
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. Section
6 10811 of the Farm Security and Rural Investment Act of 2002
7 requires the United States Department of Agriculture to inspect
8 all passengers, baggage, cargo, and any other articles moving
9 from Hawaii to other areas of the United States. However,
10 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 *Agilus*
9 *planipennis* (emerald ash borer), *Anoplophora glabripennis* (Asian
10 longhorned beetle), *Solenopsis invicta* (red imported fire ant),
11 and bark and ambrosia beetles, including *Euwallacea* species and
12 associated fungal pathogens.

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



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

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

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



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

11 The purpose of this Act is to:

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

16 PART II

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

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



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



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

14 (3) The prohibition of importation into the State, from
15 any or all foreign countries or from other parts of
16 the United States, or the shipment from one island
17 within the State to another island therein, or the
18 transportation from one part or locality of any island
19 to another part or locality of the same island, of any
20 [specifie] article, substance, or object or class of
21 articles, substances, or objects [~~among 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 taxon
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 taxon designated
21 as a pest for control or eradication pursuant to section 141-3



1 on an island where the pest is a public nuisance, the applicable
2 county may develop or implement a program for the pest on that
3 island or the impacted area of that island.

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

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

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

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

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

17 "§141-3.6 Entry of private property to control or
18 eradicate any pests. (a) The department of agriculture or
19 applicable county shall give at least five days notice to the
20 landowner and the occupier of any private property of its
21 intention to enter the property ~~[for the control or eradication~~



1 ~~of a pest.]~~ to carry out a control or eradication program
2 developed pursuant to section 141-3.5, including the quarantine
3 of materials. Written notice sent to the landowner's last known
4 address by certified mail, postage prepaid, return receipt
5 requested, shall be deemed sufficient notice. If certified mail
6 is impractical because the department or county, despite
7 diligent efforts, cannot determine land ownership or because of
8 urgent need to initiate control or eradication measures, notice
9 given once in a daily or weekly publication of general
10 circulation, in the county where any action or proposed action
11 will be taken, or notice made as otherwise provided by law,
12 shall be deemed sufficient notice. The notice shall set forth
13 all pertinent information on the [~~pest~~] control or eradication
14 program and the procedures and methods to be used for control or
15 eradication.

16 (b) After notice as required by subsection (a), any member
17 of the department, employee of the county, or any agent
18 authorized by the department or county may enter at reasonable
19 times any private property other than dwelling places to
20 [~~maintain a pest~~] carry out a control or eradication program[7]
21 developed pursuant to section 141-3.5, being liable only for



1 damage caused by acts beyond the scope of the person's
2 authority, or the person's negligence, gross negligence, or
3 intentional misconduct. If [~~entry is refused,~~] the landowner or
4 occupier does not consent, the department member, county
5 employee, or any authorized agent may apply to the district
6 court in the circuit in which the property is located for a
7 warrant to enter on the premises to effectuate the purposes of
8 this chapter. The district court may issue a warrant directing
9 a [~~police~~] law enforcement officer of the circuit to assist the
10 department member, county employee, or any authorized agent in
11 gaining entry onto the premises during regular working hours or
12 at other reasonable times."

13 PART III

14 SECTION 6. Chapter 150A, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

17 "PART . PLANT NURSERY REGISTRATION PROGRAM

18 §150A-A Definitions. For the purposes of this part,
19 unless the context requires otherwise:

20 "Best management practices" means processes and actions
21 based on the best available science that provide the most



1 cost-effective and efficacious way to address an issue,
2 including the prevention or reduction of pest and pathogen
3 problems.

4 "Effective control" means, when referring to non-quarantine
5 pests, eliminating or reducing a pest to the point of an
6 acceptable economic and environmental risk.

7 "High-priority pest" means a pest that poses potential
8 negative impacts to the economy, the environment, or human
9 health or welfare to an area in which the pest currently:

- 10 (1) Is not known to occur; or
- 11 (2) Has a limited distribution or is being officially
12 controlled.

