited but unlawfully introduced and is currently established in the State; and
- (3) Is not significantly harmful to agriculture, horticulture, or animal or public health, and the environment.

Under the circumstances described in this subsection, the board may permit possession of the individual animal through its registration with the department while still prohibiting the same species of animal from importation, propagation, transfer, and sale.

§150A-6.6 Import lists amendment. Without regard to the notice and public hearing requirements of chapter 91, the board may adopt rules to make additions to or deletions from the lists required to be maintained in sections 150A-6.1 through 150A-6.3; provided that the board shall adopt rules pursuant to chapter 91 to establish methods to obtain public input and notify the public of additions to or deletions from the lists required under sections 150A-6.1 through 150A-6.3.

§150A-6.7 Permit revolving fund. (a) There is established in the state treasury a revolving fund to be known as the permit revolving fund to be administered by the department. The permit revolving fund shall consist of:

- (1) Legislative appropriations;
 - (2) User fees as authorized by rule;
 - (3) All interest earned on or accrued to moneys deposited in the permit revolving fund;
 - (4) Grants and gifts; and
 - (5) Any other moneys made available to the permit revolving fund from other sources.
- (b) The department shall expend moneys in the permit revolving fund to:
- (1) Facilitate the processing and issuance of permits;
 - (2) Amend lists of creatures prohibited or allowed for import;
 - (3) Comply with monitoring activities;
 - (4) Train personnel, and provide educational workshops, materials, and equipment; and
 - (5) For any other purpose deemed necessary to carry out the purposes of this part.”

SECTION 2. Section 150A-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Microbial product” means any product manufactured with known cultures of microorganisms for the purpose of bioremediation or bioaugmentation, including products such as microbial pesticides.

“Unlisted microorganism” means any microorganism not on the lists of nonrestricted or restricted microorganisms or on the list of select human pathogen microorganisms.”

SECTION 3. Section 150A-5, Hawaii Revised Statutes, is amended to read as follows:

“§150A-5 Conditions of importation. The importation into the State of any of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower,

cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil; [bacteria, fungus, or virus;] microorganisms; live bird, reptile, nematode, insect, or any other animal in any stage of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in chapter 142); box, vehicle, baggage, or any other container in which such articles have been transported or any packing material used in connection therewith shall be made in the manner hereinafter set forth:

- (1) Notification of arrival. Any person who receives for transport or brings or causes to be brought to the State as freight, air freight, baggage, or otherwise, for the purpose of debarkation or entry therein, or as ship's stores, any of the foregoing articles, shall, immediately upon the arrival thereof, notify the department, in writing, of the arrival, giving the waybill number, container number, name and address of the consignor, name and address of the consignee or the consignee's agent in the State, marks, number of packages, description of contents of each package, port at which laden, and any other information that may be necessary to locate or identify the same, and shall hold such articles at the pier, airport, or any other place where they are first received or discharged, in such a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present until inspection and examination can be made by the inspector to determine whether or not any article, or any portion thereof, is infested or infected with or contains any pest. In addition, the department by rules shall designate restricted articles that shall require a permit from the department in advance of importation[.] and shall designate other articles that shall require a department letter of authorization or registration in advance of importation. The restricted articles shall include[,] but not be limited to[, fungi, bacteria, virus,] certain microorganisms or living insects. Failure to obtain the permit, letter of authorization, or registration in advance is a violation of this section[.];
- (2) Individual passengers, officers, and crew.
 - (A) It shall be the responsibility of the transportation company to distribute, prior to the debarkation of passengers and baggage, the State of Hawaii plant and animal declaration form to each passenger, officer, and crew member of any aircraft or vessel originating in the continental United States or its possessions or from any other area not under the jurisdiction of the appropriate federal agency in order that the passenger, officer, or crew member can comply with the directions and requirements appearing thereon. All passengers, officers, and crew members, whether or not they are bringing or causing to be brought for entry into the State the articles listed on the form, shall complete the declaration, except that one adult member of a family may complete the declaration for other family members. Any person who defaces the declaration form required under this section, gives false information, fails to declare restricted articles in the person's possession or baggage, or fails to declare in cargo manifests is in violation of this section[.];
 - (B) Completed forms shall be collected by the transportation company and be delivered, immediately upon arrival, to the inspector at the first airport or seaport of arrival. Failure to distribute or

collect declaration forms or to immediately deliver completed forms is a violation of this section[.]; and

