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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 PART I

2 SECTION 1. The legislature finds that invasive species  
3 collectively present one of the single greatest threats to  
4 Hawaii's economy and natural environment, its native species,  
5 and the health and lifestyle of Hawaii's people. Impacts of  
6 invasive species have been severe, negative, and expensive and  
7 have included serious habitat degradation, extinction of native  
8 species, increased wildfire risk, increases in the cost of  
9 agriculture and livestock production, and many other impacts.  
10 For example, the State's horticultural and agricultural  
11 industries face a serious threat from the introduction of the  
12 plant diseases citrus greening or huanglongbing (*Candidatus*  
13 *Liberibacter asiaticus*), citrus canker (*Xanthomonas axonopodis*),  
14 citrus black spot (*Phyllosticta citricarpa*), and fruit flies  
15 (species in the family Tephritidae).

16 The legislature also finds that protecting Hawaii from  
17 invasive pests requires more than the mere application of



1 chemicals to each new infestation. Necessary actions include  
2 efforts to prevent pests from entering the State and spreading  
3 within the State.

4 The legislature, like the federal government, recognizes  
5 the value of preventing the movement of invasive pests.

6 Section 10811 of the Farm Security and Rural Investment Act  
7 of 2002 requires the United States Department of Agriculture to  
8 inspect all passengers, baggage, cargo, and any other articles  
9 moving from Hawaii to other areas of the United States.

10 However, federal law does not require any similar inspections of  
11 passengers or material arriving in Hawaii from the continental  
12 United States. The legislature believes that the State should  
13 have the authority to conduct those inspections if the federal  
14 government will not do so.

15 The legislature finds that if an invasive pest infestation  
16 that will seriously impact residents, businesses, or native  
17 species is found within the State, the infested material should  
18 be contained to prevent the spread of the pest so it does not  
19 move across an island. Further, the infested material or area  
20 should be treated to control or eradicate the pest. Preventing  
21 the spread of invasive species protects agricultural producers



1 and businesses. Preventing the sale of merchandise that is  
2 infested with pests addresses the highest-risk situations where  
3 unsuspecting consumers purchase pest-infested merchandise and  
4 bring the merchandise home, spreading the pest across an island.  
5 Notably, there exists a serious danger to the forests and the  
6 horticultural and agricultural industries of Hawaii from the  
7 introduction of plant pathogens and other pests transported in  
8 or on firewood from outside the State, including *Agrilus*  
9 *planipennis* (emerald ash borer), *Anoplophora glabripennis* (Asian  
10 longhorned beetle), *Solenopsis invicta* (red imported fire ant),  
11 and bark and ambrosia beetles, including *Euwallacea* species and  
12 associated fungal pathogens.

13       The legislature notes that other states routinely  
14 quarantine areas infested with a high impact pest and prevent  
15 the sale of infested merchandise. In cases of high impact  
16 species, other states quarantine the infested areas. For  
17 instance, in June 2023, after the highly invasive Giant African  
18 land snail was detected north of Miami, the State of Florida  
19 declared a quarantine and treatment area of several square miles  
20 in Broward County. Florida quarantined the movement of the  
21 snails themselves and other materials that could be harboring



1 the snails, including plants, soil, and certain building  
2 materials. Florida subsequently commenced a robust program  
3 using molluscicide, or snail bait, on properties in the area,  
4 followed by multiple surveys to assess the effectiveness of the  
5 quarantine and treatment.

6 In Oregon, the state's agricultural department took steps  
7 to eradicate the Japanese beetle, a serious pest of ornamental  
8 plants, turfgrass, and crops grown in the state. The  
9 department's efforts included the quarantine of yard debris,  
10 including grass clippings and plants with soil, and the  
11 implementation of sod. The quarantine required residents to  
12 contain their yard waste and deliver it to a specific location.  
13 The State also treated private property, either with the consent  
14 of the landowner or pursuant to an administrative warrant, with  
15 appropriate pesticide.

16 The legislature notes that the prevention of the spread of  
17 invasive pests in Hawaii is part of the state department of  
18 agriculture's responsibility to promote agriculture in the  
19 State. However, the department has limited staff and resources  
20 and has not been able to update its administrative rules to  
21 adapt to new invasive pests and control methods. The department



1 has not developed a list of restricted plants pursuant to  
 2 section 150A-6.1, Hawaii Revised Statutes, since that statutory  
 3 section was enacted on July 1, 2000. Further, the department  
 4 last updated its list of noxious weeds and their distribution  
 5 more than thirty years ago. The department has also not had the  
 6 capacity to add many high impact pests, including the two-lined  
 7 spittlebug (*Prosapia bicincta*) that has been devastating ranch  
 8 lands on Hawaii island since its detection in 2016, to its list  
 9 of pests for control and eradication, which was last updated in  
 10 2008.

11 The purpose of this Act is to:

- 12 (1) Facilitate the control and eradication of invasive
- 13 species and pests; and
- 14 (2) Assist the department of agriculture in carrying out
- 15 its responsibilities.

16 PART II

17 SECTION 2. Section 141-2, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 "**§141-2 Rules.** Subject to chapter 91, the department of  
 20 agriculture shall adopt, amend, and repeal rules not  
 21 inconsistent with law, for and concerning:



- 1 (1) The introduction, transportation, and propagation of  
2 trees, shrubs, herbs, and other plants;
- 3 (2) The quarantine, inspection, fumigation, disinfection,  
4 destruction, or exclusion, either upon introduction  
5 into the State, or at any time or place within the  
6 State, of any [~~nursery stock,~~] nursery stock, tree,  
7 shrub, herb, vine, cut-flower, cutting, graft, scion,  
8 bud, seed, leaf, root, or rhizome; any nut, fruit, or  
9 vegetable; any grain, cereal, or legume in the natural  
10 or raw state; any moss, hay, straw, dry-grass, or  
11 other forage; any unmanufactured log, limb, or timber;  
12 or any other plant growth or plant product unprocessed  
13 or in the raw state; any sand, soil, or earth; any  
14 live bird, reptile, insect, or other animal, in any  
15 stage of development, that is in addition to the  
16 so-called domestic animals, which are provided for in  
17 section 142-2; and any box, barrel, crate, or other  
18 containers in which the articles, substances, or  
19 objects have been transported or contained, and any  
20 packing material used in connection therewith, or any  
21 other pest host material that is or may be diseased or



1 infested with insects or likely to assist in the  
2 transmission or dissemination of any insect or plant  
3 disease injurious, harmful, or detrimental, or likely  
4 to become injurious, harmful, or detrimental to the  
5 agricultural or horticultural industries or the  
6 forests of the State, or the public health and  
7 welfare, or that is or may be in itself injurious,  
8 harmful, or detrimental to the same; provided that  
9 included therein may be rules governing the  
10 transportation of any of the articles, substances, or  
11 objects enumerated above in this section between  
12 different localities on any one of the islands within  
13 the State;

- 14 (3) The prohibition of importation into the State, from  
15 any or all foreign countries or from other parts of  
16 the United States, or the shipment from one island  
17 within the State to another island therein, or the  
18 transportation from one part or locality of any island  
19 to another part or locality of the same island, of any  
20 [~~specifie~~] article, substance, or object or class of  
21 articles, substances, or objects [~~, among these~~



1 ~~enumerated above in this section,~~] that is diseased or  
2 infested with insects or likely to assist in the  
3 transmission or dissemination of any insect or plant  
4 disease injurious, harmful, or detrimental or likely  
5 to be injurious, harmful, or detrimental to the  
6 agricultural or horticultural industries, or the  
7 forests of the State, or that is or may be in itself  
8 injurious, harmful, or detrimental to the same;

9 (4) The preparation by cargo carriers of manifests of  
10 cargo transported into the State or between islands of  
11 the State and the submission of the manifests to the  
12 department;

13 (5) The establishment, maintenance, and enforcement of  
14 compliance agreements with federal or state  
15 departments of agriculture authorizing agriculture  
16 inspectors from the state of origin in the case of  
17 imports to the State, or state agricultural inspectors  
18 in the case of state exports, to monitor the growing  
19 and packing of plant commodities and any treatment  
20 procedures to ensure compliance with quarantine laws,  
21 and further authorizing the assessment of fees for



1 conducting inspections required under the compliance  
2 agreement; [~~and~~]

3 (6) The manner in which agricultural product promotion and  
4 research activities may be undertaken, after  
5 coordinating with the agribusiness development  
6 corporation[~~-~~]; and

7 (7) The protection of members of the public and property.

8 All rules adopted under this section shall have the force  
9 and effect of law."

10 SECTION 3. Section 141-3, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§141-3 Designation of pests; control or eradication of**  
13 **pests; emergency power.** (a) The department of agriculture  
14 shall [~~designate~~]:

15 (1) Designate the coqui frog (Eleutherodactylus coqui),  
16 the coconut rhinoceros beetle (Oryctes rhinoceros),  
17 the little fire ant (Wasmannia auropunctata), and the  
18 two-lined spittlebug (Prosapia bicincta) as [a pest.  
19 ~~All other pest designations shall be established by~~  
20 ~~rule, including] pests for control or eradication;~~



- 1        (2) Designate, by rule, other taxa as pests for control or
- 2                    eradication, and update designated taxa no less than
- 3                    once every two years; and
- 4        (3) Establish, by rule, the criteria and procedures for
- 5                    the designation of pests for control or
- 6                    eradication[-]; provided that criteria shall be
- 7                    written with the understanding that:
- 8                    (A) Pests designated for control or eradication shall
- 9                    be:
- 10                    (i) High-risk pests upon which statewide or
- 11                    local control is necessary to prevent
- 12                    serious impacts to native species and the
- 13                    environment; or
- 14                    (ii) Injurious, deleterious, or likely to become
- 15                    injurious or deleterious to the public
- 16                    health and welfare, private property, or the
- 17                    agricultural, horticultural, aquacultural,
- 18                    or livestock industries of the State; and
- 19                    (B) Not every invasive species poses a risk that
- 20                    warrants designation of the species as a pest for
- 21                    control or eradication.



1 (b) The department of agriculture [~~shall~~], so far as  
2 reasonably practicable, shall assist, free of cost to  
3 [~~individuals,~~] persons, in the control or eradication of  
4 insects, mites, diseases, noxious weeds, or other pests or any  
5 other taxa injurious to the environment or vegetation of value;  
6 and in the investigation, suppression, and eradication of  
7 contagious, infectious, and communicable diseases among domestic  
8 animals; and shall in like manner distribute to points where  
9 needed, beneficial insects, or pathogens and other antidotes for  
10 the control of insects, mites, diseases, or other pests or any  
11 other taxa injurious to the environment or vegetation of value,  
12 and for the control or eradication of vegetation of a noxious  
13 character.