13 The department may designate different high-priority pests for
14 different islands of the State.

15 "Non-quarantine pest" means a pest that is not a
16 high-priority pest, with respect to an island, and may be
17 controlled so that the pest does not pose an unacceptable
18 economic, environmental, or human health risk on that island.

19 "Sale" or "sell" means offering, exposing, or possessing
20 for sale, exchange, barter, or trade.



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

- 3 (1) The implementation at the location of any method of
4 treatment required by the department for any pest;
- 5 (2) That nursery stock or other material infested or
6 infected with a high-impact pest at the location is
7 isolated pending treatment or disposal;
- 8 (3) That actions are carried out to the extent that is
9 reasonably necessary to ensure that non-quarantine
10 pests at the location are under effective control; and
- 11 (4) The fulfillment of any other standard to prevent the
12 spread of pests by the location, as required by the
13 department for the location.

14 **§150A-B Nursery registration.** (a) A person engaged
15 directly with the sale of nursery stock shall register with the
16 department, in such manner as the department may require, prior
17 to initiating business operations; provided that if the person
18 was directly engaged in the sale of nursery stock on the
19 effective date of Act _____, Session Laws of Hawaii 2024, the
20 person shall register with the department not later



1 than years after the effective date of Act , Session
2 Laws of Hawaii 2024.

3 (b) A registration under subsection (a) shall be valid for
4 a period of years.

5 (c) Subsection (a) shall not apply to a person:

6 (1) Who sells seeds and does not sell or ship any other
7 nursery stock; or

8 (2) Whose business consists only of retail sales to the
9 ultimate consumer and the total of such sales of
10 nursery stock does not exceed \$250 during a year.

11 (d) A person shall make a separate registration under
12 subsection (a) for each location where the person sells or grows
13 nursery stock.

14 (e) A person is not eligible for any certificate or
15 service under part III of this chapter unless the person makes
16 the registration required by subsection (a).

17 (f) The department may publish on the internet website
18 maintained by the department and in other appropriate form a
19 list of persons that have registered under this section.



1 **§150A-C Certification.** Each person making a registration
2 for a location required by section 150A-B shall certify to the
3 department that the person:

- 4 (1) Will not sell any plant taxa designated by the
5 department as a noxious weed or restricted plant at
6 the location;
- 7 (2) Will maintain the location free from high-priority
8 pests;
- 9 (3) Will maintain effective control of non-quarantine
10 pests;
- 11 (4) Will implement standards of nursery cleanliness at the
12 location;
- 13 (5) Will implement any best management practices required
14 by the department for the location; and
- 15 (6) Consents to and agrees to cooperate with inspections
16 by the department during reasonable business hours to
17 ensure the person is complying with the certification
18 required by this subsection.

19 **§150A-D Nursery registration fee.** (a) The department
20 may charge a fee for a registration under this section.



1 (b) Any fees collected under this section shall be paid to
2 the department and deposited into the pest inspection,
3 quarantine, and eradication fund under section 150A-4.5.

4 **§150A-E Inspection; quarantine.** (a) The department may
5 inspect, with or without notice during reasonable business
6 hours, a location registered by a person under section 150A-B,
7 including all nursery stock at the location, and any other area
8 used by the person to produce or store nursery stock to be sold
9 at the location.

10 (b) The department may:

11 (1) Conduct inspections under subsection (a) in response to
12 a complaint of the presence of high-impact pests or
13 failure to maintain effective control of other pests;
14 and

15 (2) Prioritize and conduct more frequent inspections under
16 subsection (a) based on its assessment of the
17 location's history of compliance with this part and
18 the location's potential for spreading high-impact
19 pests or non-quarantine pests.