- (C) It shall be the responsibility of the officers and crew of an aircraft or vessel originating in the continental United States or its possessions or from any other area not under the jurisdiction of the appropriate federal agency to immediately report all sightings of any plants and animals to the plant quarantine branch. Failure to comply with this requirement is a violation of this section[.];
- (3) Plant and animal declaration form. The form shall include directions for declaring domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter[.];
- (4) Labels. Each container in which any of the above-mentioned articles are imported into the State shall be plainly and legibly marked, in a conspicuous manner and place, with the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or the person's agent, the name of the country, state, or territory and locality therein where the product was grown or produced, and a statement of the contents of the container. Upon failure to comply with this paragraph, the importer or carrier is in violation of this section[.];
- (5) Authority to inspect. Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector may:
 - (A) Enter and inspect any aircraft, vessel, or other carrier at any time after its arrival within the boundaries of the State, whether offshore, at the pier, or at the airport, for the purpose of determining whether any of the articles or pests enumerated in this chapter or rules adopted thereto, is present[.];
 - (B) Enter into or upon any pier, warehouse, airport, or any other place in the State where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether or not any of the articles is infested or infected with any pest or disease or contaminated with soil or contains prohibited plants or animals[.]; and
 - (C) Inspect any baggage or personal effects of disembarking passengers, officers, and crew members on aircraft or vessels arriving in the State to ascertain if they contain any of the articles or pests enumerated in this chapter. No baggage or other personal effects of the passengers or crew members shall be released until the baggage or effects have been passed.
 Baggage or cargo inspection shall be made at the discretion of the inspector, on the pier, vessel, or aircraft or in any quarantine or inspection area.
 Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector may require that any box, package, suitcase, or any other container carried as ship's stores, cargo, or otherwise by any vessel or aircraft moving between the continental United States and Hawaii or between the Hawaiian Islands, be opened for inspection to determine whether any article or pest prohibited by this chapter or by rules adopted pursuant thereto is present. It is a [violation of] violation of this section if any prohibited article or any pest or any plant, fruit, or vegetable infested with plant pests is found[.];
- (6) Request for importation and inspection. In addition to requirements of the United States customs authorities concerning invoices or other

formalities incident to importations into the State, the importer shall be required to file a written statement with the department, signed by the importer or the importer's agent, setting forth the importer's desire to import certain of the above-mentioned articles into the State and [giving]:

- (A) Giving the following additional information: [the]
- (i) The kind (scientific name), quantity, and description; [the]
 - (ii) The locality where same were grown or produced; [the certification]
 - (iii) Certification that all animals to be imported are the progeny of captive populations or have been held in captivity for a period of one year immediately prior to importation or have been specifically approved for importation by the board; [the]
 - (iv) The port from which the same were last shipped; [the]
 - (v) The name of the shipper; and [the]
 - (vi) The name of the consignee[. The statement shall also contain:]; and

(B) Containing:

- [(A)] (i) A request that the department, by its duly authorized agent, examine the articles described;
- [(B)] (ii) An agreement by the importer to be responsible for all costs, charges, or expenses; and
- [(C)] (iii) A waiver of all claims for damages incident to the inspection or the fumigation, disinfection, quarantine, or destruction of the articles, or any of them, as hereinafter provided, if any treatment is deemed necessary.

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

- (7) Place of inspection. If, in the judgment of the inspector, it is deemed necessary or advisable to move any of the above-mentioned articles, or any portion thereof, to a place more suitable for inspection than the pier, airport, or any other place where they are first received or discharged, the inspector is authorized to do so. All costs and expenses incident to the movement and transportation of the articles to such place shall be borne by the importer or the importer's agent. If the importer, importer's agent, or transportation company request inspection of sealed containers of the above-mentioned articles at locations other than where the articles are first received or discharged and the department determines that inspection at such place is appropriate, the department may require payment of costs necessitated by these inspections, including overtime costs;
- (8) Disinfection or quarantine. If, upon inspection, any article [so] received or brought into the State for the purpose of debarkation or entry therein is found to be infested or infected or there is reasonable cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given such article. The treatment shall be at the expense of the owner or the owner's agent, and the treatment shall be as prescribed by the department. The article shall be held in quarantine at the expense of the owner or the owner's agent at a satisfactory place approved by the