14 (c) Notwithstanding subsection (a), if the department  
15 finds the incipient infestation of a pest that has an adverse  
16 effect on native species or the environment or that is injurious  
17 or deleterious or that is likely to become injurious or  
18 deleterious to the public health and welfare, private property,  
19 or the agricultural, horticultural, aquacultural, or livestock  
20 industries of the State without immediate action, it may proceed  
21 without prior notice or upon a minimum of forty-eight hours



1 notice and hearing to adopt an emergency rule for the  
2 eradication of the pest [~~to~~], or incipient infestation,  
3 regardless of whether the pest is currently designated as a pest  
4 for control or eradication. The emergency rule shall be  
5 effective for a period of not longer than one hundred eighty  
6 days without renewal."

7 SECTION 4. Section 141-3.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§141-3.5 Control or eradication programs.** (a) The  
10 department of agriculture shall develop and implement a detailed  
11 control or eradication program for [~~any pest~~] each taxa  
12 designated [~~in~~] as a pest for control or eradication pursuant to  
13 section 141-3, using the best available technology in a manner  
14 consistent with state and federal law. Each program shall  
15 include actions to prevent the introduction or spread of the  
16 pest, including the quarantine of appropriate material within  
17 the infested area, treatment to control or eradicate the pest,  
18 and outreach to the affected communities.

19 (b) If the department does not develop and implement a  
20 detailed control or eradication program for a taxa designated as  
21 a pest for control or eradication pursuant to section 141-3 on



1 an island where the pest is a public nuisance, the applicable  
2 county or invasive species committee, or the Hawaii ant lab, may  
3 develop or implement a program for the pest on that island or  
4 the impacted area of that island.

5 [~~(b)~~] (c) For any pest designated by emergency rule as  
6 provided in section 141-3, the department of agriculture or the  
7 applicable county or invasive species committee, or the Hawaii  
8 ant lab, shall implement an emergency program using the best  
9 available technology in a manner consistent with state and  
10 federal law.

11 [~~(e)~~] (d) The department of agriculture:

12 (1) In conjunction with the Hawaii [~~Ant Lab,~~] ant lab, may  
13 identify best practices for the treatment of little  
14 fire ants; and

15 (2) Shall post on its website any best practices  
16 identified for the treatment of little fire ants.

17 (e) For the purposes of this section, "invasive species  
18 committee" means one of the island-based, voluntary partnerships  
19 under the university of Hawaii's Pacific cooperative studies  
20 unit staffed by employees of the research corporation of the  
21 university of Hawaii that work to prevent, control, or eliminate



1 invasive species. "Invasive species committee" includes the big  
2 island invasive species committee, the Kauai invasive species  
3 committee, the Oahu invasive species committee, the Maui  
4 invasive species committee, and the Molokai invasive species  
5 committee."

6 SECTION 5. Section 141-3.6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§141-3.6 Entry of private property to control or**  
9 **eradicate any pests.** (a) The department of agriculture [~~or~~],  
10 applicable county, applied invasive species committee as  
11 defined in section 141-3.5(e), or the Hawaii ant lab shall give  
12 at least five days notice to the landowner and the occupier of  
13 any private property of its intention to enter the property [~~for~~  
14 ~~the control or eradication of a pest.~~] to carry out a control or  
15 eradication program developed under section 141-3.5, including  
16 the quarantine of materials. Written notice sent to the  
17 landowner's last known address by certified mail, postage  
18 prepaid, return receipt requested, shall be deemed sufficient  
19 notice. If certified mail is impractical because the department  
20 [~~or~~], county, invasive species committee, or Hawaii ant lab,  
21 despite diligent efforts, cannot determine land ownership or



1 because of urgent need to initiate control or eradication  
 2 measures, notice given once in a daily or weekly publication of  
 3 general circulation, in the county where any action or proposed  
 4 action will be taken, or notice made as otherwise provided by  
 5 law, shall be deemed sufficient notice. The notice shall set  
 6 forth all pertinent information on the pest control program and  
 7 the procedures and methods to be used for control or  
 8 eradication.

9 (b) After notice as required by subsection (a), any member  
 10 of the department, employee of the county, employee of the  
 11 invasive species committee, employee of the Hawaii ant lab, or  
 12 any agent authorized by the department [~~or~~], county, invasive  
 13 species committee, or Hawaii ant lab may enter at reasonable  
 14 times any private property other than dwelling places to  
 15 [~~maintain a pest~~] carry out a control or eradication program[~~7~~]  
 16 developed under section 141-3.5, being liable only for damage  
 17 caused by acts beyond the scope of the person's authority, or  
 18 the person's negligence, gross negligence, or intentional  
 19 misconduct. If [~~entry is refused,~~] the landowner or occupier  
 20 does not consent, the department member, county employee,  
 21 committee employee, Hawaii ant lab employee, or any authorized



1 agent may apply to the district court in the circuit in which  
2 the property is located for a warrant to enter on the premises  
3 to effectuate the purposes of this chapter. The district court  
4 may issue a warrant directing a [~~police~~] law enforcement officer  
5 of the circuit to assist the department member, county employee,  
6 committee employee, Hawaii ant lab employee, or any authorized  
7 agent in gaining entry onto the premises during regular working  
8 hours or at other reasonable times."

9 SECTION 6. Section 141-6, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§141-6 Appeal from [~~inspector's decision.~~] certain**  
12 **decisions.** Any person who feels aggrieved at any decision of  
13 the state plant regulatory official, the official's designee, or  
14 any inspector of the department of agriculture shall have the  
15 right to appeal from the decision to the board of agriculture.  
16 The board shall give a prompt hearing to the appellant and the  
17 inspector upon the appeal, and decide the question at issue,  
18 which decision shall be subject to judicial review as provided  
19 in chapter 91."

20 PART III



1 SECTION 7. Chapter 150A, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 **"PART . PLANT NURSERY LICENSING PROGRAM**

5 **§150A-A Definitions.** For the purposes of this part,  
6 unless the context requires otherwise:

7 "Best management practices" means processes and actions  
8 based on the best available science that provide the most  
9 cost-effective and efficacious way to address an issue,  
10 including the prevention or reduction of pest and pathogen  
11 problems.

12 "Effective control" means the elimination or reduction of  
13 low-priority pests to the point of an acceptable economic and  
14 environmental risk.

15 "High-priority pest" means a pest, including a noxious  
16 weed:

- 17 (1) That is not known to appear frequently within the  
18 State;
- 19 (2) That has a limited distribution within this State;
- 20 (3) That the department or other government entity  
21 attempts to contain, suppress, or reduce within the



1 State, including any pest or noxious weed designated  
2 by the department; and

3 (4) Whose introduction causes or is likely to cause  
4 economic or environmental harm or harm to human  
5 health.

6 "Low-priority pest" means a pest that is not a  
7 high-priority pest and may be controlled so that the pest does  
8 not pose an unacceptable economic or environmental risk.

9 "Plant nursery license" means a license issued pursuant to  
10 this part.

11 "Sale" or "sell" means offering, exposing, or possessing  
12 for sale, exchange, barter, or trade.

13 "Standards of nursery cleanliness", with respect to a  
14 location where nursery stock is produced or sold, means:

15 (1) The implementation at the location of any method of  
16 treatment required by the department for any pest;

17 (2) That nursery stock or other material infested or  
18 infected with pests at the location is isolated  
19 pending treatment or disposal;

20 (3) That actions are carried out to the extent that is  
21 reasonably necessary to ensure the location and all



1           nursery stock produced or sold at the location are  
2           free from pests; and

3           (4) The fulfillment of any other standard required by the  
4           department for the location.

5           **§150A-B Plant nursery licenses required; exemption.** (a)

6 Except as provided in subsection (b), a person engaged in the  
7 sale of nursery stock shall inform the department of the  
8 existence of the person's operation and obtain a valid plant  
9 nursery license pursuant to this part for the operation.

10          (b) Subsection (a) shall not apply to a person that sells  
11 seeds and does not sell or ship any other nursery stock.

12          (c) A person shall obtain a plant nursery license for each  
13 location where the person sells or grows nursery stock.

14          (d) The department may publish on the internet website  
15 maintained by the department and in other appropriate form a  
16 list of persons that hold a valid plant nursery license.

17           **§150A-C Full plant nursery licenses; requirements;**

18 **duration.** (a) Each person seeking a full plant nursery license  
19 or a renewal of a full plant nursery license shall submit to the  
20 department:

21          (1) An application; and



- 1           (2) A fee pursuant to section 150A-D.
- 2           (b) A person shall be eligible to receive and continue
- 3 operating under a full plant nursery license for a location if
- 4 the person:
  - 5           (1) Demonstrates good faith in seeking to carry on the
  - 6                 business of selling nursery stock;
  - 7           (2) Does not sell any plant species designated by the
  - 8                 department as a noxious weed or restricted plant;
  - 9           (3) Consents to and agrees to cooperate with all
  - 10                inspections authorized by section 150A-F;
  - 11           (4) Passes all authorized inspections;
  - 12           (5) Maintains the location free from high-priority pests;
  - 13           (6) Has effective control of low-priority pests;
  - 14           (7) Implements standards of nursery clearliness at the
  - 15                location; and
  - 16           (8) Implements any best management practices required by
  - 17                the department for the location.
- 18           (c) A full plant nursery license:
  - 19            (1) Shall be valid for a period of one year; and
  - 20            (2) May be renewed for additional periods of one year per
  - 21               renewal.



1           **§150A-D Full plant nursery licenses; fees.** (a) Each  
2 application for the issuance or renewal of a full plant nursery  
3 license shall be accompanied by a license fee in an amount  
4 determined by the department.

5           (b) The fee required by subsection (a) shall be determined  
6 based on:

7           (1) Quantity and dollar value of nursery stock sales;

8           (2) Acreage used by the applicant to produce, store, or  
9 sell nursery stock; and

10          (3) Any other criteria the department determines is  
11 appropriate.

12          (c) No portion of the fee required by subsection (a) may  
13 be refunded to a person if the department denies an application  
14 for a full plant nursery license or renewal or revokes the  
15 license pursuant to section 150A-G.

16          (d) All fees collected under this section shall be paid to  
17 the department and deposited into the pest inspection,  
18 quarantine, and eradication fund under section 150A-4.5.

