
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 [~~specific~~] article, substance, or object or class of
21 articles, substances, or objects [~~, among those~~



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 coconut rhinoceros beetle (Oryctes
16 rhinoceros), coqui frog (Eleutherodactylus coqui),
17 little fire ant (Wasmannia auropunctata), and two-
18 lined spittlebug (Prosapia bicincta) as [a pest. All
19 other pest designations shall be established by rule,
20 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]~~ no longer than one hundred
6 eighty 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, Kauai invasive species
3 committee, Oahu invasive species committee, Maui invasive
4 species committee, and Molokai invasive species committee."

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

7 **"§141-3.6 Entry of private property to control or**
8 **eradicate any pests.** (a) The department of agriculture [~~or~~],
9 applicable county, applicable invasive species committee as
10 defined in section 141-3.5(e), or the Hawaii ant lab shall give
11 at least five days notice to the landowner and the occupier of
12 any private property of its intention to enter the property [~~for~~
13 ~~the control or eradication of a pest.~~] to carry out a control or
14 eradication program developed under section 141-3.5, including
15 the quarantine of materials. Written notice sent to the
16 landowner's last known address by certified mail, postage
17 prepaid, return receipt requested, shall be deemed sufficient
18 notice. If certified mail is impractical because the department
19 [~~or~~], county, invasive species committee, or Hawaii ant lab,
20 despite diligent efforts, cannot determine land ownership or
21 because of urgent need to initiate control or eradication



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

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



1 circuit in which the property is located for a warrant to enter
2 on the premises to effectuate the purposes of this chapter. The
3 district court may issue a warrant directing a [~~police~~] law
4 enforcement officer of the circuit to assist the department
5 member, county employee, invasive species committee employee,
6 Hawaii ant lab employee, or any authorized agent in gaining
7 entry onto the premises during regular working hours or at other
8 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 state plant regulatory official, official's designee, or
18 inspector upon the appeal, and decide the question at issue,
19 which decision shall be subject to judicial review as provided
20 in chapter 91."

21 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 department's website
15 and in other appropriate form a list of persons that hold a
16 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 cleanliness 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 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 small seller plant nursery license for the
4 affected nursery stock or location of the existence of
5 the high-priority pest, low-priority pest, or other
6 compliance issue and advise the person on acceptable
7 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 (g) The applicant or person affected by the department's
2 actions under subsection (e) may initiate a contested case with
3 the department by submitting to the department a request for a
4 hearing in writing within thirty days following the date of the
5 department's notice issued under subsection (e).

6 **§150A-G Refusal to issue or renew; suspension; revocation.**

7 Subject to chapter 91 and the rules adopted by the board, the
8 department may refuse to issue or renew a full plant nursery
9 license, temporary plant nursery license, or small seller plant
10 nursery license or may suspend or revoke a full plant nursery
11 license, temporary plant nursery license, or small seller plant
12 nursery license for a location if the department determines that
13 the licensee or the applicant:

- 14 (1) Has wilfully refused to comply with this part or other
15 laws relating to nursery stock or to any pest that
16 might be carried by nursery stock;
- 17 (2) Has committed fraud or deception in obtaining the
18 plant nursery license;
- 19 (3) Has committed fraud or misrepresentation in the
20 handling or sale of nursery stock;
- 21 (4) Has failed to maintain the nursery stock or location:



- 1 (A) Free from high-priority pests;
- 2 (B) With effective control of low-priority pests; or
- 3 (C) In accordance with any best management practices
- 4 required by the department;
- 5 (5) Has failed to maintain nursery stock produced or sold
- 6 by the licensee or applicant in accordance with the
- 7 standards of nursery cleanliness; or
- 8 (6) Has failed to comply with any lawful order issued by
- 9 the department.

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

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



1 SECTION 8. Chapter 150A, Hawaii Revised Statutes, is
2 amended by adding four new sections to be appropriately
3 designated and to read as follows:

4 "§150A- Pests; for purposes of chapter. (a) For the
5 purposes of this chapter, the following taxa shall be deemed to
6 be pests:

- 7 (1) Acalolepta aesthetica (Olliff), an invasive longhorned
8 beetle that attacks many plant species;
9 (2) Anthurium whitefly - Aleurotulus sp., a serious insect
10 pest of anthurium;
11 (3) Anthurium whitefly - Crenidorsum sp., a serious insect
12 pest of anthurium, philodendron, and monstera;
13 (4) Bristly rose slug - Cladius difformis Panzer, a pest
14 injurious to the rose plant;
15 (5) Cactus mealybug - Dactylopius opuntiae Cockerell and
16 other insects feeding on Opuntia species of cactus,
17 pests injurious to cactus utilized for forage or
18 ornamental purposes;
19 (6) Citrus black spot - Phyllosticta citricarpa (McAlpine)
20 Aa, a serious disease of citrus;



- 1 (7) Citrus canker - Xanthomonas citri subsp. citri, a
2 serious disease of citrus;
- 3 (8) Citrus huanglongbing - Candidatus Liberibacter spp.,
4 responsible for citrus greening;
- 5 (9) Coconut scale - Aspidiotus destructor Signoret, a
6 serious insect pest of palms, bananas, and more than
7 four hundred other plants;
- 8 (10) Colocasia bobone disease associated virus -
9 Cytorhabdovirus colocasiae, a lethal pathogen
10 associated with alomae bobone disease of taro;
- 11 (11) Croton whitefly - Orchamoplatus mammaeferus Quaintance
12 and Baker, a serious insect pest of croton and citrus;
- 13 (12) Eucalyptus canker - Cryphonectria cubensis Bruner
14 Hodges, a serious disease of Eucalyptus species;
- 15 (13) Eurasian pine aphid - Pineus pini Koch, a serious
16 insect pest of pine;
- 17 (14) Fern weevil - Syagrius fulvitarisis Pascoe, an insect
18 pest injurious to fern plants;
- 19 (15) Fiery skipper - Hylephila phyleus Drury, a serious
20 pest of turf and pasture grasses and ornamental
21 sedges;