department for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of such nature or extent that it cannot be effectively and completely eradicated, or if it is a potentially destructive pest or it is not widespread in the State, or after treatment it is determined that the infestation or infection is not completely eradicated, or if the owner or the owner's agent refuses to allow the article to be treated or to be responsible for the cost of treatment and quarantine, the article, or any portion thereof, together with all packing and containers, may, at the discretion of the inspector, be destroyed or sent out of the State at the expense of the owner or the owner's agent. Such destruction or exclusion shall not be made the basis of a claim against the department or the inspector for damage or loss incurred[.];

- (9) Disposition. Upon completion of inspection, either at the time of arrival or at any time thereafter should any article be held for inspection, treatment, or quarantine, the inspector shall affix to the article or the container or to the delivery order in a conspicuous place thereon, a tag, label, or stamp to indicate that the article has been inspected and passed. This action shall constitute a permit to bring the article into the State[.]; and
- (10) Ports of entry. None of the articles mentioned in this section shall be allowed entry into the State except through the airports and seaports in the State designated and approved by the board."

SECTION 4. Section 150A-6, Hawaii Revised Statutes, is amended to read as follows:

“§150A-6 Soil, plants, animals, etc., importation or possession prohibited. [(a)] No person shall transport, receive for transport, or cause to be transported to the State, for the purpose of debarkation or entry thereinto, any of the following:

- (1) Soil; provided that limited [[]quantities[]] of soil may be imported into the State for experimental or other scientific purposes under permit with conditions prescribed by the department;
- (2) Rocks, plants, plant products, or any article with soil adhering thereto;
- (3) Any live snake, flying fox, fruit bat, Gila monster, injurious insect, or eels of the order Anguilliformes, or any other animal, plant, or micro-organism in any stage of development that is detrimental or potentially harmful to agriculture, horticulture, animal or public health, or natural resources, including native biota, or has an adverse effect on the environment as determined by the board, except, as provided in this chapter and provided that, notwithstanding the list of animals prohibited entry into the State, the department may bring into and maintain in the State one live, sterile brown tree snake of the male sex for the purpose of research or training of snake detector dogs, and, further, that a government agency may bring into and maintain in the State not more than two live, nonvenomous snakes of the male sex solely for the purpose of exhibition in a government zoo, but only after:
 - (A) The board is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment; and
 - (B) The [[]board[]] gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include measures to assure the prevention of escape, continuing supervision and control by the board with respect to any depart-

ment import under this paragraph, and the manner in which the snakes shall be disposed of or destroyed.

In case of the death of one or more snakes, the department or government agency may import and maintain replacements subject to the conditions described in this paragraph; and

- (4) Any live or dead honey bees, or used bee equipment that is not certified by the department to be free of pests; provided that nothing in this paragraph shall be construed to prohibit the importation of bee semen.

[(b) The board shall maintain:

- (1) A list of conditionally approved animals that require a permit for import into the State;
- (2) A list of restricted animals that require a permit for both import into the State and possession; and
- (3) A list of animals that are prohibited entry into the State;

provided that the board shall adopt rules, pursuant to chapter 91, to establish an ad hoc panel of no fewer than three members with applicable expertise in vertebrate biology to identify whether an animal is a prohibited hybrid animal when the department suspects that the lineage of the animal is not as stated by the owner or on other official documents.

Animals on the lists of conditionally approved and restricted animals shall be imported only by permit. Any animal that is not on the lists of conditionally approved, restricted, or prohibited animals shall be prohibited until the board's review and determination for placement on one of these lists; provided that the department may issue a special permit on a case-by-case basis for the importation and possession of an animal that is not on the lists of prohibited, restricted, or conditionally approved animals, for the purpose of remediating medical emergencies or agricultural or ecological disasters, or conducting medical or scientific research in a manner that the animal will not be detrimental to agriculture, the environment, or humans if the importer of the animal can meet permit requirements as determined by the board; and provided further that the department may issue a short-term special permit on a case-by-case basis not to exceed ninety days for the importation and possession of an animal that is not on the list of prohibited, restricted, or conditionally approved animals for the purpose of filming, performance, or exhibition if the importer of the animal can meet permit and bonding requirements as determined by the board.