19           **§150A-E Temporary plant nursery licenses; small seller**  
20 **plant nursery licenses.** (a) A person is eligible to receive



1 and continue operating under a temporary plant nursery license  
2 if the person:

- 3 (1) Applies for a temporary plant nursery license;
- 4 (2) Is a non-profit, charitable, educational, or religious  
5 organization;
- 6 (3) Demonstrates to the department's satisfaction that:
  - 7 (A) The person will sell nursery stock for no more  
8 than days in a calendar year;
  - 9 (B) The person's total annual sales of nursery stock  
10 will not exceed \$ ; and
  - 11 (C) The person will use the proceeds of the sale of  
12 nursery stock for charitable, educational, or  
13 religious purposes;
- 14 (4) Produces nursery stock with, or obtains nursery stock  
15 from, a person with a valid plant nursery license  
16 issued pursuant to this part; and
- 17 (5) Uses best management practices for nursery stock and  
18 the sale of the nursery stock required by the  
19 department for temporary plant nursery license  
20 holders.



1 (b) A person is eligible to receive and continue operating  
2 under a small seller plant nursery license if the person:

- 3 (1) Applies for a small seller plant nursery license;
- 4 (2) Demonstrates to the department's satisfaction that the  
5 person's total annual sales of nursery stock will not  
6 exceed \$ ;
- 7 (3) Produces nursery stock or obtains nursery stock from a  
8 person with a valid plant nursery license issued  
9 pursuant to this part; and
- 10 (4) Uses best management practices for nursery stock and  
11 the sale of the nursery stock required by the  
12 department for small seller plant nursery license  
13 holders.

14 (c) The department may inspect the plant nursery location,  
15 all nursery stock at the plant nursery location, and any other  
16 area used by an applicant or licensee to produce, store, or sell  
17 nursery stock under a temporary plant nursery license or a small  
18 seller plant nursery license.

19 (d) The department may charge a fee for the issuance of a  
20 temporary plant nursery license or a small seller plant nursery  
21 license; provided that all fees collected under this section



1 shall be deposited into the pest inspection, quarantine, and  
2 eradication fund under section 150A-4.5.

3       **§150A-F Inspection; quarantine.** (a) After receiving an  
4 application for issuance or renewal of a plant nursery license  
5 for a location, an inspector shall inspect the location, all  
6 nursery stock at the location, and any other area used by the  
7 applicant to produce or store nursery stock to be sold at the  
8 location before the issuance or renewal of the plant nursery  
9 license.

10       (b) The department may conduct additional inspections of  
11 any location issued a plant nursery license with or without  
12 notice, at any time and in any manner as the department  
13 determines appropriate.

14       (c) No applicant or licensee shall deny access to or  
15 impede an inspector conducting an inspection under this section  
16 or hinder the inspection by misrepresenting or concealing facts  
17 or conditions.

18       (d) To be eligible to receive and continue operating under  
19 a plant nursery license, an applicant or licensee that sells  
20 nursery stock shall ensure that each location at which the



1 applicant or licensee operates shall be found at each inspection  
2 authorized under this section:

3 (1) To be free from high-priority pests;

4 (2) To have effective control of low-priority pests;

5 (3) To be implementing standards of nursery cleanliness;

6 and

7 (4) To be implementing any best management practices

8 required by the department.

9 (e) If the department is notified pursuant to an  
10 inspection authorized under this section or any other means that  
11 a high-priority pest is present in nursery stock or a location  
12 where nursery stock is present, that low-priority pests are not  
13 under effective control at a location, or that the holder of a  
14 full plant nursery license, temporary plant nursery license, or  
15 a small seller plant nursery license is otherwise not in  
16 compliance with the requirements of this part, the department:

17 (1) Shall place a stop sale or quarantine order for the  
18 affected nursery stock or location and, if  
19 appropriate, a destruction order for affected nursery  
20 stock;



- 1           (2) Shall notify the person applying for or holding the  
2           full plant nursery license, temporary plant nursery  
3           license, or a small seller plant nursery license for  
4           the affected nursery stock or location of the  
5           existence of the high-priority pest, low-priority  
6           pest, or other compliance issue and advise the person  
7           on acceptable mitigation methods; and
- 8           (3) May require the affected nursery stock or affected  
9           material to be mitigated by whatever means necessary,  
10          including destruction, confiscation, treatment, return  
11          shipment, or quarantine, at the expense of the nursery  
12          or person without any form of compensation from the  
13          department or State.
- 14          (f) During the period when an order under subsection (e)  
15          is in effect for nursery stock or a location, the person  
16          operating the plant nursery location shall not sell, ship,  
17          transport, give away, or otherwise move, alter, or tamper with  
18          affected nursery stock or material at the location, other than  
19          for activities to mitigate the high-priority or low-priority  
20          pests or other compliance issue.



1           **§150A-G Refusal to issue or renew; suspension; revocation.**

2   The department may refuse to issue or renew a full plant nursery  
3   license, temporary plant nursery license, or small seller plant  
4   nursery license or may suspend or revoke a full plant nursery  
5   license, temporary plant nursery license, or small seller plant  
6   nursery license for a location if the department determines that  
7   the licensee or the applicant:

- 8           (1) Has wilfully refused to comply with this part or other  
9                laws relating to nursery stock or to any pest that  
10              might be carried by nursery stock;
- 11           (2) Has committed fraud or deception in obtaining the  
12              plant nursery license;
- 13           (3) Has committed fraud or misrepresentation in the  
14              handling or sale of nursery stock;
- 15           (4) Has failed to maintain the nursery stock or location:
- 16                (A) Free from high-priority pests;
- 17                (B) With effective control of low-priority pests; or
- 18                (C) In accordance with any best management practices  
19              required by the department;



1 (5) Has failed to maintain nursery stock produced or sold  
2 by the licensee or applicant in accordance with the  
3 standards of nursery cleanliness; or

4 (6) Has failed to comply with any lawful order issued by  
5 the department.

6 **§150A-H Civil penalties.** (a) A person who violates a  
7 provision of this part or any rule adopted by the department  
8 pursuant to this part shall be fined no more than  
9 \$ for each separate offense. Each date of violation  
10 shall constitute a separate offense. Any action taken to impose  
11 or collect the penalty provided for in this subsection shall be  
12 considered a civil action.

13 (b) All fines collected under this section shall be paid  
14 to the department and deposited into the pest inspection,  
15 quarantine, and eradication fund under section 150A-4.5."

16 SECTION 8. Chapter 150A, Hawaii Revised Statutes, is  
17 amended by adding five new sections to be appropriately  
18 designated and to read as follows:

19 "§150A- Pests; for purposes of chapter. (a) For the  
20 purposes of this chapter, the department shall consider the  
21 following taxa to be pests:



- 1        (1) Acalolepta aesthetica (Olliff), an invasive longhorned  
2        beetle that attacks many plant species;
- 3        (2) Anthurium whitefly - Aleurotulus sp., a serious insect  
4        pest of anthurium;
- 5        (3) Anthurium whitefly - Crenidorsum sp., a serious insect  
6        pest of anthurium, philodendron, and monstera;
- 7        (4) Bristly rose slug - Cladius difformis Panzer, a pest  
8        injurious to the rose plant;
- 9        (5) Cactus mealybug - Dactylopius opuntiae Cockerell and  
10       other insects feeding on Opuntia species of cactus,  
11       pests injurious to cactus utilized for forage or  
12       ornamental purposes;
- 13       (6) Citrus black spot - Phyllosticta citricarpa (McAlpine)  
14       Aa, a serious disease of citrus;
- 15       (7) Citrus canker - Xanthomonas citri subsp. citri, a  
16       serious disease of citrus;
- 17       (8) Citrus huanglongbing - Candidatus Liberibacter spp.,  
18       responsible for citrus greening;
- 19       (9) Coconut scale - Aspidiotus destructor Signoret, a  
20       serious insect pest of palms, bananas, and more than  
21       four hundred other plants;



- 1        (10) Colocasia bobone disease associated virus -  
2        Cytorhabdovirus colocasiae, a lethal pathogen  
3        associated with alomae bobone disease of taro;
- 4        (11) Croton whitefly - Orhamoplatus mammaeferus Quaintance  
5        and Baker, a serious insect pest of croton and citrus;
- 6        (12) Eucalyptus canker - Cryphonectria cubensis Bruner  
7        Hodges, a serious disease of Eucalyptus species;
- 8        (13) Eurasian pine aphid - Pineus pini Koch, a serious  
9        insect pest of pine;
- 10       (14) Fern weevil - Syagrius fulvitarisis Pascoe, an insect  
11       pest injurious to fern plants;
- 12       (15) Fiery skipper - Hylephila phyleus Drury, a serious  
13       pest of turf and pasture grasses and ornamental  
14       sedges;
- 15       (16) Fusarium wilt of banana - Fusarium spp.;
- 16       (17) Giant African snail - Achatina fulica Bowdich, a  
17       serious pest of horticultural and vegetable crops;
- 18       (18) Giant salvinia - Salvinia molesta Mitchell;
- 19       (19) Hala scale - Thysanococcus pandani Stickney, a serious  
20       pest of hala, an environmentally and culturally  
21       significant indigenous plant;



- 1        (20) Hunting billbug - Sphenophorus venatus vestitus  
2        Chittenden, a serious insect pest of turf and range  
3        grasses;
- 4        (21) Macadamia felted coccid - Acanthococcus ironsidei  
5        (Williams, 1973), a detrimental pest to the macadamia  
6        nut industry in Hawaii;
- 7        (22) Orange spiny whitefly - Aleurocanthus spiniferus  
8        Quaintance, a serious insect pest of rose and citrus;
- 9        (23) Oriental beetle - Anomala orientalis Waterhouse, a  
10       serious insect pest of sugarcane;
- 11       (24) Palm lethal yellows - Candidatus Phytoplasma spp.,  
12       responsible for lethal diseases of palm;
- 13       (25) Papaya ringspot virus, a serious virus disease of  
14       papaya;
- 15       (26) Sugarcane smut - Ustilago scitaminea Syd., a serious  
16       fungus disease of sugarcane;
- 17       (27) Sweet potato virus disease - Sweet potato chlorotic  
18       stunt virus, a lethal disease of sweet potato;
- 19       (28) Taro root aphid - Pemphigus sp., a serious pest of  
20       dryland taro;



1       (29) Two-lined spittlebug - Prosapia bicincta (Say), a  
2       serious pest of range grasses;

3       (30) Water lettuce - Pistia stratiotes L.;

4       (31) Water spangles - Salvinia minima Baker; and

5       (32) Any taxa designated as a pest for control or  
6       eradication or as a noxious weed pursuant to rules  
7       adopted by the board.