- 1 (16) Fusarium wilt of banana - Fusarium spp.;
- 2 (17) Giant African snail - Achatina fulica Bowdich, a
3 serious pest of horticultural and vegetable crops;
- 4 (18) Giant salvinia - Salvinia molesta Mitchell;
- 5 (19) Hala scale - Thysanococcus pandani Stickney, a serious
6 pest of hala, an environmentally and culturally
7 significant indigenous plant;
- 8 (20) Hunting billbug - Sphenophorus venatus vestitus
9 Chittenden, a serious insect pest of turf and range
10 grasses;
- 11 (21) Macadamia felted coccid - Acanthococcus ironsidei
12 (Williams, 1973), a detrimental pest to the macadamia
13 nut industry in Hawaii;
- 14 (22) Orange spiny whitefly - Aleurocanthus spiniferus
15 Quaintance, a serious insect pest of rose and citrus;
- 16 (23) Oriental beetle - Anomala orientalis Waterhouse, a
17 serious insect pest of sugarcane;
- 18 (24) Palm lethal yellows - Candidatus Phytoplasma spp.,
19 responsible for lethal diseases of palm;
- 20 (25) Papaya ringspot virus, a serious virus disease of
21 papaya;



- 1 (26) Sugarcane smut - Ustilago scitaminea Syd., a serious
2 fungus disease of sugarcane;
- 3 (27) Sweet potato virus disease - Sweet potato chlorotic
4 stunt virus, a lethal disease of sweet potato;
- 5 (28) Taro root aphid - Pemphigus sp., a serious pest of
6 dryland taro;
- 7 (29) Two-lined spittlebug - Prosapia bicincta (Say), a
8 serious pest of range grasses;
- 9 (30) Water lettuce - Pistia stratiotes L.;
- 10 (31) Water spangles - Salvinia minima Baker; and
- 11 (32) Any taxa designated as a pest for control or
12 eradication or as a noxious weed pursuant to rules
13 adopted by the board.
- 14 (b) The list established within subsection (a) shall not
15 be construed to restrict the department from treating other
16 species or taxa as pests; provided that the species or taxa
17 meets the definition of "pest" under section 150A-2.
- 18 (c) If the scientific name or common name of a taxon
19 referred to in this chapter is changed to a new scientific name
20 or common name accepted by the International Code of Zoological
21 Nomenclature or the International Plant Names Index, the



1 reference in this chapter shall be construed to refer to the new
2 scientific name or common name, as appropriate.

3 **§150A- Designation of infested and restricted areas.**

4 (a) The department may designate the infested area of a pest by
5 rules, including interim rules. Any designated area may be
6 expanded by an order of the board to reflect the spread of a
7 specific pest infestation in order to implement quarantine
8 measures to prevent movement of the pest and its pest host
9 material from the infested area to restricted areas; provided
10 that:

- 11 (1) The board first obtains advice from qualified persons
12 with relevant expertise, with or without review by the
13 advisory committee on plants and animals;
- 14 (2) The board designates the expanded infested area,
15 identifying the revised geographical extent of the
16 infestation;
- 17 (3) The department issues a press release describing the
18 expansion of the infested area before the effective
19 date of designation of the expanded infested area;
- 20 (4) Notice of the board's action, including its effective
21 date, is posted by the following day on the



1 department's website and is placed in a daily or
2 weekly publication of statewide circulation or in
3 separate daily or weekly publications whose combined
4 circulation is statewide, within twelve days of the
5 board's action; and

6 (5) The board's designation of an expanded infested area
7 shall be effective the day following the board's
8 action, unless a later effective date is specified by
9 the board's action.

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

17 §150A- Firewood quarantine. (a) The import of
18 firewood into the State and the transportation or sale within
19 the State of firewood imported into the State are prohibited
20 except for:



- 1 (1) Firewood that is certified by an appropriate federal
2 or state agency as heat-treated and labeled in
3 accordance with subsection (b); or
- 4 (2) Firewood introduced pursuant to subsection (c) and
5 labeled in accordance with subsection (b).
- 6 (b) Firewood imported into the State shall bear a clear
7 and conspicuous label that contains the following information on
8 each package of firewood intended to be offered, exposed, or
9 held for sale:
- 10 (1) The state of origin of the firewood;
- 11 (2) If the firewood is imported pursuant to
12 subsection (a) (1):
- 13 (A) A statement that the firewood has been certified
14 as heat-treated; and
- 15 (B) The name of the federal or state certifying
16 agency and the certification number;
- 17 (3) Identification of the commodity as firewood, unless
18 the contents can be easily identified through the
19 wrapper or container; and
- 20 (4) The name and address of the manufacturer, packer, or
21 distributor of the firewood.



1 (c) The state plant regulatory official may allow the
2 importation or sale of firewood on a case-by-case basis if the
3 person producing, processing, or importing the firewood is
4 operating under a compliance agreement or other contract with an
5 appropriate federal or state agency that the state plant
6 regulatory official determines will ensure that the firewood:

7 (1) Is heat-treated; or

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

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

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

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

19 (g) As used in this section:

20 "Firewood" means any kindling, logs, timber, or other
21 portions of a tree of any species four feet or less in length,



1 cut or split, or intended to be cut or split, into a form and
2 size appropriate for use as fuel for fires in an open or closed
3 pit, grill, fireplace, stove, wood burning furnace, or in any
4 other form commonly used for burning in campfires, stoves, or
5 fireplaces.

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

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

20 (b) Interstate shipments for entry into the State are
21 subject to the following:



- 1 (1) Any regulated article that is prohibited from
- 2 interstate movement or is required to be certified, if
- 3 moved interstate from an area regulated by a federal
- 4 or state quarantine, shall not enter the State;
- 5 (2) The owner or carrier of regulated articles that are
- 6 reportedly originating in nonregulated areas of a
- 7 quarantined state shall provide proof of origin of the
- 8 regulated articles through an invoice, waybill, or
- 9 other shipping document; and
- 10 (3) If only a portion of a state is under a federal or
- 11 state quarantine, the entry of the shipment into the
- 12 State shall not be refused nor shall a certificate be
- 13 required if the article originates from a nonregulated
- 14 area of the shipping state, unless the article is
- 15 found to be infested or prohibited."

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

19 "§150A- Plant nursery license required. No
 20 certification or service related to nursery stock may be
 21 provided under this part to a person who is required to obtain a



1 plant nursery license under part of this chapter for the
2 nursery stock unless the person has obtained the required plant
3 nursery license."

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

6 "[+]§150A-1[+] **Short title.** This chapter may be cited as
7 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law."

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

10 1. By adding eight new definitions to be appropriately
11 inserted and to read:

12 "Compliance agreement" means a written agreement:

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

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

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

20 "Infested" means harboring a pest.