20 (c) If the department is notified pursuant to an
21 inspection authorized under this section or any other means that



1 a high-priority pest is present in nursery stock or a location
2 where nursery stock is present, that non-quarantine pests are
3 not under effective control at a location, or that the person
4 who has registered a location under section 150A-B is otherwise
5 not in compliance with a certification made under section
6 150A-C, the department:

- 7 (1) May place a stop sale or quarantine order for the
8 affected nursery stock or location and, if
9 appropriate, a destruction order for affected nursery
10 stock;
- 11 (2) Shall notify the person of the affected nursery stock
12 or location of the existence of the high-priority pest
13 or other compliance issue and advise the person on
14 acceptable mitigation methods; and
- 15 (3) May require the affected nursery stock or affected
16 material be mitigated by whatever means necessary,
17 including destruction, confiscation, treatment, return
18 shipment, or quarantine, at the expense of the
19 location or person without any form of compensation
20 from the department or State.



1 (d) During the period when an order under subsection (d)
2 is in effect for nursery stock or a location, the person
3 operating the location shall not sell, ship, transport, give
4 away, or otherwise move, alter, or tamper with affected nursery
5 stock or material at the location, other than for activities to
6 mitigate the high-priority pest or other pest.

7 **§150A-F Civil penalties.** (a) A person who violates this
8 part or any rule adopted by the department pursuant to this part
9 shall be fined not more than \$ for each separate
10 offense. Each date of violation shall constitute a separate
11 offense. Any action taken to impose or collect the penalty
12 provided for in this subsection shall be considered a civil
13 action.

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

17 SECTION 7. Chapter 150A, Hawaii Revised Statutes, is
18 amended by adding a new section to part III to be appropriately
19 designated and to read as follows:

20 **"§150A- Plant nursery registration required. No**
21 **certification or service related to nursery stock shall be**



1 provided under this part to a person at a location unless the
2 location is registered under part _____."

3 SECTION 8. Section 150A-2, Hawaii Revised Statutes, is
4 amended by adding three new definitions to be appropriately
5 inserted and to read as follows:

6 "Infested" means harboring a pest.

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

12 "Person" means any individual, firm, corporation,
13 association, partnership, or other entity, including a
14 governmental entity or nonprofit organization."

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

17 **"§150A-53 General actions to achieve objectives.** (a) To
18 achieve the objectives of the biosecurity program, the
19 department shall plan for and, within available legislative
20 appropriations or through funding from other sources, implement
21 the following:



- 1 (1) Work with government agencies and agricultural
2 commodity exporters of other states and countries to
3 establish pre-entry inspection programs under which
4 inbound cargo into the State is inspected at the ports
5 of departure or other points outside the State;
- 6 (2) Establish, operate, or participate in operating port-
7 of-entry facilities where multiple government agencies
8 may inspect, quarantine, fumigate, disinfect, destroy,
9 or exclude as appropriate, articles that may harbor
10 pests or exclude articles that are prohibited or
11 restricted without a permit, with the goals of:
- 12 (A) Performing inspections in an efficient,
13 effective, and expeditious manner for the
14 government agencies involved and for cargo
15 owners, carriers, and importers; and
- 16 (B) Providing for the proper and safe storage and
17 handling of cargo, especially agricultural and
18 food commodities, awaiting inspection;
- 19 (3) Develop, implement, and coordinate post-entry measures
20 to eradicate, control, reduce, and suppress pests and,
21 as appropriate, eradicate or seize and dispose of



1 prohibited or restricted organisms without a permit
2 that have entered the State;

3 (4) Collaborate with relevant government agencies,
4 agricultural commodity importers, and other persons to
5 examine and develop joint integrated systems to better
6 implement the biosecurity program;

7 (5) Improve cargo inspection capabilities and methods,
8 including enhancement of the content and submission
9 requirements for cargo manifests and agricultural
10 commodity ownership and movement certificates;

11 (6) Promote the production of agricultural commodities in
12 the State to reduce cargo shipments of imported
13 commodities into the State; and

14 (7) Provide public education on the negative effects of
15 pests and prohibited or restricted organisms without a
16 permit, to the environment and economy of the State.