8       (b) The list established within subsection (a) shall not  
9       be construed to restrict the department from treating other  
10       species or taxa as pests; provided that the species or taxa  
11       meets the definition of "pest" under section 150A-2.

12       (c) If the scientific name or common name of a taxon  
13       referred to in this chapter is changed to a new scientific name  
14       or common name accepted by the International Code of Zoological  
15       Nomenclature or the International Plant Names Index, the  
16       reference in this chapter shall be construed to refer to the new  
17       scientific name or common name, as appropriate.

18       **§150A-        Designation of infested and restricted areas.**

19       (a) The department may designate the infested area of a pest by  
20       rules, including interim rules. Any designated area may be  
21       expanded by an order of the board to reflect the spread of a



1 specific pest infestation in order to implement quarantine  
2 measures to prevent movement of the pest and its pest host  
3 material from the infested area to restricted areas; provided  
4 that:

- 5       (1) The board first obtains advice from qualified persons  
6           with relevant expertise, with or without review by the  
7           advisory committee on plants and animals;
- 8       (2) The board designates the expanded infested area,  
9           identifying the revised geographical extent of the  
10          infestation;
- 11       (3) The department issues a press release describing the  
12          expansion of the infested area before the effective  
13          date of designation of the expanded infested area;
- 14       (4) Notice of the board's action, including its effective  
15          date, is posted by the following day on the  
16          department's website and is placed in a daily or  
17          weekly publication of statewide circulation or in  
18          separate daily or weekly publications whose combined  
19          circulation is statewide, within twelve days of the  
20          board's action; and



1       (5) The board's designation of an expanded infested area  
2       shall be effective the day following the board's  
3       action, unless a later effective date is specified by  
4       the board's action.

5       (b) If a pest is found outside the infested area  
6       designated under subsection (a), the state plant regulatory  
7       official may make an emergency, temporary designation that the  
8       area where the pest was found is an infested area; provided that  
9       the designation shall expire no later than thirty days after the  
10       designation is made, or on the date of the next meeting of the  
11       board, whichever duration is longer.

12       **§150A- Firewood quarantine.** (a) The import of  
13       firewood into the State and the transportation or sale within  
14       the State of firewood imported into the State are prohibited  
15       except for:

16       (1) Firewood that is certified by an appropriate federal  
17       or state agency as heat-treated and labeled in  
18       accordance with subsection (b); or

19       (2) Firewood introduced pursuant to subsection (c) and  
20       labeled in accordance with subsection (b).



1       (b) Firewood imported into the State shall bear a clear  
2 and conspicuous label that contains the following information on  
3 each package of firewood intended to be offered, exposed, or  
4 held for sale:

- 5       (1) The state of origin of the firewood;  
6       (2) If the firewood is imported pursuant to  
7       subsection (a)(1):  
8           (A) A statement that the firewood has been certified  
9           as heat-treated; and  
10          (B) The name of the federal or state certifying  
11          agency and the certification number;  
12       (3) Identification of the commodity as firewood, unless  
13       the contents can be easily identified through the  
14       wrapper or container; and  
15       (4) The name and address of the manufacturer, packer, or  
16       distributor of the firewood.  
17       (c) The state plant regulatory official may allow the  
18 importation or sale of firewood on a case-by-case basis if the  
19 person producing, processing, or importing the firewood is  
20 operating under a compliance agreement or other contract with an



1 appropriate federal or state agency that the state plant  
2 regulatory official determines will ensure that the firewood:

3 (1) Is heat-treated; or

4 (2) Will not pose an unacceptable risk of introducing or  
5 spreading an insect, disease, or other pest.

6 (d) The state plant regulatory official may at any time  
7 revoke an exemption under subsection (c) due to a change in the  
8 risk assessment.

9 (e) Any person that imports firewood into the State shall  
10 maintain, and make available to the state plant regulatory  
11 official upon request, records of those imports for at least two  
12 years.

13 (f) Firewood harvested within the State shall not be  
14 subject to the requirements of this section.

15 (g) As used in this section:

16 "Firewood" means any kindling, logs, timber, or other  
17 portions of a tree of any species four feet or less in length,  
18 cut or split, or intended to be cut or split, into a form and  
19 size appropriate for use as fuel for fires in an open or closed  
20 pit, grill, fireplace, stove, wood burning furnace, or in any



1 other form commonly used for burning in campfires, stoves, or  
2 fireplaces.

3 "Heat-treated" with respect to firewood means firewood that  
4 has been heated to at least one hundred sixty degrees Fahrenheit  
5 for seventy-five minutes at wood core.

6 **§150A- Cooperative enforcement of federal and state**  
7 **quarantines.** (a) The department may enter into cooperative  
8 agreements with the United States Department of Agriculture and  
9 other federal, state, or county agencies to assist in the  
10 enforcement of federal quarantines. The department may  
11 establish a quarantine and adopt rules relating to a pest or an  
12 area not covered by a federal quarantine. The department may  
13 seize, destroy, or require treatment of products moved from a  
14 federally-regulated area if they were not moved in accordance  
15 with the federal quarantine requirements or, if certified, were  
16 found to be infested with the pest.

17 (b) Interstate shipments for entry into the State are  
18 subject to the following:

19 (1) Any regulated article that is prohibited from  
20 interstate movement or is required to be certified, if



1 moved interstate from an area regulated by a state or  
2 federal quarantine, shall not enter the State;

3 (2) The owner or carrier of regulated articles that are  
4 reportedly originating in nonregulated areas of a  
5 quarantined state shall provide proof of origin of the  
6 regulated articles through an invoice, waybill, or  
7 other shipping document; and

8 (3) If only a portion of a state is under a state or  
9 federal quarantine, the entry of the shipment into the  
10 State shall not be refused nor shall a certificate be  
11 required if the article originates from a nonregulated  
12 area of the shipping state, unless the article is  
13 found to be infested or prohibited.

14 §150A- Prevention of the introduction of citrus pests  
15 and diseases. (a) The following articles shall not enter the  
16 State:

17 (1) Any regulated article from an area quarantined due to  
18 the presence of citrus greening or huanglongbing  
19 (Candidatus Liberibacter asiaticus) by any federal  
20 order in effect and issued pursuant to title 7 Code of  
21 Federal Regulations part 301, subpart N;



- 1        (2) Any regulated article from an area quarantined due to  
2        the presence of citrus canker (Xanthomonas axonopodis)  
3        pursuant to title 7 Code of Federal Regulations  
4        part 301, subpart M, including any federal order in  
5        effect and issued pursuant to that subpart;
- 6        (3) Any regulated article from an area quarantined due to  
7        the presence of citrus black spot (Phyllosticta  
8        citricarpa) pursuant to a federal order in effect and  
9        issued pursuant to title 7 United States Code section  
10       7712(a); and
- 11       (4) Any regulated article from an area quarantined due to  
12       the presence of any species of the family Tephritidae  
13       pursuant to title 7 Code of Federal Regulations  
14       part 301, including any federal order in effect and  
15       issued pursuant to that part.
- 16       (b) If the Animal and Plant Health Inspection Service of  
17       the United States Department of Agriculture modifies the  
18       regulated articles or the area quarantined due to the presence  
19       of citrus greening or huanglongbing (Candidatus Liberibacter  
20       asiaticus), citrus canker (Xanthomonas axonopodis), citrus black



1 spot (Phyllosticta citricarpa), or any species in the family  
2 Tephritidae:

3 (1) The board shall adopt the modified quarantines;

4 (2) The department shall issue a press release describing  
5 the modification of the articles or areas quarantined  
6 by the Animal and Plant Health Inspection Service of  
7 the United States Department of Agriculture; and

8 (3) Notice of the board's action, including its effective  
9 date, shall be posted by the following day on the  
10 department's website and shall be posted in a daily or  
11 weekly publication of statewide circulation or in  
12 separate daily or weekly publications whose combined  
13 circulation is statewide, within twelve days of the  
14 board's action.

15 (c) This section shall be construed to be consistent with  
16 federal regulations pursuant to title 7 United States Code  
17 section 7756(b) (2) (A) and shall not be construed to exceed the  
18 regulations or orders issued by the United States Secretary of  
19 Agriculture related to citrus greening or huanglongbing  
20 (Candidatus Liberibacter asiaticus), citrus canker (Xanthomonas



1 axonopodis), citrus black spot (Phyllosticta citricarpa), or any  
2 species in the family Tephritidae."

3 SECTION 9. Chapter 150A, Hawaii Revised Statutes, is  
4 amended by adding a new section to part III to be appropriately  
5 designated and to read as follows:

6 "§150A- Plant nursery license required. No  
7 certification or service related to nursery stock may be  
8 provided under this part to a person who is required to obtain a  
9 plant nursery license under part of this chapter for the  
10 nursery stock unless the person has obtained the required plant  
11 nursery license."

12 SECTION 10. Section 150A-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§150A-1[+] **Short title.** This chapter may be cited as  
15 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law"."

16 SECTION 11. Section 150A-2, Hawaii Revised Statutes, is  
17 amended as follows:

18 1. By adding eight new definitions to be appropriately  
19 inserted and to read:

20 ""Compliance agreement" means a written agreement:



1       (1) Between the department and a person who carries out  
2       commercial activities;

3       (2) That includes any terms or conditions the state plant  
4       regulatory official determines will slow or prevent  
5       the spread of a pest; and

6       (3) That serves as a permit issued by the department to  
7       that person.

8       "Infested" means harboring a pest.

9       "Infested area" means an island or locality within the  
10      State where a specific pest is known to be established.

11      "Nursery stock" means any plant for planting, propagation,  
12      or ornamentation, including all plants, trees, shrubs, vines,  
13      perennials, grafts, cuttings, and buds that may be sold for  
14      propagation, whether cultivated or wild, and all viable parts of  
15      these plants.

16      "Person" means any individual, firm, corporation,  
17      association, partnership, or other entity, including a  
18      governmental entity or nonprofit organization.

19      "Pest host material" means any plant, propagative plant  
20      part, non-propagative plant part, soil, or any other matter or  
21      object that is found to be transporting or harboring a pest.



1       "Restricted area" means an island or locality within the  
2 State where a specific pest is not known to be established or  
3 where an eradication or control project for a specified pest is  
4 being conducted by the department or an entity recognized by the  
5 state plant regulatory official.

6       "State plant regulatory official" means the state plant  
7 regulatory official for the State, or the official's designee."