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

3 "Nursery stock" means any plant for planting, propagation,
4 or ornamentation, including all plants, trees, shrubs, vines,
5 perennials, grafts, cuttings, and buds that may be sold for
6 propagation, whether cultivated or wild, and all viable parts of
7 these plants.

8 "Person" means any individual, firm, corporation,
9 association, partnership, or other entity, including a
10 governmental entity or nonprofit organization.

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

14 "Restricted area" means an island or locality within the
15 State where a specific pest is not known to be established or
16 where an eradication or control project for a specified pest is
17 being conducted by the department or an entity recognized by the
18 state plant regulatory official.

19 "State plant regulatory official" means the state plant
20 regulatory official for the State, or the official's designee."

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



1 ""Pest" means [~~any~~]:

2 (1) Any animal, insect, disease agent or other organism in
3 any stage of development that is detrimental or
4 potentially harmful to agriculture, or horticulture,
5 or animal or public health, or natural resources
6 including native biota or has an adverse effect on the
7 environment [~~as~~]; or

8 (2) Any taxa determined by the [~~board-~~] department to be a
9 pest."

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

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

15 (1) Legislative appropriations for biosecurity and
16 inspection, quarantine, and eradication services;

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

19 (3) Fees and fines collected under the plant nursery
20 licensing program under part ;



- 1 [~~(3)~~] (4) Fees imposed for services pursuant to this
2 chapter or rules adopted under this chapter;
3 [~~(4)~~] (5) Fines for violations of this chapter;
4 [~~(5)~~] (6) Federal funds received for biosecurity, pest
5 inspection, control, management, quarantine, and
6 eradication programs;
7 [~~(6)~~] (7) Grants and gifts;
8 [~~(7)~~] (8) All interest earned or accrued on moneys
9 deposited in the fund; and
10 [~~(8)~~] (9) Any other moneys made available to the fund."

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

13 "**§150A-5 Conditions of importation.** (a) The importation
14 into the State of any material that is infested or infected with
15 a pest or that is itself a pest is prohibited unless imported
16 under an appropriate permit or compliance agreement.

17 (b) The importation into the State of any of the following
18 articles, viz., [~~nursery stock,~~] nursery stock, tree, shrub,
19 herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf,
20 root, or rhizome; nut, fruit, or vegetable; grain, cereal, or
21 legume in the natural or raw state; moss, hay, straw, dry-grass,



1 or other forage; unmanufactured log, limb, or timber, or any
2 other plant-growth or plant-product, unprocessed or in the raw
3 state; soil; microorganisms; live bird, reptile, nematode,
4 insect, or any other animal in any stage of development (that is
5 in addition to the so-called domestic animal, the quarantine of
6 which is provided for in chapter 142); box, vehicle, baggage, or
7 any other container in which such articles have been transported
8 or any packing material used in connection therewith shall be
9 made in the following manner [~~hereinafter set forth~~]:

10 (1) Notification of arrival. Any person who receives for
11 transport or brings or causes to be brought to the
12 State as freight, air freight, baggage, or otherwise,
13 for the purpose of debarkation or entry therein, or as
14 ship's stores, any of the foregoing articles, shall,
15 immediately upon the arrival thereof, notify the
16 department, in writing, of the arrival, giving the
17 waybill number, container number, name and address of
18 the consignor, name and address of the consignee or
19 the consignee's agent in the State, marks, number of
20 packages, description of contents of each package,
21 port at which laden, and any other information that



1 may be necessary to locate or identify the same, and
2 shall hold such articles at the pier, airport, or any
3 other place where they are first received or
4 discharged, in such a manner that they will not spread
5 or be likely to spread any infestation or infection of
6 pests, including insects or diseases that may be
7 present until inspection and examination can be made
8 by the inspector to determine whether or not any
9 article, or any portion thereof, is infested or
10 infected with or contains any pest. The department
11 may adopt rules to require identification of specific
12 articles on negotiable and non-negotiable warehouse
13 receipts, bills of lading, or other documents of title
14 for inspection of pests. In addition, the department
15 shall adopt rules to designate restricted articles
16 that shall [~~require~~]:

- 17 (A) [A] Require a permit from the department in
18 advance of importation; [~~or~~]
19 (B) [A] Require a department letter of authorization
20 or registration in advance of importation[~~or~~]; or
21 (C) Be imported pursuant to a compliance agreement.



1 The restricted articles shall include but not be
2 limited to certain microorganisms or living insects.
3 Failure to obtain the permit, letter of authorization,
4 or registration in advance is a violation of this
5 section;

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

7 (A) It shall be the responsibility of the
8 transportation company to distribute, prior to
9 the debarkation of passengers and baggage, the
10 State of Hawaii plant and animal declaration form
11 to each passenger, officer, and crew member of
12 any aircraft or vessel originating in the
13 continental United States or its possessions or
14 from any other area not under the jurisdiction of
15 the appropriate federal agency in order that the
16 passenger, officer, or crew member can comply
17 with the directions and requirements appearing
18 thereon. All passengers, officers, and crew
19 members, whether or not they are bringing or
20 causing to be brought for entry into the State
21 the articles listed on the form, shall complete



1 the declaration, except that one adult member of
2 a family may complete the declaration for other
3 family members. Any person who defaces the
4 declaration form required under this section,
5 gives false information, fails to declare
6 restricted articles in the person's possession or
7 baggage, or fails to declare in cargo manifests
8 is in violation of this section;

9 (B) Completed forms shall be collected by the
10 transportation company and be delivered,
11 immediately upon arrival, to the inspector at the
12 first airport or seaport of arrival. Failure to
13 distribute or collect declaration forms or to
14 immediately deliver completed forms is a
15 violation of this section; and

16 (C) It shall be the responsibility of the officers
17 and crew of an aircraft or vessel originating in
18 the continental United States or its possessions
19 or from any other area not under the jurisdiction
20 of the appropriate federal agency to immediately
21 report all sightings of any plants and animals to



1 the plant quarantine branch. Failure to comply
2 with this requirement is a violation of this
3 section;

4 (3) Plant and animal declaration form. The form shall
5 include directions for declaring domestic and other
6 animals cited in chapter 142, in addition to the
7 articles enumerated in this chapter;