17 (b) The department shall establish parameters and
18 construction requirements for biosecurity facilities that
19 provide for and ensure the safety of agricultural and food
20 commodities consumed by Hawaii residents, including cold storage
21 facilities established by private-public partnerships to



1 preserve the quality and ensure the safety of the commodities
2 arriving at the State's airports and harbors.

3 (c) The nursery registration program established under
4 part of this chapter:

5 (1) Shall be considered to be a part of the biosecurity
6 program; and

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

9 PART IV

10 SECTION 10. Chapter 152, Hawaii Revised Statutes, is
11 amended by adding nine new sections to be appropriately
12 designated and to read as follows:

13 "§152-A Noxious weed designations; changes. (a) The
14 board:

15 (1) At meetings held in May and November of each year,
16 shall accept applications for noxious weed
17 designations for consideration; and

18 (2) May accept applications at meetings held at other
19 times of year;

20 provided that the public shall be given timely notice of the
21 board's meetings and the board's acceptance of applications.



1 (b) The board shall accept applications in any form,
2 including electronic applications.

3 (c) The chairperson:

4 (1) Shall review each application;

5 (2) May seek additional information from the applicant;

6 (3) May conduct additional research related to the
7 application, including research of literature reviews,
8 surveys, discussions with other states, and field
9 investigations;

10 (4) May submit to the advisory committee on plants and
11 animals established under section 150A-10, and any
12 subcommittee of that committee, an application for
13 review, for the purposes of assisting the board in
14 considering the application;

15 (5) Shall consider all oral and written comments submitted
16 under section 152-C and may incorporate those comments
17 in the chairperson's review of the application; and

18 (6) Shall make a recommendation to the board regarding
19 each application.

20 (d) The board shall vote on each change to a noxious weed
21 designation requested in an application at the subsequent



1 meeting timely held after the period for public notification and
2 input described in section 152-C.

3 (e) Upon approval by the board of a change to a noxious
4 weed designation, the order to make that change to the noxious
5 weed designation shall take effect ten days after the department
6 posts public notice of the order in a daily or weekly
7 publication of statewide circulation or in separate daily or
8 weekly publications whose combined circulation is statewide and
9 on the department's publicly available website.

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

13 **§152-B Applications.** (a) An application seeking a change
14 to noxious weed designations may be submitted by any person or
15 the department.

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

18 (c) Each application shall include:

19 (1) The name, address, and contact information of the
20 applicant;



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

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

5 (4) Any other information the chairperson may reasonably
6 require, as specified on a form provided by the
7 chairperson.

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

10 (1) The taxon's:

11 (A) Scientific name and author;

12 (B) Common synonyms;

13 (C) Botanical classification; and

14 (D) Common names;

15 (2) The class of noxious weed requested for the taxon;

16 (3) A description of the geographic area in the State that
17 is free or reasonably free of the taxon;

18 (4) Information describing how the taxon can directly or
19 indirectly injure or cause damage to crops, including
20 nursery stock or plant products; livestock; poultry;
21 or other interests of agriculture, irrigation,



1 navigation, the natural resources of the State, the
2 public health, or the environment; and

3 (5) A list of references to support the information
4 provided in the application.

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

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

12 (2) Is eligible for special consideration for crops under
13 section 152-F.

14 (f) An application to change the class of a noxious weed
15 designation shall include evidence that the noxious weed meets
16 the description of the proposed class as established in
17 section 152-4.