8       2. By amending the definition of "pest" to read:

9       "Pest" means [any]:

10       (1) Any animal, insect, disease agent or other organism in  
11       any stage of development that is detrimental or  
12       potentially harmful to agriculture, or horticulture,  
13       or animal or public health, or natural resources  
14       including native biota or has an adverse effect on the  
15       environment [as]; or

16       (2) Any taxa determined by the [board.] department to be a  
17       pest."

18       SECTION 12. Section 150A-4.5, Hawaii Revised Statutes, is  
19       amended by amending subsection (a) to read as follows:



1           "(a) There is established in the state treasury the pest  
2 inspection, quarantine, and eradication fund, into which shall  
3 be deposited:

4           (1) Legislative appropriations for biosecurity and  
5 inspection, quarantine, and eradication services;

6           (2) Service fees, charges, and penalties collected under  
7 section 150A-5.3;

8           (3) Fees and fines collected under the plant nursery  
9 licensing program under part           of this chapter;

10          ~~(4)~~ (4) Fees imposed for services pursuant to this  
11 chapter or rules adopted under this chapter;

12          ~~(5)~~ (5) Fines for violations of this chapter;

13          ~~(6)~~ (6) Federal funds received for biosecurity, pest  
14 inspection, control, management, quarantine, and  
15 eradication programs;

16          ~~(7)~~ (7) Grants and gifts;

17          ~~(8)~~ (8) All interest earned or accrued on moneys  
18 deposited in the fund; and

19          ~~(9)~~ (9) Any other moneys made available to the fund."

20           SECTION 13. Section 150A-5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§150A-5 Conditions of importation.** (a) The importation  
2 into the State of any material that is infested or infected with  
3 a pest or that is itself a pest is prohibited unless imported  
4 under an appropriate permit or compliance agreement.

5           (b) The importation into the State of any of the following  
6 articles, viz., [~~nursery-stock,~~ nursery stock, tree, shrub,  
7 herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf,  
8 root, or rhizome; nut, fruit, or vegetable; grain, cereal, or  
9 legume in the natural or raw state; moss, hay, straw, dry-grass,  
10 or other forage; unmanufactured log, limb, or timber, or any  
11 other plant-growth or plant-product, unprocessed or in the raw  
12 state; soil; microorganisms; live bird, reptile, nematode,  
13 insect, or any other animal in any stage of development (that is  
14 in addition to the so-called domestic animal, the quarantine of  
15 which is provided for in chapter 142); box, vehicle, baggage, or  
16 any other container in which such articles have been transported  
17 or any packing material used in connection therewith shall be  
18 made in the following manner [~~hereinafter set forth~~]:

19           (1) Notification of arrival. Any person who receives for  
20           transport or brings or causes to be brought to the  
21           State as freight, air freight, baggage, or otherwise,



1 for the purpose of debarkation or entry therein, or as  
2 ship's stores, any of the foregoing articles, shall,  
3 immediately upon the arrival thereof, notify the  
4 department, in writing, of the arrival, giving the  
5 waybill number, container number, name and address of  
6 the consignor, name and address of the consignee or  
7 the consignee's agent in the State, marks, number of  
8 packages, description of contents of each package,  
9 port at which laden, and any other information that  
10 may be necessary to locate or identify the same, and  
11 shall hold such articles at the pier, airport, or any  
12 other place where they are first received or  
13 discharged, in such a manner that they will not spread  
14 or be likely to spread any infestation or infection of  
15 pests, including insects or diseases that may be  
16 present until inspection and examination can be made  
17 by the inspector to determine whether or not any  
18 article, or any portion thereof, is infested or  
19 infected with or contains any pest. The department  
20 may adopt rules to require identification of specific  
21 articles on negotiable and non-negotiable warehouse



1 receipts, bills of lading, or other documents of title  
2 for inspection of pests. In addition, the department  
3 shall adopt rules to designate restricted articles  
4 that shall [~~require~~]:

5 (A) [A] Require a permit from the department in  
6 advance of importation; [~~or~~]

7 (B) [A] Require a department letter of authorization  
8 or registration in advance of importation[~~or~~]; or

9 (C) Be imported pursuant to a compliance agreement.

10 The restricted articles shall include but not be  
11 limited to certain microorganisms or living insects.  
12 Failure to obtain the permit, letter of authorization,  
13 or registration in advance is a violation of this  
14 section;

15 (2) Individual passengers, officers, and crew.

16 (A) It shall be the responsibility of the  
17 transportation company to distribute, prior to  
18 the debarkation of passengers and baggage, the  
19 State of Hawaii plant and animal declaration form  
20 to each passenger, officer, and crew member of  
21 any aircraft or vessel originating in the



1 continental United States or its possessions or  
2 from any other area not under the jurisdiction of  
3 the appropriate federal agency in order that the  
4 passenger, officer, or crew member can comply  
5 with the directions and requirements appearing  
6 thereon. All passengers, officers, and crew  
7 members, whether or not they are bringing or  
8 causing to be brought for entry into the State  
9 the articles listed on the form, shall complete  
10 the declaration, except that one adult member of  
11 a family may complete the declaration for other  
12 family members. Any person who defaces the  
13 declaration form required under this section,  
14 gives false information, fails to declare  
15 restricted articles in the person's possession or  
16 baggage, or fails to declare in cargo manifests  
17 is in violation of this section;

18 (B) Completed forms shall be collected by the  
19 transportation company and be delivered,  
20 immediately upon arrival, to the inspector at the  
21 first airport or seaport of arrival. Failure to



- 1 distribute or collect declaration forms or to  
2 immediately deliver completed forms is a  
3 violation of this section; and
- 4 (C) It shall be the responsibility of the officers  
5 and crew of an aircraft or vessel originating in  
6 the continental United States or its possessions  
7 or from any other area not under the jurisdiction  
8 of the appropriate federal agency to immediately  
9 report all sightings of any plants and animals to  
10 the plant quarantine branch. Failure to comply  
11 with this requirement is a violation of this  
12 section;
- 13 (3) Plant and animal declaration form. The form shall  
14 include directions for declaring domestic and other  
15 animals cited in chapter 142, in addition to the  
16 articles enumerated in this chapter;
- 17 (4) Labels. Each container in which any of the  
18 above-mentioned articles are imported into the State  
19 shall be plainly and legibly marked, in a conspicuous  
20 manner and place, with the name and address of the  
21 shipper or owner forwarding or shipping the same, the



1 name or mark of the person to whom the same is  
2 forwarded or shipped or the person's agent, the name  
3 of the country, state, or territory and locality  
4 therein where the product was grown or produced, and a  
5 statement of the contents of the container. Upon  
6 failure to comply with this paragraph, the importer or  
7 carrier is in violation of this section;

8 (5) Authority to inspect. [~~Whenever the inspector has~~  
9 ~~good cause to believe that the provisions of this~~  
10 ~~chapter are being violated, the] An inspector [may]:~~

11 (A) May conduct inspections of persons, baggage,  
12 cargo, and any other articles destined for  
13 movement between the islands of Hawaii or  
14 importation into the State from the continental  
15 United States, Guam, Puerto Rico, or the United  
16 States Virgin Islands for the purpose of  
17 determining whether an insect, pest, disease, or  
18 regulated or restricted taxa is present;

19 [~~(A) Enter~~] (B) May enter and inspect any aircraft,  
20 vessel, or other carrier at any time after its  
21 arrival within the boundaries of the State,



1           whether offshore, at the pier, or at the airport,  
2           and enter into or upon any pier, warehouse,  
3           airport, or any other place in the State for the  
4           purpose of [~~determining whether any of the~~  
5           ~~articles or pests enumerated in this chapter or~~  
6           ~~rules adopted thereto, is present;~~

7           ~~(B) Enter into or upon any pier, warehouse, airport,~~  
8           ~~or any other place in the State where any of the~~  
9           ~~above-mentioned articles are moved or stored, for~~  
10          ~~the purpose of ascertaining, by inspection and~~  
11          ~~examination, whether or not any of the articles~~  
12          ~~is infested or infected with any pest or disease~~  
13          ~~or contaminated with soil or contains prohibited~~  
14          ~~plants or animals; and] conducting inspections~~  
15          ~~authorized by subparagraph (A);~~

16          ~~(C) [Inspect any baggage or personal effects of~~  
17          ~~disembarking passengers, officers, and crew~~  
18          ~~members on aircraft or vessels arriving in the~~  
19          ~~State to ascertain if they contain any of the~~  
20          ~~articles or pests enumerated in this chapter.~~

21          ~~Ne] Shall inform passengers and crew members that~~



1            their baggage [~~or~~] and other personal effects [~~of~~  
2            ~~the passengers or crew members~~] shall not be  
3            released until the baggage [~~or~~] and personal  
4            effects have been passed [~~—Baggage or~~]; and

5            (D) Shall have the discretion to inspect baggage and  
6            cargo [~~inspection shall be made at the discretion~~  
7            ~~of the inspector,~~] on the pier, vessel, or  
8            aircraft or in any quarantine or inspection  
9            area [~~—~~

10           ~~Whenever the inspector has good cause to believe~~  
11           ~~that the provisions of this chapter are being~~  
12           ~~violated, the inspector may require that any box,~~  
13           ~~package, suitcase, or any other container carried as~~  
14           ~~ship's stores, cargo, or otherwise by any vessel or~~  
15           ~~aircraft moving between the continental United States~~  
16           ~~and Hawaii or between the Hawaiian Islands, be opened~~  
17           ~~for inspection to determine whether any article or~~  
18           ~~pest prohibited by this chapter or by rules adopted~~  
19           ~~pursuant thereto is present. It is a violation of~~  
20           ~~this section if any prohibited article or any pest or~~



1           ~~any plant, fruit, or vegetable infested with plant~~  
2           ~~pests is found];~~

3           (6) Request for importation and inspection. In addition  
4           to requirements of the appropriate United States  
5           ~~[customs]~~ authorities concerning invoices or other  
6           formalities incident to importations into the State,  
7           the importer shall be required to file a written  
8           statement with the department, signed by the importer  
9           or the importer's agent, setting forth the importer's  
10          desire to import certain of the above-mentioned  
11          articles into the State and:

12          (A) Giving the following additional information:

13               (i) The kind (scientific name), quantity, and  
14               description;

15               (ii) The locality where same were grown or  
16               produced;

17               (iii) Certification that all animals to be  
18               imported are the progeny of captive  
19               populations or have been held in captivity  
20               for a period of one year immediately prior