8 (4) Labels. Each container in which any of the
9 above-mentioned articles are imported into the State
10 shall be plainly and legibly marked, in a conspicuous
11 manner and place, with the name and address of the
12 shipper or owner forwarding or shipping the same, the
13 name or mark of the person to whom the same is
14 forwarded or shipped or the person's agent, the name
15 of the country, state, or territory and locality
16 therein where the product was grown or produced, and a
17 statement of the contents of the container. Upon
18 failure to comply with this paragraph, the importer or
19 carrier is in violation of this section;

20 (5) Authority to administratively inspect. [~~Whenever the~~
21 ~~inspector has good cause to believe that the~~



1 ~~provisions of this chapter are being violated, the] An~~
2 inspector [~~may~~]:

3 (A) May conduct inspections of persons, baggage,
4 cargo, and any other articles destined for
5 movement between the islands of the State or
6 imported into the State from the continental
7 United States, Guam, Puerto Rico, or the United
8 States Virgin Islands for the purpose of
9 determining whether an insect, pest, disease, or
10 regulated or restricted taxa is present;

11 [~~(A) Enter~~] (B) May enter and inspect any aircraft,
12 vessel, or other carrier at any time after its
13 arrival within the boundaries of the State,
14 whether offshore, at the pier, or at the airport,
15 and enter into or upon any pier, warehouse,
16 airport, or any other place in the State for the
17 purpose of [determining whether any of the
18 articles or pests enumerated in this chapter or
19 rules adopted thereto, is present;

20 ~~(B) Enter into or upon any pier, warehouse, airport,~~
21 ~~or any other place in the State where any of the~~



1 ~~above-mentioned articles are moved or stored, for~~
2 ~~the purpose of ascertaining, by inspection and~~
3 ~~examination, whether or not any of the articles~~
4 ~~is infested or infected with any pest or disease~~
5 ~~or contaminated with soil or contains prohibited~~
6 ~~plants or animals; and] conducting inspections~~
7 ~~authorized by subparagraph (A);~~
8 (C) ~~[Inspect any baggage or personal effects of~~
9 ~~disembarking passengers, officers, and crew~~
10 ~~members on aircraft or vessels arriving in the~~
11 ~~State to ascertain if they contain any of the~~
12 ~~articles or pests enumerated in this chapter.~~
13 ~~No] Shall inform passengers and crew members that~~
14 ~~their baggage [~~or~~] and other personal effects [~~of~~~~
15 ~~the passengers or crew members] shall not be~~
16 ~~released until the baggage [~~or~~] and personal~~
17 ~~effects have been passed[~~.—Baggage or~~]; and~~
18 (D) ~~Shall have the discretion to inspect baggage and~~
19 ~~cargo [~~inspection shall be made at the discretion~~~~
20 ~~of the inspector,]~~ on the pier, vessel, or



1 aircraft or in any quarantine or inspection
2 area[~~-~~

3 ~~Whenever the inspector has good cause to believe~~
4 ~~that the provisions of this chapter are being~~
5 ~~violated, the inspector may require that any box,~~
6 ~~package, suitcase, or any other container carried as~~
7 ~~ship's stores, cargo, or otherwise by any vessel or~~
8 ~~aircraft moving between the continental United States~~
9 ~~and Hawaii or between the Hawaiian Islands, be opened~~
10 ~~for inspection to determine whether any article or~~
11 ~~pest prohibited by this chapter or by rules adopted~~
12 ~~pursuant thereto is present. It is a violation of~~
13 ~~this section if any prohibited article or any pest or~~
14 ~~any plant, fruit, or vegetable infested with plant~~
15 ~~pests is found];~~

16 (6) Request for importation and inspection. In addition
17 to requirements of the appropriate United States
18 [~~eustoms~~] authorities concerning invoices or other
19 formalities incident to importations into the State,
20 the importer shall be required to file a written
21 statement with the department, signed by the importer



1 or the importer's agent, setting forth the importer's
2 desire to import certain of the above-mentioned
3 articles into the State and:

4 (A) Giving the following additional information:

5 (i) The kind (scientific name), quantity, and
6 description;

7 (ii) The locality where same were grown or
8 produced;

9 (iii) Certification that all animals to be
10 imported are the progeny of captive
11 populations or have been held in captivity
12 for a period of one year immediately prior
13 to importation or have been specifically
14 approved for importation by the board;

15 (iv) The port from which the same were last
16 shipped;

17 (v) The name of the shipper; and

18 (vi) The name of the consignee; and

19 (B) Containing:



- 1 (i) A request that the department, by its duly
- 2 authorized agent, examine the articles
- 3 described;
- 4 (ii) An agreement by the importer to be
- 5 responsible for all costs, charges, or
- 6 expenses; and
- 7 (iii) A waiver of all claims for damages incident
- 8 to the inspection or the fumigation,
- 9 disinfection, quarantine, or destruction of
- 10 the articles, or any of them, as hereinafter
- 11 provided, if any treatment is deemed
- 12 necessary.

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

18 (7) Place of inspection. If, in the judgment of the
19 inspector, it is deemed necessary or advisable to move
20 any [~~of the above-mentioned articles, or any portion~~
21 ~~thereof,~~] item or material to a place more suitable



1 for inspection than the pier, airport, or any other
2 place where they are first received or discharged, the
3 inspector is authorized to do so. All costs and
4 expenses incident to the movement and transportation
5 of the [~~articles~~] items or material to such place
6 shall be borne by the importer or the importer's
7 agent. If the importer, importer's agent, or
8 transportation company requests inspection of sealed
9 containers [~~of the above-mentioned articles~~] at
10 locations other than where the [~~articles~~] containers
11 are first received or discharged and the department
12 determines that inspection at such place is
13 appropriate, the department may require payment of
14 costs necessitated by these inspections, including
15 overtime costs;

16 (8) Disinfection or quarantine. If, upon inspection, any
17 [~~article~~] item or material received or brought into
18 the State for the purpose of debarkation or entry
19 therein or moved between islands of the State is found
20 to be infested or infected or there is reasonable
21 cause to presume that it is infested or infected and