18 **§152-C Public notification and input for changes to**
19 **noxious weed designations.** (a) No later than fourteen days
20 after an application is submitted at a board meeting pursuant to
21 section 152-A, the chairperson shall issue a press release and



1 provide notices to the office of planning and sustainable
2 development for publication and to each person who has made a
3 timely written request of the department for notice of an
4 application. The press release and notices shall include:

5 (1) A statement summarizing each change to a noxious weed
6 designation requested in an application;

7 (2) A statement that a copy of the application will be
8 mailed to any interested person who requests a copy
9 upon payment in advance of costs for photocopying,
10 preparing, and mailing the copy and that a copy of the
11 application will be made available on the publicly
12 available website of the department;

13 (3) A statement as to where to obtain a copy of the
14 application for inspection or for pickup after payment
15 in full for costs for photocopying and preparing; and

16 (4) A statement that the department is soliciting comments
17 regarding the requested change to a noxious weed
18 designation, which shall include the procedure for
19 submitting comments.



1 (b) During the three-month period after an application is
2 submitted at a board meeting, any interested person, educational
3 institution, or government entity may:

4 (1) Provide oral comments on the application at any
5 regularly scheduled meeting of the board; and

6 (2) Provide written comments on the application to the
7 board and the chairperson.

8 §152-D Emergency designations. (a) Notwithstanding any
9 other provision of this chapter or any other law to the
10 contrary:

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



- 1 (2) An emergency rule described in paragraph (1) shall be
2 effective for a period no longer than one hundred
3 eighty days, without the possibility of renewal; and
- 4 (3) The department may establish, implement, and enforce
5 interim rules governing the transportation of noxious
6 weeds or taxa eligible for noxious weed designation
7 into or within the State, as provided in section 150A-
8 9.5.
- 9 (b) During the period that an emergency rule is in effect
10 under subsection (a), the chairperson shall make an application
11 for the board to order on an expedited basis the designation of
12 the taxon as a noxious weed.
- 13 §152-E Publication of noxious weed designations. The
14 chairperson shall make available to the public and publish on
15 the department's publicly available website the list of noxious
16 weeds designated under this chapter. The list shall include:
- 17 (1) Information on which noxious weeds are respectively
18 designated as class A, class B, and class C noxious
19 weeds; and
- 20 (2) The geographic area declared free or reasonably free
21 of each noxious weed.



1 §152-F Special consideration for crops. (a) The board
2 may defer designating a plant taxon as a noxious weed or
3 removing a noxious weed designation from a plant taxon if the
4 plant taxon:

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

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

14 (b) The board may require conditions, including a bond or
15 a compliance agreement, for the cultivation of a plant taxon for
16 which the board has deferred a designation or removed from
17 designation pursuant to subsection (a).

18 (c) The board shall designate as a noxious weed a plant
19 taxon that is cultivated as a crop for which the board deferred
20 a designation or removed from designation pursuant to subsection



1 (a) if the plant becomes invasive or is otherwise no longer
2 described in subsection (a) (2).

3 §152-G Noxious weed control or eradication programs. (a)

4 The chairperson may develop and implement a program to control
5 or eradicate a specific noxious weed if the chairperson
6 determines that the control or eradication program is feasible
7 and practicable.

8 (b) Each control or eradication program developed under
9 subsection (a) shall:

- 10 (1) Use the best available technology and use the
11 technology in a manner consistent with federal and
12 state law;
- 13 (2) Specify the geographic area where the program will be
14 carried out, which may be a section of an island, an
15 island, a group of islands, or the entire State;
- 16 (3) Minimize collateral damage to crops, property, the
17 environment, and native species;
- 18 (4) Include a description of the specific methods to be
19 employed to control or eradicate the noxious weed;



- 1 (5) Include a description of the surveys and monitoring
2 that will be required before and after the specific
3 methods to control or eradicate are employed;
- 4 (6) Include an assessment of whether the department will
5 seek any quarantine related to the control or
6 eradication program; and
- 7 (7) Include an approximate time frame to carry out the
8 control or eradication program.
- 9 (c) If the department or agent of the department needs to
10 enter onto private property to conduct detection and
11 delimitation surveys or otherwise carry out or maintain the
12 control or eradication program, but the owner or occupier of the
13 property refuses to grant entry to the department or its agent,
14 the department or agent may gain entry pursuant to
15 section 141-3.6 to the extent necessary to carry out or maintain
16 the control or eradication program, unless the property is a
17 dwelling place.
- 18 (d) The chairperson may seek the board's approval for a
19 control or eradication program developed under this section if
20 the chairperson believes that the board's approval is likely to
21 make the program more successful.