(c) The board shall maintain:

- (1) A list of nonrestricted microorganisms allowed entry into the State without a permit but which are subject to the notification, labeling, and inspection requirements of section 150A-5;
- (2) A list of restricted microorganisms that require a permit for import into the State and possession, except as otherwise provided in part V; and
- (3) A list of microorganisms that are prohibited entry into the State, except that the department may issue an emergency permit on a case-by-case basis to a state or federal agency or state university for the import and possession of a microorganism on the list of prohibited microorganisms for the purpose of remediating medical emergencies or agricultural or ecological disasters pursuant to the board's determination that:
- (A) An emergency or disaster exists; and
- (B) The importer is able to meet permit requirements consistent with Centers for Disease Control and Prevention and National Institutes of Health guidelines or other guidelines as determined by the board.

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No emergency permit may be issued until the board, without regard to rule requirements for advisory review, obtains advice from qualified persons with relevant expertise.

Except as otherwise provided in part V, any microorganism that is not on the lists of nonrestricted, restricted, or prohibited microorganisms may not enter the State until the board's review and determination for placement on one of those lists; provided that pending the listing by rule of an unlisted microorganism determined by the board to be allowed for import, the department may issue a special permit on a case-by-case basis for the import and possession of the microorganism for purposes approved by the board if the microorganism is to be used in a manner that will not be detrimental to agriculture, horticulture, the environment, animals, and humans, and if the importer is able to meet conditions established by the board.

(d) Except as otherwise provided herein, all permits referenced in this section shall be issued pursuant to rules. Any violation of the conditions listed on the permits shall be a violation of this section.

(e) The board shall maintain a list of restricted plants and a list of prohibited plants. Restricted plants shall not be imported into the State without a permit issued pursuant to rules, and any violation of the conditions listed on the permit shall be a violation of this section.

The department of agriculture shall designate specific plants that may spread or may be likely to spread an infestation or infection of an insect, pest, or disease that is detrimental or potentially harmful to agriculture, horticulture, animal or public health, or natural resources including native biota, or may have an adverse effect on the environment as determined by the board. These plants are to be designated by rule as restricted plants. In addition, plant species designated by rule as noxious weeds are designated as restricted plants.

(f) No person shall possess, propagate, sell, transfer, or harbor any plant, animal, or microorganism included on the list or lists of prohibited plants, animals, and microorganisms maintained by the board under this section, except as allowed by the board upon a determination that the species:

- (1) Was initially permitted entry and later prohibited entry into the State; or
- (2) Was continually prohibited but unlawfully introduced and is currently established in the State; and
- (3) Is not significantly harmful to agriculture, horticulture, animal or public health, and the environment.

Under the circumstances described in this subsection, the board may permit possession of the individual plant, animal, or microorganism through its registration with the department while still prohibiting the same species of plant, animal, or microorganism from importation, propagation, transfer, and sale.

(g) Without regard to the notice and public hearing requirements of chapter 91, the board may adopt rules to make additions to or deletions from the lists required to be maintained in subsections (b), (c), and (e); provided that the board shall adopt rules pursuant to chapter 91 to establish methods to obtain public input and to notify the public as to any additions to or deletions from the lists required under subsections (b), (c), and (e).]”

SECTION 5. Section 150A-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It is a violation of [section 150A-6] this part to bring to or possess in the State any living creature that is prohibited[,] or restricted [and], without a permit issued by the department, except as expressly provided in [that section or in part V, and such a] this part. The creature shall constitute contraband and shall be seized immediately upon discovery, whenever found, and be destroyed, donated to a government zoo, or sent out of the State, at the discretion of the department. Any

expense or loss in connection therewith shall be borne by the owner or the owner's agent."

SECTION 6. Section 150A-7.5, Hawaii Revised Statutes, is amended to read as follows:

"§150A-7.5 User fees. Fees may be assessed for the processing and issuance of permits issued by the department under this part [and], for inspections related to permit conditions, and for the registration of microbial products containing certain strains of microorganisms, as established by rule."