1 the infestation or infection can, in the judgment of
2 the inspector, be eradicated, a treatment shall be
3 given such [~~article.~~] item or material. The treatment
4 shall be at the expense of the owner or the owner's
5 agent, and the treatment shall be as prescribed by the
6 department. The [~~article~~] item or material shall be
7 held in quarantine at the expense of the owner or the
8 owner's agent at a satisfactory place approved by the
9 department for a sufficient length of time to
10 determine that eradication has been accomplished. If
11 the infestation or infection is of such nature or
12 extent that it cannot be effectively and completely
13 eradicated, or if it is a potentially destructive pest
14 or it is not widespread in the State, or after
15 treatment it is determined that the infestation or
16 infection is not completely eradicated, or if the
17 owner or the owner's agent refuses to allow the
18 [~~article~~] item or material to be treated or to be
19 responsible for the cost of treatment and quarantine,
20 the [~~article,~~] item or material, or any portion
21 thereof, together with all packing and containers,



1 may, at the discretion of the inspector, be destroyed
2 or sent out of the State at the expense of the owner
3 or the owner's agent. Such destruction or exclusion
4 shall not be made the basis of a claim against the
5 department or the inspector for damage or loss
6 incurred;

7 (9) Disposition. Upon completion of inspection, either at
8 the time of arrival or at any time thereafter should
9 any [~~article~~] item or material be held for inspection,
10 treatment, or quarantine, the inspector shall affix to
11 the [~~article~~] item or material or the container or to
12 the delivery order in a conspicuous place thereon, a
13 tag, label, or stamp to indicate that the [~~article~~]
14 item, material, or container has been inspected and
15 passed. This action shall constitute a permit to
16 bring the [~~article~~] item, material, or container into
17 the State; and

18 (10) Ports of entry. None of the articles mentioned in
19 this section shall be allowed entry into the State
20 except through the airports and seaports in the State
21 designated and approved by the board.



1 (c) A person who violates this section or any rule adopted
2 pursuant to this section shall be fined no more than
3 \$ _____ for each separate offense. Any action taken to
4 impose or collect the penalty provided for in this subsection
5 shall be considered a civil action."

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

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

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



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

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

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

13 "(d) Noxious weeds may be imported only for research, by
14 permit, and shall not be offered for sale [~~or~~], sold [~~in~~], or
15 transported within the State[-], except for the purposes of
16 appropriate disposal under a method approved by, or pursuant to
17 a permit issued by, the state plant regulatory official.

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



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

3 **"§150A-8 Transporting in State.** (a) [Flora and] Without
4 regard to chapter 201M or the notice and public hearing
5 requirements of chapter 91, the department may specify flora,
6 fauna [specified by rules and regulations of the department],
7 pest host material, and any other item or material that shall
8 not be moved from one island to another island within the State
9 or from one locality to another on the same island, except by a
10 permit issued by the department[-] or pursuant to a compliance
11 agreement approved by the department.

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

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



1 authorize the transportation of an untreated infested or
2 infected pest host material to an island or location where the
3 pest is known to be established.

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

9 (1) For diagnostics, research, testing, or educational
10 purposes by the department; or

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

17 (e) The state plant regulatory official may prohibit the
18 movement of any pest host material that is offered for sale, for
19 barter, or by donation or otherwise to be given away to the
20 public if the state plant regulatory official determines that
21 the pest host material is infested or infected with an insect,



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

8 (f) An item subject to the prohibition in subsection (e)
9 shall be:

- 10 (1) Subjected to a treatment to eradicate the insect,
11 disease, or pest, as approved and supervised by the
12 state plant regulatory official;
- 13 (2) Destroyed using a method approved and supervised by
14 the state plant regulatory official;
- 15 (3) Transported only pursuant to a permit issued by the
16 state plant regulatory official; or
- 17 (4) Subject to any other disposition approved by the state
18 plant regulatory official, including the
19 transportation of untreated infested or infected pest
20 host material or an insect, disease, or pest to an



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

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

7 SECTION 17. Section 150A-14, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§150A-14 Penalty.** (a) Any person who violates any
10 provision of this chapter other than sections 150A-5, 150A-6(3),
11 and 150A-6(4) or who violates any rule adopted under this
12 chapter other than those rules involving an animal that is
13 prohibited or a plant, animal, or microorganism that is
14 restricted, without a permit, shall be guilty of a misdemeanor
15 and fined not less than \$100. The provisions of section 706-640
16 notwithstanding, the maximum fine shall be \$10,000. For a
17 second offense committed within five years of a prior offense,
18 the person or organization shall be fined not less than \$500 and
19 not more than \$25,000.

20 ~~[(b) Any person who violates section 150A-5 shall be~~
21 ~~guilty of a petty misdemeanor and fined not less than \$50 and~~



1 ~~not more than \$5,000. For a second offense committed within~~
2 ~~five years of a prior offense, the person may be fined not less~~
3 ~~than \$250 and not more than \$15,000.~~

4 ~~(e)]~~ (b) Any person who:

5 (1) Violates section 150A-6(3) or 150A-6(4), or owns or
6 intentionally transports, possesses, harbors,
7 transfers, or causes the importation of any snake or
8 other prohibited animal seized under section 150A-
9 7(b), or whose violation involves an animal that is
10 prohibited or a plant, animal, or microorganism that
11 is restricted, without a permit, shall be guilty of a
12 misdemeanor and subject to a fine of not less than
13 \$5,000, but not more than \$20,000;

14 (2) Intentionally transports, harbors, or imports with the
15 intent to propagate, sell, or release any animal that
16 is prohibited or any plant, animal, or microorganism
17 that is restricted, without a permit, shall be guilty
18 of a class C felony and subject to a fine of not less
19 than \$50,000, but not more than \$200,000; or

20 (3) Intentionally imports, possesses, harbors, transfers,
21 or transports, including through interisland or



1 intraisland movement, with the intent to propagate,
2 sell, or release, any pest designated by statute or
3 rule, unless otherwise allowed by law, shall be guilty
4 of a class C felony and subject to a fine of not less
5 than \$50,000, but not more than \$200,000.

6 ~~[(d)]~~ (c) Whenever a court sentences a person or
7 organization pursuant to subsection (a) or ~~[(e)]~~ (b) for an
8 offense ~~[which]~~ that has resulted in the escape or establishment
9 of any pest and caused the department to initiate a program to
10 capture, control, or eradicate that pest, the court shall also
11 require that the person or organization pay to the state general
12 fund an amount of money to be determined in the discretion of
13 the court upon advice of the department, based upon the cost of
14 the development and implementation of the program.