1 to importation or have been specifically  
2 approved for importation by the board;  
3 (iv) The port from which the same were last  
4 shipped;  
5 (v) The name of the shipper; and  
6 (vi) The name of the consignee; and  
7 (B) Containing:  
8 (i) A request that the department, by its duly  
9 authorized agent, examine the articles  
10 described;  
11 (ii) An agreement by the importer to be  
12 responsible for all costs, charges, or  
13 expenses; and  
14 (iii) A waiver of all claims for damages incident  
15 to the inspection or the fumigation,  
16 disinfection, quarantine, or destruction of  
17 the articles, or any of them, as hereinafter  
18 provided, if any treatment is deemed  
19 necessary.  
20 Failure or refusal to file a statement, including  
21 the agreement and waiver, is a violation of this



1 section and may, in the discretion of the department,  
2 be sufficient cause for refusing to permit the entry  
3 of the articles into the State;

- 4 (7) Place of inspection. If, in the judgment of the  
5 inspector, it is deemed necessary or advisable to move  
6 any [~~of the above-mentioned articles, or any portion~~  
7 ~~thereof,~~] item or material to a place more suitable  
8 for inspection than the pier, airport, or any other  
9 place where they are first received or discharged, the  
10 inspector is authorized to do so. All costs and  
11 expenses incident to the movement and transportation  
12 of the [~~articles~~] items or material to such place  
13 shall be borne by the importer or the importer's  
14 agent. If the importer, importer's agent, or  
15 transportation company requests inspection of sealed  
16 containers [~~of the above-mentioned articles~~] at  
17 locations other than where the [~~articles~~] containers  
18 are first received or discharged and the department  
19 determines that inspection at such place is  
20 appropriate, the department may require payment of



1 costs necessitated by these inspections, including  
2 overtime costs;

3 (8) Disinfection or quarantine. If, upon inspection, any  
4 ~~[article]~~ item or material received or brought into  
5 the State for the purpose of debarkation or entry  
6 therein or moved between islands of the State is found  
7 to be infested or infected or there is reasonable  
8 cause to presume that it is infested or infected and  
9 the infestation or infection can, in the judgment of  
10 the inspector, be eradicated, a treatment shall be  
11 given such ~~[article.]~~ item or material. The treatment  
12 shall be at the expense of the owner or the owner's  
13 agent, and the treatment shall be as prescribed by the  
14 department. The ~~[article]~~ item or material shall be  
15 held in quarantine at the expense of the owner or the  
16 owner's agent at a satisfactory place approved by the  
17 department for a sufficient length of time to  
18 determine that eradication has been accomplished. If  
19 the infestation or infection is of such nature or  
20 extent that it cannot be effectively and completely  
21 eradicated, or if it is a potentially destructive pest



1 or it is not widespread in the State, or after  
2 treatment it is determined that the infestation or  
3 infection is not completely eradicated, or if the  
4 owner or the owner's agent refuses to allow the  
5 ~~[article]~~ item or material to be treated or to be  
6 responsible for the cost of treatment and quarantine,  
7 the ~~[article,~~ item or material, or any portion  
8 thereof, together with all packing and containers,  
9 may, at the discretion of the inspector, be destroyed  
10 or sent out of the State at the expense of the owner  
11 or the owner's agent. Such destruction or exclusion  
12 shall not be made the basis of a claim against the  
13 department or the inspector for damage or loss  
14 incurred;

- 15 (9) Disposition. Upon completion of inspection, either at  
16 the time of arrival or at any time thereafter should  
17 any ~~[article]~~ item or material be held for inspection,  
18 treatment, or quarantine, the inspector shall affix to  
19 the ~~[article]~~ item or material or the container or to  
20 the delivery order in a conspicuous place thereon, a  
21 tag, label, or stamp to indicate that the ~~[article]~~



1            item, material, or container has been inspected and  
2            passed. This action shall constitute a permit to  
3            bring the [~~article~~] item, material, or container into  
4            the State; and

5            (10) Ports of entry. None of the articles mentioned in  
6            this section shall be allowed entry into the State  
7            except through the airports and seaports in the State  
8            designated and approved by the board."

9            SECTION 14. Section 150A-5.5, Hawaii Revised Statutes, is  
10            amended by amending subsection (b) to read as follows:

11            "(b) In legal effect, [~~articles~~] items or materials landed  
12            for the purpose of inspection or quarantine shall be construed  
13            to be still outside the State seeking entry, and shall not, in  
14            whole or in part, be considered suitable for entry into the  
15            State unless a tag, label, or stamp has been affixed to the  
16            [~~article,~~] item, material, its container, or its delivery order  
17            by the inspector as provided in section [~~150A-5(9),~~] 150A-  
18            5(b)(9), except that [~~articles~~] items or materials quarantined  
19            in the biocontrol containment facilities of the department or of  
20            other government agencies engaged in joint projects with the



1 department may be released upon issuance of a permit approved by  
2 the board."

3 SECTION 15. Section 150A-6.1, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsection (b) to read:

6 "(b) The department shall designate, by rule, as  
7 restricted plants, specific plants that may be detrimental or  
8 potentially harmful to agriculture, horticulture, the  
9 environment, or animal or public health, or that spread or may  
10 be likely to spread an infestation or infection of an insect,  
11 pest, or disease that is detrimental or potentially harmful to  
12 agriculture, horticulture, the environment, or animal or public  
13 health. In addition, plant species designated [~~by rule~~]  
14 pursuant to chapter 152 as noxious weeds are designated as  
15 restricted plants."

16 2. By amending subsections (d) and (e) to read:

17 "(d) Noxious weeds may be imported only for research, by  
18 permit, and shall not be offered for sale [~~or~~], sold [~~in~~], or  
19 transported within the State[-], except for the purposes of  
20 appropriate disposal under or permit or methods approved by the  
21 state plant regulatory official.



1 (e) No person shall import, offer for sale, or sell within  
2 the State any plant or propagative portion of *Salvinia molesta*  
3 [~~or~~], *Salvinia minima* [~~and~~], *Pistia stratiotes*[-], *Falcataria*  
4 *moluccana* (*Albizia*)."

5 SECTION 16. Section 150A-8, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§150A-8 Transporting in State.** (a) Flora [~~and~~], fauna,  
8 pest host material, and any other item or material specified by  
9 [~~rules and regulations of~~] the department shall not be moved  
10 from one island to another island within the State or from one  
11 locality to another on the same island except by a permit issued  
12 by the department[-], or pursuant to a compliance agreement  
13 approved by the department.

14 (b) The transport, harboring, rearing, or breeding of any  
15 pest is prohibited.

16 (c) The transportation of any pest host material that is  
17 infested or infected with an insect, disease, or pest between  
18 the islands or from one part or locality of any island to  
19 another part or locality of the same island is prohibited unless  
20 the pest host material has been subjected to an appropriate  
21 treatment, as approved by the state plant regulatory official.



1 Appropriate treatment may include pesticide or fumigation  
2 treatment. The state plant regulatory official may, however,  
3 authorize the transportation of an untreated infested or  
4 infected pest host material to an island or location where the  
5 pest is known to be established.

6 (d) Notwithstanding subsections (a), (b), and (c), pests  
7 or plants, plant parts, soil, or pest host material infested or  
8 infected with a pest may be transported without inspection  
9 between islands or between parts or localities of the same  
10 island:

11 (1) For diagnostics, research, testing, or educational  
12 purposes by the department; or

13 (2) Pursuant to a permit approved by the state plant  
14 regulatory official and issued to an institution  
15 approved by the board, a government agency, or a  
16 university for research, testing, or educational  
17 purposes at a site inspected and approved by the state  
18 plant regulatory official before the transport occurs.

19 (e) The state plant regulatory official may prohibit the  
20 movement of any pest host material that is offered for sale, for  
21 barter, or by donation or otherwise to be given away to the



1 public if the state plant regulatory official determines that  
2 the pest host material is infested or infected with an insect,  
3 disease, or pest. The state plant regulatory official may  
4 compel treatment or destruction of the material as set out in  
5 this section. If such material was or is stored in an area that  
6 is infested or infected with an insect, disease, or pest, the  
7 state plant regulatory official may require appropriate  
8 treatment of the area prior to authorizing the movement of the  
9 material.

10 (f) An item subject to the prohibition in subsection (e)  
11 shall be:

12 (1) Subjected to a treatment to eradicate the insect,  
13 disease, or pest, as approved and supervised by the  
14 state plant regulatory official;

15 (2) Destroyed using a method approved and supervised by  
16 the state plant regulatory official;

17 (3) Transported only pursuant to a permit issued by the  
18 state plant regulatory official; or

19 (4) Subject to any other disposition approved by the state  
20 plant regulatory official, including the  
21 transportation of untreated infested or infected pest



1           host material or an insect, disease, or pest to an  
2           island or location where the target insect, disease,  
3           or pest is known to be established.

4           (g) The State shall not be responsible for any economic  
5           loss or damages related to any actions by the department  
6           pursuant to this section, including the treatment, quarantine,  
7           or destruction of any item."

8           SECTION 17. Section 150A-53, Hawaii Revised Statutes, is  
9           amended to read as follows:

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

15           (1) Work with government agencies and agricultural  
16           commodity exporters of other states and countries to  
17           establish pre-entry inspection programs under which  
18           inbound cargo into the State is inspected at the ports  
19           of departure or other points outside the State;

20           (2) Establish, operate, or participate in operating  
21           port-of-entry facilities where multiple government



1 agencies may inspect, quarantine, fumigate, disinfect,  
2 destroy, or exclude as appropriate, articles that may  
3 harbor pests or exclude articles that are prohibited  
4 or restricted 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) Promote the production of agricultural commodities in  
6 the State to reduce cargo shipments of imported  
7 commodities into the State; and

8 (7) Provide public education on the negative effects of  
9 pests and prohibited or restricted organisms without a  
10 permit[~~r~~] to the environment and economy of the State.

11 (b) 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 (c) The plant nursery licensing program established under  
19 part of this chapter:

20 (1) Shall be considered to be a part of the biosecurity  
21 program; and





- 1       (3) May conduct additional research related to the  
2       application, including research of literature reviews,  
3       surveys, discussions with other states, and field  
4       investigations;
- 5       (4) May submit to the advisory committee on plants and  
6       animals established under section 150A-10, and any  
7       subcommittee of that committee, the application for  
8       review, for the purposes of assisting the board in  
9       considering the application;
- 10       (5) Shall consider all oral and written comments submitted  
11       under section 152-C and may incorporate those comments  
12       in the state plant regulatory official's review of the  
13       application; and
- 14       (6) Shall make a recommendation to the board regarding  
15       each application.
- 16       (d) The board shall vote on each change to a noxious weed  
17       designation requested in an application at the subsequent  
18       meeting timely held after the period for public notification and  
19       input described in section 152-C.
- 20       (e) Upon approval by the board of a change to a noxious  
21       weed designation, the order to make that change to the noxious



1 weed designation shall take effect ten days after the department  
2 posts public notice of the order in a daily or weekly  
3 publication of statewide circulation or in separate daily or  
4 weekly publications whose combined circulation is statewide and  
5 on the publicly available internet website of the department.