SECTION 7. Section 150A-9.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Interim rules adopted by the department pursuant to this section shall be effective as stated by such rules; provided that [any]:

- (1) Any interim rule shall be published at least once statewide within [ten] twelve days of issuance; and [provided further that no]
- (2) No interim rule shall be effective for more than one hundred eighty days."

SECTION 8. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person who violates any provision of this chapter other than sections 150A-5(2)(B), 150A-5(2)(C), [150A-6(a)(3)] 150A-6(3), and [150A-6(a)(4)] 150A-6(4) or who violates any rule adopted under this chapter other than those rules involving [a plant,] an animal, or microorganism] that is prohibited or a plant, animal, or microorganism that is restricted, without a permit, shall be guilty of a misdemeanor and fined not less than \$100. The provisions of section 706-640 notwithstanding, the maximum fine shall be \$10,000. For a second offense committed within five years of a prior offense, the person or organization shall be fined not less than \$500 and not more than \$25,000."

SECTION 9. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding section 706-640:

- (1) Any person or organization that violates section [150A-6(a)(3) or 150A-6(a)(4),] 150A-6(3) or 150A-6(4), or owns or intentionally transports, possesses, harbors, transfers, or causes the importation of any snake or other prohibited animal seized under section 150A-7(b), or whose violation involves [a plant,] an animal, or microorganism] that is prohibited or a plant, animal, or microorganism that is restricted, without a permit, shall be guilty of a [petty] misdemeanor and subject to a fine of not less than \$5,000, but not more than \$20,000; and
- (2) Any person or organization who intentionally transports, harbors, or imports with the intent to propagate, sell, or release any [plant,] animal[, or microorganism] that is prohibited or any plant, animal, or microorganism that is restricted, without a permit, shall be guilty of a class C felony and subject to a fine of not less than \$50,000, but not more than \$200,000."

SECTION 10. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

"(f) Any person or organization that voluntarily surrenders any prohibited [plant,] animal[, or microorganism] or any restricted plant, animal, or microorganism

ism without a permit issued by the department, prior to the initiation of any seizure action by the department, shall be exempt from the penalties of this section.

(g) For purposes of this section “intent to propagate” shall be presumed when the person or organization in question is found to possess, transport, harbor, or import:

- (1) Any two or more animal specimens of the opposite sex that are prohibited or restricted, without a permit;
- (2) Any three or more animal specimens of either sex that are prohibited or restricted, without a permit;
- (3) Any plant or microorganism having the inherent capability to reproduce [and] that is [prohibited or] restricted,² without a permit; or
- (4) Any specimen that is in the process of reproduction.”

SECTION 11. Section 150A-41, Hawaii Revised Statutes, is amended by amending subsection (a) and (b) to read as follows:

“(a) Notwithstanding the permit requirements of sections 150A-5 and [150A-6,] 150A-6.3, the board may issue a certificate to an importer of microorganisms authorizing import and possession of microorganisms[, other than microorganisms] on the [lists] list of [nonrestricted] restricted microorganisms or [prohibited] unlisted microorganisms referenced in section [150A-6;] 150A-6.3; provided that:

- (1) The import and possession is for medical or scientific purposes;
- (2) The microorganisms are contained in a laboratory or other contained system approved by the department;
- (3) The microorganisms are used in a manner that will not be detrimental to agriculture, horticulture, the environment, animals, or humans; and
- (4) The importer is able to meet requirements established by the board, as further verified through site inspection by the department.

(b) Import by a certified importer of microorganisms other than those listed in the importer’s certificate or for uses other than specified for each type of microorganism listed in the certificate shall be pursuant to section [150A-6.] 150A-6.3.”

SECTION 12. There is appropriated out of the permit revolving fund the sum of \$25,000 or so much thereof as may be necessary for fiscal year 2000-2001 for the purposes of the permit revolving fund.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.³

SECTION 14. This Act shall take effect on July 1, 2000.

(Approved June 14, 2000.)

Notes

1. So in original.
2. Comma should not be underscored.
3. Edited pursuant to HRS §23G-16.5.