15 ~~[(e)]~~ (d) The department may, at its discretion, refuse
16 entry, confiscate, or destroy any prohibited articles or
17 restricted articles that are brought into the State without a
18 permit issued by the department, or order the return of any
19 plant, fruit, vegetable, or any other article infested with
20 pests to its place of origin or otherwise dispose of it or such
21 part thereof as may be necessary to comply with this chapter.



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

3 ~~[(f)]~~ (e) Any person or organization that voluntarily
4 surrenders any prohibited animal or any restricted plant,
5 animal, or microorganism without a permit issued by the
6 department, prior to the initiation of any seizure action by the
7 department, shall be exempt from the penalties of this section.

8 ~~[(g)]~~ (f) For purposes of this section, "intent to
9 propagate" shall be presumed when the person in question is
10 found to possess, transport, harbor, or import:

11 (1) Any two or more animal specimens of the opposite sex
12 that are prohibited or restricted, without a permit,
13 or are a pest designated by statute or rule;

14 (2) Any three or more animal specimens of either sex that
15 are prohibited or restricted, without a permit, or are
16 a pest designated by statute or rule;

17 (3) Any plant or microorganism having the inherent
18 capability to reproduce and that is restricted,
19 without a permit; or

20 (4) Any specimen that is in the process of reproduction."



1 SECTION 18. Section 150A-53, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§150A-53 General actions to achieve objectives.** (a) To
4 achieve the objectives of the biosecurity program, the
5 department shall plan for and, within available legislative
6 appropriations or through funding from other sources, implement
7 the following:

- 8 (1) Work with government agencies and agricultural
9 commodity exporters of other states and countries to
10 establish pre-entry inspection programs under which
11 inbound cargo into the State is inspected at the ports
12 of departure or other points outside the State;
- 13 (2) Establish, operate, or participate in operating
14 port-of-entry facilities where multiple government
15 agencies may inspect, quarantine, fumigate, disinfect,
16 destroy, or exclude as appropriate, articles that may
17 harbor pests or exclude articles that are prohibited
18 or restricted without a permit, with the goals of:
- 19 (A) Performing inspections in an efficient,
20 effective, and expeditious manner for the



- 1 government agencies involved and for cargo
2 owners, carriers, and importers; and
- 3 (B) Providing for the proper and safe storage and
4 handling of cargo, especially agricultural and
5 food commodities, awaiting inspection;
- 6 (3) Develop, implement, and coordinate post-entry measures
7 to eradicate, control, reduce, and suppress pests and,
8 as appropriate, eradicate or seize and dispose of
9 prohibited or restricted organisms without a permit
10 that have entered the State;
- 11 (4) Collaborate with relevant government agencies,
12 agricultural commodity importers, and other persons to
13 examine and develop joint integrated systems to better
14 implement the biosecurity program;
- 15 (5) Improve cargo inspection capabilities and methods,
16 including enhancement of the content and submission
17 requirements for cargo manifests and agricultural
18 commodity ownership and movement certificates;
- 19 (6) Promote the production of agricultural commodities in
20 the State to reduce cargo shipments of imported
21 commodities into the State; and



1 (7) Provide public education on the negative effects of
2 pests and prohibited or restricted organisms without a
3 permit[7] to the environment and economy of the State.

4 (b) The department shall establish parameters and
5 construction requirements for biosecurity facilities that
6 provide for and ensure the safety of agricultural and food
7 commodities consumed by Hawaii residents, including cold storage
8 facilities established by private-public partnerships to
9 preserve the quality and ensure the safety of the commodities
10 arriving at the State's airports and harbors.

11 (c) The plant nursery licensing program established under
12 part _____ :

13 (1) Shall be considered to be a part of the biosecurity
14 program; and

15 (2) May be administered and enforced using the officials
16 of and funds available to the biosecurity program."

17 PART IV

18 SECTION 19. Chapter 152, Hawaii Revised Statutes, is
19 amended by adding nine new sections to be appropriately
20 designated and to read as follows:



- 1 "§152-A Noxious weed designations; changes. (a) The
2 board:
- 3 (1) At meetings held in May and November of each year,
4 shall accept applications for noxious weed
5 designations for consideration; and
- 6 (2) May accept applications at meetings held at other
7 times of year;
- 8 provided that the public shall be given timely notice of the
9 board's meetings and the board's acceptance of applications.
- 10 (b) The board shall accept applications in any form,
11 including electronic applications, permitted by the state plant
12 regulatory official.
- 13 (c) The state plant regulatory official:
- 14 (1) Shall review each application;
15 (2) May seek additional information from the applicant;
16 (3) May conduct additional research related to the
17 application, including research of literature reviews,
18 surveys, discussions with other states, and field
19 investigations;
- 20 (4) May submit to the advisory committee on plants and
21 animals established under section 150A-10, and any



1 subcommittee of that committee, the application for
2 review, for the purposes of assisting the board in
3 considering the application;

4 (5) Shall consider all oral and written comments submitted
5 under section 152-C and may incorporate those comments
6 in the state plant regulatory official's review of the
7 application; and

8 (6) Shall make a recommendation to the board regarding
9 each application.

10 (d) The board shall vote on each change to a noxious weed
11 designation requested in an application at the subsequent
12 meeting timely held after the period for public notification and
13 input described in section 152-C.

14 (e) Upon approval by the board of a change to a noxious
15 weed designation, the order to make that change to the noxious
16 weed designation shall take effect ten days after the department
17 posts public notice of the order in a daily or weekly
18 publication of statewide circulation or in separate daily or
19 weekly publications whose combined circulation is statewide and
20 on the department's publicly available website.



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

4 §152-B Applications. (a) An application seeking a change
5 to noxious weed designations may be submitted by any person or
6 the department.

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

9 (c) Each application shall include:

10 (1) The name, address, and contact information of the
11 applicant;

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

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

16 (4) Any other information the state plant regulatory
17 official may reasonably require, as specified on a
18 form provided by the state plant regulatory official.