6 (f) Nothing in this section shall be construed to prevent  
7 the department or the board from considering an action related  
8 to a noxious weed on an expedited or emergency basis at any  
9 time.

10 **§152-B Applications.** (a) An application seeking a change  
11 to noxious weed designations may be submitted by any person.

12 (b) An application shall be submitted for the board's  
13 consideration at a meeting described in section 152-A(a).

14 (c) Each application shall include:

15 (1) The name, address, and contact information of the  
16 applicant;

17 (2) A description of the applicant's requested change to  
18 the noxious weed designation;

19 (3) Evidence that the board may use to determine if the  
20 requested change will be made; and



- 1        (4) Any other information the state plant regulatory  
2        official may reasonably require, as specified on a  
3        form provided by the state plant regulatory official.
- 4        (d) An application to designate a new taxon as a noxious  
5 weed shall include:
- 6        (1) The taxon's:
- 7            (A) Scientific name and author;  
8            (B) Common synonyms;  
9            (C) Botanical classification; and  
10          (D) Common names;
- 11        (2) The class of noxious weed requested for the taxon;
- 12        (3) A description of the geographic area in the State that  
13        is free or reasonably free of the taxon;
- 14        (4) Information describing how the taxon can directly or  
15        indirectly injure or cause damage to crops, including  
16        nursery stock or plant products; livestock; poultry;  
17        or other interests of agriculture, irrigation,  
18        navigation, the natural resources of the State, the  
19        public health, or the environment; and
- 20        (5) A list of references to support the information  
21        provided in the application.



1       (e) An application to remove the noxious weed designation  
2 for a plant taxon shall include evidence that the plant:

3       (1) Cannot directly or indirectly injure or cause damage  
4 to crops, including nursery stock or plant products;  
5 livestock; poultry; or other interests of agriculture,  
6 irrigation, navigation, the natural resources of the  
7 State, the public health, or the environment; or

8       (2) Is eligible for special consideration for crops under  
9 section 152-F.

10       (f) An application to change the class of a noxious weed  
11 designation shall include evidence that the noxious weed meets  
12 the description of the proposed class as established in  
13 section 152-4.

14       §152-C Public notification and input for changes to  
15 noxious weed designations. (a) No later than fourteen days  
16 after an application is submitted at a board meeting pursuant to  
17 section 152-A, the state plant regulatory official shall issue a  
18 press release and provide notices to the office of planning and  
19 sustainable development for publication and to each person who  
20 has made a timely written request of the department for notice  
21 of an application. The press release and notices shall include:



- 1        (1) A statement summarizing each change to a noxious weed  
2        designation requested in an application;
- 3        (2) A statement that a copy of the application will be  
4        mailed to any interested person who requests a copy  
5        upon payment in advance of costs for photocopying,  
6        preparing, and mailing the copy and that a copy of the  
7        application will be made available on the publicly  
8        available website of the department;
- 9        (3) A statement as to where to obtain a copy of the  
10       application for inspection or for pickup after payment  
11       in full for costs for photocopying and preparing; and
- 12       (4) A statement that the department is soliciting comments  
13       regarding the requested change to a noxious weed  
14       designation, which shall include the procedure for  
15       submitting comments.
- 16       (b) During the three-month period after an application is  
17       submitted at a board meeting, any interested person, educational  
18       institution, or government entity may:
- 19       (1) Provide oral comments on the application at any  
20       regularly scheduled meeting of the board; and



1       (2) Provide written comments on the application to the  
2       board and the state plant regulatory official.

3       **§152-D Emergency designations.** (a) Notwithstanding any  
4 other provision of this chapter or any other law to the  
5 contrary:

6       (1) If the department finds an incipient infestation of a  
7 plant taxon is directly or indirectly injuring or  
8 causing damage to crops, including nursery stock or  
9 plant products; livestock; poultry; or other interests  
10 of agriculture, irrigation, navigation, the natural  
11 resources of the State, the public health, or the  
12 environment without immediate action, the department  
13 may proceed without prior notice or upon a minimum of  
14 forty-eight hours notice and hearing to adopt an  
15 emergency rule for the eradication of that  
16 infestation;

17       (2) An emergency rule described in paragraph (1) shall be  
18 effective for a period no longer than one hundred  
19 eighty days, without the possibility of renewal; and

20       (3) The department may establish, implement, and enforce  
21 interim rules governing the transportation of noxious



1 weeds or taxa eligible for noxious weed designation  
2 into or within the State, as provided in section 150A-  
3 9.5.

4 (b) During the period that an emergency rule is in effect  
5 under subsection (a), the state plant regulatory official shall  
6 make an application for the board to order on an expedited basis  
7 the designation of the taxon as a noxious weed.

8 **§152-E Publication of noxious weed designations.** The  
9 state plant regulatory official shall make available to the  
10 public and publish on the publicly available website of the  
11 department the noxious weed designations under this chapter.  
12 The list shall include:

13 (1) Information on which noxious weeds are respectively  
14 designated as class A, class B, and class C noxious  
15 weeds; and

16 (2) The geographic area declared free or reasonably free  
17 of each noxious weed.

18 **§152-F Special consideration for crops.** (a) The board  
19 may defer designating a plant taxon as a noxious weed or  
20 removing a noxious weed designation from a plant taxon if the  
21 plant taxon:



1       (1) Is, or is intended to be, commercially cultivated in  
2       the State as a crop; and

3       (2) Is, or will be, cultivated using practices that  
4       prevent it from directly or indirectly injuring or  
5       causing damage to crops, including nursery stock or  
6       plant products; livestock; poultry; or other interests  
7       of agriculture, irrigation, navigation, the natural  
8       resources of the State, the public health, or the  
9       environment.

10       (b) The board may require conditions, including a bond or  
11 a compliance agreement, for the cultivation of a plant taxon for  
12 which the board has deferred a designation or removed from  
13 designation pursuant to subsection (a).

14       (c) The board shall designate as a noxious weed a plant  
15 taxon that is cultivated as a crop for which the board deferred  
16 a designation or removed from designation pursuant to subsection  
17 (a) if the plant becomes invasive or is otherwise no longer  
18 described in subsection (a) (2).

19       **§152-G Noxious weed control or eradication programs.** (a)

20       The state plant regulatory official may develop and implement a  
21 program to control or eradicate a specific noxious weed if the



1 state plant regulatory official determines that the control or  
2 eradication program is feasible and practicable.

3 (b) Each control or eradication program developed under  
4 subsection (a) shall:

5 (1) Use the best available technology and use the  
6 technology in a manner consistent with state and  
7 federal law;

8 (2) Specify the geographic area where the program will be  
9 carried out, which may be a section of an island, an  
10 island, a group of islands, or the entire State;

11 (3) Minimize collateral damage to crops, property, the  
12 environment, and native species;

13 (4) Include a description of the specific methods to be  
14 employed to control or eradicate the noxious weed;

15 (5) Include a description of the surveys and monitoring  
16 that will be required before and after the specific  
17 methods to control or eradicate are employed;

18 (6) Include an assessment of whether the department will  
19 seek any quarantine related to the control or  
20 eradication program; and



1       (7) Include an approximate time frame to carry out the  
2           control or eradication program.

3       (c) If the department or agent of the department needs to  
4       enter onto private property to conduct detection and  
5       delimitation surveys or otherwise carry out or maintain the  
6       control or eradication program, but the owner or occupier of the  
7       property refuses to grant entry to the department or its agent,  
8       the department or agent may gain entry pursuant to  
9       section 141-3.6 to the extent necessary to carry out or maintain  
10       the control or eradication program, unless the property is a  
11       dwelling place.

12       (d) The state plant regulatory official may seek the  
13       board's approval for a control or eradication program developed  
14       under this section if the state plant regulatory official  
15       believes that the board's approval is likely to make the program  
16       more successful.

17       (e) This section shall not apply to efforts by the  
18       department to control a noxious weed using only the release of a  
19       biological control agent.

20       **§152-H Noxious weed control on leased state lands.** Any  
21       person that leases state lands for livestock grazing or any



1 agricultural purpose shall agree in the lease agreement to  
2 control any noxious weed on those lands to the extent required  
3 by the department.

4 §152-I Penalties. (a) The department may establish,  
5 impose, and collect administrative fines or bring legal action  
6 to recover administrative costs of the department, payment for  
7 damages, or costs to correct damages resulting from violations  
8 of this chapter or any rule adopted under this chapter.

9 (b) The department, at its discretion, may refuse entry  
10 into the State of, confiscate, or destroy any noxious weed or  
11 article infested with a noxious weed that a person brings or  
12 attempts to bring into the State or that is offered for sale,  
13 sold, or transported in violation of this chapter, or, in the  
14 case of importation, order the return of any noxious weed or any  
15 article infested with a noxious weed to its place of origin or  
16 otherwise dispose of it or a part thereof as may be necessary to  
17 comply with this chapter.

18 (c) The State shall not be responsible for any economic  
19 loss or damages related to any actions by the department  
20 pursuant to this chapter, including the treatment, quarantine,  
21 destruction, or return of any item."



1 SECTION 19. Section 152-1, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding six new definitions to be appropriately  
4 inserted and to read:

5 "Agent of the department" means:

6 (1) The applicable invasive species committee; or

7 (2) Any other person,

8 acting on behalf of the department of agriculture.

9 "Application" means an application seeking a change to the  
10 noxious weed designations.

11 "Board" means the board of agriculture.

12 "Invasive species committee" has the same meaning as in  
13 section 141-3.5(e).

14 "Noxious weed designation" means a designation on the list  
15 of noxious weeds.

16 "State plant regulatory official" has the same meaning as  
17 in section 150A-2."

18 2. By amending the definition of "control noxious weed" to  
19 read:

20 "Control noxious weed" means to limit the spread of a  
21 specific noxious weed, including quarantining material infested



1 with the noxious weed, and to reduce its density to a degree  
2 where its injurious, harmful, or deleterious effect is reduced  
3 to a tolerable level."