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

4 §152-H Noxious weed control on leased state lands. Any
5 person that leases state lands for livestock grazing or any
6 agricultural purpose shall agree in the lease agreement to
7 control any noxious weed on those lands to the extent required
8 by the department.

9 §152-I Penalties. (a) The department may establish,
10 impose, and collect administrative fines or bring legal action
11 to recover administrative costs of the department, payment for
12 damages, or costs to correct damages resulting from violations
13 of this chapter or any rule adopted under this chapter.

14 (b) The department, at its discretion, may refuse entry
15 into the State of, confiscate, or destroy any noxious weed or
16 article infested with a noxious weed that a person brings or
17 attempts to bring into the State or that is offered for sale,
18 sold, or transported in violation of this chapter, or, in the
19 case of importation, order the return of any noxious weed or any
20 article infested with a noxious weed to its place of origin or



1 otherwise dispose of it or a part thereof as may be necessary to
2 comply with this chapter.

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

7 SECTION 11. Section 152-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding five new definitions to be appropriately
10 inserted and to read:

11 "Agent of the department" means any person authorized to
12 act on behalf of the department of agriculture.

13 "Application" means an application seeking a change to the
14 noxious weed designations.

15 "Board" means the board of agriculture.

16 "Chairperson" means the chairperson of the board of
17 agriculture.

18 "Noxious weed designation" means a designation on the list
19 of noxious weeds."

20 2. By amending the definition of "control noxious weed" to
21 read:



1 ""Control noxious weed" means to limit the spread of a
2 specific noxious weed, including quarantining material infested
3 with the noxious weed, and to reduce its density to a degree
4 where its injurious, harmful, or deleterious effect is reduced
5 to a tolerable level."

6 3. By amending the definition of "eradicate noxious weed"
7 to read:

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

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

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



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

4 SECTION 12. Section 152-2, Hawaii Revised Statutes, is
5 amended to read as follows:

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

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

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

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

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

20 "§152-3 Prohibited and permitted acts. [~~It~~] (a) Except
21 as provided in subsection (b), it shall be unlawful to



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

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

- 10 (1) A plant part that is processed, not vegetatively
11 propagative, or otherwise not capable of reproducing
12 the plant;
- 13 (2) The movement of a properly prepared herbarium
14 specimen;
- 15 (3) The movement of plant material by authorized employees
16 of the department or an agent of the department acting
17 in the course of official duties;
- 18 (4) A noxious weed imported for research pursuant to a
19 permit issued by the chairperson; or
- 20 (5) A noxious weed transported for educational or research
21 purposes or for proper disposal of removed material



1 under methods approved by, or pursuant to a permit
2 issued by, the chairperson.

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

5 SECTION 14. Section 152-4, Hawaii Revised Statutes, is
6 amended to read as follows:

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

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

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



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

5 (1) Class A noxious weeds:

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

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

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

14 (2) Class B noxious weeds:

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

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

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



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

3 SECTION 15. Section 152-5, Hawaii Revised Statutes, is
4 amended to read as follows:

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

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

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

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



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

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

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

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

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



1 permitted by law, shall access private property in
2 areas declared reasonably free from those weeds;
3 (2) Shall determine the feasibility and practicability of
4 controlling or eradicating infestations; and
5 (3) May conduct control or eradication actions in any area
6 of the State, as determined appropriate by the
7 chairperson.

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



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

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

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



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

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

10 PART V

11 SECTION 17. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

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

20 SECTION 19. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 20. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Facilitates the control and eradication of invasive species and pests. Establishes a plant nursery registration 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. Takes effect 7/1/3000. (SD1)

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