19 (d) An application to designate a new taxon as a noxious
20 weed shall include:

21 (1) The taxon's:



- 1 (A) Scientific name and author;
- 2 (B) Common synonyms;
- 3 (C) Botanical classification; and
- 4 (D) Common names;
- 5 (2) The class of noxious weed requested for the taxon;
- 6 (3) A description of the geographic area in the State that
7 is free or reasonably free of the taxon;
- 8 (4) Information describing how the taxon can directly or
9 indirectly injure or cause damage to crops, including
10 nursery stock or plant products; livestock; poultry;
11 or other interests of agriculture, irrigation,
12 navigation, the natural resources of the State, the
13 public health, or the environment; and
- 14 (5) A list of references to support the information
15 provided in the application.
- 16 (e) An application to remove the noxious weed designation
17 for a plant taxon shall include evidence that the plant:
- 18 (1) Cannot directly or indirectly injure or cause damage
19 to crops, including nursery stock or plant products;
20 livestock; poultry; or other interests of agriculture,



1 irrigation, navigation, the natural resources of the
2 State, the public health, or the environment; or
3 (2) Is eligible for special consideration for crops under
4 section 152-F.
5 (f) An application to change the class of a noxious weed
6 designation shall include evidence that the noxious weed meets
7 the description of the proposed class as established in
8 section 152-4.

9 **§152-C Public notification and input for changes to**
10 **noxious weed designations.** (a) No later than fourteen days
11 after an application is submitted at a board meeting pursuant to
12 section 152-A, the state plant regulatory official shall issue a
13 press release and provide notices to the office of planning and
14 sustainable development for publication and to each person who
15 has made a timely written request of the department for notice
16 of an application. The press release and notices shall include:
17 (1) A statement summarizing each change to a noxious weed
18 designation requested in an application;
19 (2) A statement that a copy of the application will be
20 mailed to any interested person who requests a copy
21 upon payment in advance of costs for photocopying,



- 1 preparing, and mailing the copy and that a copy of the
2 application will be made available on the publicly
3 available website of the department;
- 4 (3) A statement as to where to obtain a copy of the
5 application for inspection or for pickup after payment
6 in full for costs for photocopying and preparing; and
- 7 (4) A statement that the department is soliciting comments
8 regarding the requested change to a noxious weed
9 designation, which shall include the procedure for
10 submitting comments.
- 11 (b) During the three-month period after an application is
12 submitted at a board meeting, any interested person, educational
13 institution, or government entity may:
- 14 (1) Provide oral comments on the application at any
15 regularly scheduled meeting of the board; and
- 16 (2) Provide written comments on the application to the
17 board and the state plant regulatory official.
- 18 **§152-D Emergency designations.** (a) Notwithstanding any
19 other provision of this chapter or any other law to the
20 contrary:



- 1 (1) If the department finds an incipient infestation of a
2 plant taxon is directly or indirectly injuring or
3 causing damage to crops, including nursery stock or
4 plant products; livestock; poultry; or other interests
5 of agriculture, irrigation, navigation, the natural
6 resources of the State, the public health, or the
7 environment without immediate action, the department
8 may proceed without prior notice or upon a minimum of
9 forty-eight hours notice and hearing to adopt an
10 emergency rule for the eradication of that
11 infestation;
- 12 (2) An emergency rule described in paragraph (1) shall be
13 effective for a period no longer than one hundred
14 eighty days, without the possibility of renewal; and
- 15 (3) The department may establish, implement, and enforce
16 interim rules governing the transportation of noxious
17 weeds or taxa eligible for noxious weed designation
18 into or within the State, as provided in section 150A-
19 9.5.
- 20 (b) During the period that an emergency rule is in effect
21 under subsection (a), the state plant regulatory official shall



1 make an application for the board to order on an expedited basis
2 the designation of the taxon as a noxious weed.

3 **§152-E Publication of noxious weed designations.** The
4 state plant regulatory official shall make available to the
5 public and publish on the department's publicly available
6 website the noxious weed designations under this chapter. The
7 list shall include:

8 (1) Information on which noxious weeds are respectively
9 designated as class A, class B, and class C noxious
10 weeds; and

11 (2) The geographic area declared free or reasonably free
12 of each noxious weed.

13 **§152-F Special consideration for crops.** (a) The board
14 may defer designating a plant taxon as a noxious weed or
15 removing a noxious weed designation from a plant taxon if the
16 plant taxon:

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

19 (2) Is, or will be, cultivated using practices that
20 prevent it from directly or indirectly injuring or
21 causing damage to crops, including nursery stock or



1 plant products; livestock; poultry; or other interests
2 of agriculture, irrigation, navigation, the natural
3 resources of the State, the public health, or the
4 environment.

5 (b) The board may require conditions, including a bond or
6 a compliance agreement, for the cultivation of a plant taxon for
7 which the board has deferred a designation or removed from
8 designation pursuant to subsection (a).

9 (c) The board shall designate as a noxious weed a plant
10 taxon that is cultivated as a crop for which the board deferred
11 a designation or removed from designation pursuant to subsection
12 (a) if the plant becomes invasive or is otherwise no longer
13 described in subsection (a) (2).

14 **§152-G Noxious weed control or eradication programs.** (a)
15 The state plant regulatory official may develop and implement a
16 program to control or eradicate a specific noxious weed if the
17 state plant regulatory official determines that the control or
18 eradication program is feasible and practicable.

19 (b) Each control or eradication program developed under
20 subsection (a) shall:



- 1 (1) Use the best available technology and use the
2 technology in a manner consistent with federal and
3 state law;
- 4 (2) Specify the geographic area where the program will be
5 carried out, which may be a section of an island, an
6 island, a group of islands, or the entire State;
- 7 (3) Minimize collateral damage to crops, property, the
8 environment, and native species;
- 9 (4) Include a description of the specific methods to be
10 employed to control or eradicate the noxious weed;
- 11 (5) Include a description of the surveys and monitoring
12 that will be required before and after the specific
13 methods to control or eradicate are employed;
- 14 (6) Include an assessment of whether the department will
15 seek any quarantine related to the control or
16 eradication program; and
- 17 (7) Include an approximate time frame to carry out the
18 control or eradication program.
- 19 (c) If the department or agent of the department needs to
20 enter onto private property to conduct detection and
21 delimitation surveys or otherwise carry out or maintain the



1 control or eradication program, but the owner or occupier of the
2 property refuses to grant entry to the department or its agent,
3 the department or agent may gain entry pursuant to
4 section 141-3.6 to the extent necessary to carry out or maintain
5 the control or eradication program, unless the property is a
6 dwelling place.

7 (d) The state plant regulatory official may seek the
8 board's approval for a control or eradication program developed
9 under this section if the state plant regulatory official
10 believes that the board's approval is likely to make the program
11 more successful.