4 3. By amending the definition of "eradicate noxious weed"  
5 to read:

6 ""Eradicate noxious weed" means to completely destroy and  
7 eliminate existing plant growth, seeds, and vegetative  
8 reproductive plant parts of a specific noxious weed from a given  
9 locality. "Eradicate noxious weed" includes quarantining  
10 material infested with the noxious weed."

11 4. By amending the definition of "noxious weed" to read:

12 ""Noxious weed" means any plant [~~species which is, or which~~  
13 ~~may be likely to become, injurious, harmful, or deleterious to~~  
14 ~~the agricultural, horticultural, aquacultural, or livestock~~  
15 ~~industry of the State and to forest and recreational areas and~~  
16 ~~conservation districts of the State, as determined and~~  
17 ~~designated by the department from time to time.] or plant  
18 product that can directly or indirectly injure or cause damage  
19 to crops, including nursery stock or plant products; livestock;  
20 poultry; or other interests of agriculture, irrigation,~~



1 navigation, the natural resources of the State, the public  
2 health, or the environment."

3 SECTION 20. Section 152-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§152-2 Rules.** Subject to chapter 91, the department may  
6 [make] adopt rules [to effectuate] necessary for the purposes of  
7 this chapter~~[, including but not limited to the following:~~

8 ~~(1) Establishment of criteria and procedures for the~~  
9 ~~designation of plant species as noxious weeds for the~~  
10 ~~purposes of this chapter;~~

11 ~~(2) Establishment of procedures and conditions for the~~  
12 ~~initiation of cooperative agreements with landowners~~  
13 ~~and land occupiers for the purpose of eradicating or~~  
14 ~~controlling noxious weed infestations;~~

15 ~~(3) Control or eradication of noxious weeds when deemed~~  
16 ~~economically feasible]."~~

17 SECTION 21. Section 152-3, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§152-3 Prohibited and permitted acts.** ~~[It]~~ (a) Except  
20 as provided in subsection (b), it shall be unlawful to  
21 ~~[introduce or to transport specific]~~ import into the State or



1 sell, offer for sale, or transport within the State noxious  
2 weeds or their seeds or vegetative reproductive parts [~~into any~~  
3 ~~area designated pursuant to section 152-5 as free or reasonably~~  
4 ~~free of those noxious weeds; provided that the introduction or~~  
5 ~~transportation of those noxious weeds may be permitted for~~  
6 ~~educational or research purposes when authorized by a permit~~  
7 ~~issued by the department]~~.

8 (b) The prohibition in subsection (a) does not apply to:

9 (1) A plant part that is processed, not vegetatively  
10 propagative, or otherwise not capable of reproducing  
11 the plant;

12 (2) The movement of a properly prepared herbarium  
13 specimen; or

14 (3) The movement of plant material by authorized employees  
15 of the department or an agent of the department acting  
16 in the course of official duties;

17 (4) A noxious weed imported for research pursuant to a  
18 permit issued by the state plant regulatory official;  
19 or

20 (5) A noxious weed transported for educational or research  
21 purposes or for proper disposal of removed material



1           under methods approved by, or pursuant to a permit  
2           issued by, the state plant regulatory official.

3           (c) The department may establish fees for permits issued  
4           under this section."

5           SECTION 22. Section 152-4, Hawaii Revised Statutes, is  
6           amended to read as follows:

7           "**§152-4 Designation of noxious [weed-] weeds; classes of**  
8           **noxious weeds.** (a) The [department] board may designate  
9           certain plant [~~species~~] taxa as noxious weeds [~~following the~~  
10           ~~criteria and procedures established under section 152-2(1).~~]  
11           pursuant to this chapter and rules adopted pursuant to this  
12           chapter.

13           (b) The department shall publish and make available on its  
14           website a list of noxious weeds [~~to interested persons.~~]  
15           designated pursuant to this chapter.

16           (c) A plant taxon shall be designated as a noxious weed if  
17           the board determines that that the plant could directly or  
18           indirectly injure or cause damage to crops, including nursery  
19           stock or plant products; livestock; poultry; or other interests  
20           of agriculture, irrigation, navigation, the natural resources of  
21           the State, the public health, or the environment.



1        (d) The board shall designate each noxious weed as a class  
2 A, class B, or class C noxious weed; provided that in  
3 determining the class to which a noxious weed should be  
4 designated, the following standards shall apply:

5        (1) Class A noxious weeds:

6            (A) Are not known to occur or are of very limited  
7            distribution in the State;

8            (B) Are a high priority for control or eradication if  
9            an infestation was discovered in the State; and

10           (C) When detected, shall be subject to control or  
11           eradication actions by the department or an  
12           agent of the department, subject to the  
13           availability of funds;

14        (2) Class B noxious weeds:

15           (A) Are known to occur in the State but are of  
16           limited distribution on one or more islands;

17           (B) Are a high priority for control or eradication in  
18           a given area; and

19           (C) Shall be managed on a priority basis, by the  
20           department or an agent of the department, as  
21           resources allow; and



1       (3) Class C noxious weeds are those noxious weeds that are  
2           not class A or class B noxious weeds."

3       SECTION 23. Section 152-5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5       "**§152-5 Designation of areas declared free or reasonably**  
6 **free of noxious weeds.** (a) The [department] board may declare  
7 the entire State, an island, or a section of an island as free  
8 or reasonably free of a specific noxious weed. The department  
9 shall take necessary measures to restrict the introduction and  
10 establishment of specific noxious weeds in areas declared free  
11 or reasonably free of those noxious weeds.

12       (b) A change to the geographic area declared free or  
13 reasonably free of a specific noxious weed shall be made by  
14 order of the board under the procedures for a change to a  
15 noxious weed designation set out in this chapter."

16       SECTION 24. Section 152-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       "**§152-6 Duties of the department; noxious weed control and**  
19 **eradication.** (a) The department shall maintain a constant  
20 vigilance for incipient infestations of specific noxious weeds  
21 [~~on islands~~] in locations declared reasonably free from those



1 weeds, and shall use those procedures and methods to control or  
2 eradicate the infestations of noxious weeds as are determined to  
3 ~~[be]~~:

4 (1) Be feasible and practicable[-]; and

5 (2) Minimize collateral damage to crops, property, the  
6 environment, and native species.

7 (b) ~~[When the] The department [determines that an~~  
8 ~~infestation of a certain noxious weed exists on an island~~  
9 ~~declared reasonably free from the weed, the department shall~~  
10 ~~immediately conduct investigations and surveys as are necessary~~  
11 ~~to determine the feasibility and practicability of controlling~~  
12 ~~or eradicating the infestation. The department may also conduct~~  
13 ~~investigations and surveys to determine the feasibility and~~  
14 ~~practicability of controlling widespread noxious weed~~  
15 ~~infestations. The methods of control or eradication adopted by~~  
16 ~~the department for any noxious weed infestation shall cause as~~  
17 ~~little damage to crops and property as possible.] or an agent of~~  
18 the department:

19 (1) Shall conduct detection and delimitation surveys of  
20 noxious weeds, and to the extent necessary and



1 permitted by law, shall access private property in  
2 areas declared reasonably free from those weeds;

3 (2) Shall determine the feasibility and practicability of  
4 controlling or eradicating infestations; and

5 (3) May conduct control or eradication actions in any area  
6 of the State, as determined appropriate by the state  
7 plant regulatory official.

8 (c) Upon determining that control or eradication of an  
9 infestation is practicable and feasible, the department shall  
10 immediately serve notice, either oral or written, on both the  
11 landowner of the property and the ~~[occupant]~~ land occupier of  
12 the property ~~[on]~~ upon which the infestations exist. Written  
13 notice sent to the landowner's address last known to the  
14 department by certified mail, postage prepaid, return receipt  
15 requested, shall be deemed sufficient notice. ~~[In the event~~  
16 ~~that]~~ If certified mail is impractical because the department,  
17 despite diligent efforts, cannot determine land ownership or  
18 because of urgent need to initiate control or eradication  
19 measures, notice given once in a daily or weekly publication of  
20 general circulation, in the county where any action or proposed  
21 action will be taken, or notice made as otherwise provided by



1 law, shall be deemed sufficient notice. The notice shall set  
2 forth all pertinent information with respect to the infestation  
3 and notify the landowner and the land ~~[occupant]~~ occupier of the  
4 procedure and methods of control or eradication.

5 (d) ~~[Upon the department's notification pursuant to~~  
6 ~~subsection (c) above, the]~~ The department or an agent of the  
7 department may ~~[enter into a cooperative agreement with the~~  
8 ~~landowner and land occupier for the control or eradication of~~  
9 ~~the noxious weed infestation. The procedures and conditions for~~  
10 ~~executing the cooperative agreement shall be in accordance with~~  
11 ~~rules adopted under section 152-2(2).]~~ assist, free of cost, in  
12 the control or eradication of noxious weeds, subject to the  
13 availability of funds.

14 (e) ~~[Upon the department's notification pursuant to~~  
15 ~~subsection (c) above, the]~~ The department may ~~[entirely~~  
16 ~~undertake the eradication or control project when it has been~~  
17 ~~determined that the owner, occupier, or lessee of the land on~~  
18 ~~which the noxious weed infestation is located will not benefit~~  
19 ~~materially or financially by the control or eradication of the~~  
20 ~~noxious weed; or when the noxious weed infestation is on~~  
21 ~~state-owned land not leased or under control of private~~



1 ~~interest.]~~ work cooperatively with a landowner or land occupier  
2 to provide chemicals, materials, equipment, personnel, and  
3 services to the owner or occupier to assist with the control or  
4 eradication of noxious weeds on private property.

5 (f) Assistance provided by the department to control or  
6 eradicate noxious weeds in the State may include the appropriate  
7 distribution and release of beneficial insects, pathogens, and  
8 other biological control agents for the control or eradication  
9 of noxious weeds."

10 PART V

11 SECTION 25. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 26. This Act does not affect rights and duties  
18 that matured, penalties that were incurred, and proceedings that  
19 were begun before its effective date.

20 SECTION 27. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



**1** SECTION 28. This Act shall take effect on July 1, 3000.



**Report Title:**

HDOA; Invasive Species; Pests; Taxa; Environment; Quarantine

**Description:**

Facilitates the control and eradication of invasive species and pests. Establishes a plant nursery licensing program. Requires the Board of Agriculture to designate certain species as pests for control or eradication. Imposes certain limits on imports and transportation. Updates the method by which the Department's noxious weed list is updated. Effective 7/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