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

15 **§152-H Noxious weed control on leased state lands.** Any
16 person that leases state lands for livestock grazing or any
17 agricultural purpose shall agree in the lease agreement to
18 control any noxious weed on those lands to the extent required
19 by the department.

20 **§152-I Penalties.** (a) The department may establish,
21 impose, and collect administrative fines or bring legal action



1 to recover administrative costs of the department, payment for
2 damages, or costs to correct damages resulting from violations
3 of this chapter or any rule adopted under this chapter.

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

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

17 SECTION 20. Section 152-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding six new definitions to be appropriately
20 inserted and to read:

21 "Agent of the department" means:



1 (1) The applicable invasive species committee; or

2 (2) Any other person,

3 acting on behalf of the department of agriculture.

4 "Application" means an application seeking a change to the
5 noxious weed designations.

6 "Board" means the board of agriculture.

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

9 "Noxious weed designation" means a designation on the list
10 of noxious weeds.

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

13 2. By amending the definition of "control noxious weed" to
14 read:

15 ""Control noxious weed" means to limit the spread of a
16 specific noxious weed, including quarantining material infested
17 with the noxious weed, and to reduce its density to a degree
18 where its injurious, harmful, or deleterious effect is reduced
19 to a tolerable level."

20 3. By amending the definition of "eradicate noxious weed"
21 to read:



1 ""Eradicate noxious weed" means to completely destroy and
2 eliminate existing plant growth, seeds, and vegetative
3 reproductive plant parts of a specific noxious weed from a given
4 locality. "Eradicate noxious weed" includes quarantining
5 material infested with the noxious weed."

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

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

18 SECTION 21. Section 152-2, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "**§152-2 Rules.** Subject to chapter 91, the department may
2 [make] adopt rules [to effectuate] necessary for the purposes of
3 this chapter~~[, including but not limited to the following:~~

4 ~~(1) Establishment of criteria and procedures for the
5 designation of plant species as noxious weeds for the
6 purposes of this chapter;~~

7 ~~(2) Establishment of procedures and conditions for the
8 initiation of cooperative agreements with landowners
9 and land occupiers for the purpose of eradicating or
10 controlling noxious weed infestations;~~

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

13 SECTION 22. Section 152-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§152-3 Prohibited and permitted acts.** [~~It~~] (a) Except
16 as provided in subsection (b), it shall be unlawful to
17 [introduce or to transport specific] import into the State or
18 sell, offer for sale, or transport within the State noxious
19 weeds or their seeds or vegetative reproductive parts [into any
20 area designated pursuant to section 152-5 as free or reasonably
21 free of those noxious weeds; provided that the introduction or



1 ~~transportation of those noxious weeds may be permitted for~~
2 ~~educational or research purposes when authorized by a permit~~
3 ~~issued by the department].~~

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

5 (1) A plant part that is processed, not vegetatively
6 propagative, or otherwise not capable of reproducing
7 the plant;

8 (2) The movement of a properly prepared herbarium
9 specimen;

10 (3) The movement of plant material by authorized employees
11 of the department or an agent of the department acting
12 in the course of official duties;

13 (4) A noxious weed imported for research pursuant to a
14 permit issued by the state plant regulatory official;
15 or

16 (5) A noxious weed transported for educational or research
17 purposes or for proper disposal of removed material
18 under methods approved by, or pursuant to a permit
19 issued by, the state plant regulatory official.

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



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

3 "§152-4 Designation of noxious [weed-] weeds; classes of
4 noxious weeds. (a) The [~~department~~] board may designate
5 certain plant [~~species~~] taxa as noxious weeds [~~following the~~
6 ~~criteria and procedures established under section 152-2(1).~~]
7 pursuant to this chapter and rules adopted pursuant to this
8 chapter.

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

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

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



- 1 (1) Class A noxious weeds:
- 2 (A) Are not known to occur or are of very limited
- 3 distribution in the State;
- 4 (B) Are a high priority for control or eradication if
- 5 an infestation was discovered in the State; and
- 6 (C) When detected, shall be subject to control or
- 7 eradication actions by the department or an
- 8 agent of the department, subject to the
- 9 availability of funds;
- 10 (2) Class B noxious weeds:
- 11 (A) Are known to occur in the State but are of
- 12 limited distribution on one or more islands;
- 13 (B) Are a high priority for control or eradication in
- 14 a given area; and
- 15 (C) Shall be managed on a priority basis, by the
- 16 department or an agent of the department, as
- 17 resources allow; and
- 18 (3) Class C noxious weeds are those noxious weeds that are
- 19 not class A or class B noxious weeds."

20 SECTION 24. Section 152-5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§152-5 Designation of areas declared free or reasonably**
2 **free of noxious weeds.** (a) The [~~department~~] board may declare
3 the entire State, an island, or a section of an island as free
4 or reasonably free of a specific noxious weed. The department
5 shall take necessary measures to restrict the introduction and
6 establishment of specific noxious weeds in areas declared free
7 or reasonably free of those noxious weeds.

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

12 SECTION 25. Section 152-6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§152-6 Duties of the department; noxious weed control and**
15 **eradication.** (a) The department shall maintain a constant
16 vigilance for incipient infestations of specific noxious weeds
17 [~~on islands~~] in locations declared reasonably free from those
18 weeds, and shall use those procedures and methods to control or
19 eradicate the infestations of noxious weeds as are determined to
20 [be]:

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



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

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

15 (1) Shall conduct detection and delimitation surveys of
16 noxious weeds, and to the extent necessary and
17 permitted by law, shall access private property in
18 areas declared reasonably free from those weeds;

19 (2) Shall determine the feasibility and practicability of
20 controlling or eradicating infestations; and



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

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



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

10 (e) ~~[Upon the department's notification pursuant to~~
11 ~~subsection (c) above, the] The department may [entirely~~
12 ~~undertake the eradication or control project when it has been~~
13 ~~determined that the owner, occupier, or lessee of the land on~~
14 ~~which the noxious weed infestation is located will not benefit~~
15 ~~materially or financially by the control or eradication of the~~
16 ~~noxious weed; or when the noxious weed infestation is on~~
17 ~~state-owned land not leased or under control of private~~
18 ~~interest.] work cooperatively with a landowner or land occupier~~
19 to provide chemicals, materials, equipment, personnel, and
20 services to the owner or occupier to assist with the control or
21 eradication of noxious weeds on private property.



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. (HD2)

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

