

JAN 20 2023

A BILL FOR AN ACT

RELATING TO REGULATION OF IMPORTATION.

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

1 SECTION 1. Section 150A-5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§150A-5 Conditions of importation.** The importation into
4 the State of any of the following articles, viz., nursery-stock,
5 tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud,
6 seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain,
7 cereal, or legume in the natural or raw state; moss, hay, straw,
8 dry-grass, or other forage; unmanufactured log, limb, or timber,
9 or any other plant-growth or plant-product, unprocessed or in
10 the raw state; soil; microorganisms; live bird, reptile,
11 nematode, insect, or any other animal in any stage of
12 development (that is in addition to the so-called domestic
13 animal, the quarantine of which is provided for in chapter 142);
14 box, vehicle, baggage, or any other container in which [~~such~~]
15 articles have been transported or any packing material used in
16 connection therewith shall be made in the manner hereinafter set
17 forth:



1 (1) Notification of arrival. Any person who receives for
2 transport or brings or causes to be brought to the
3 State as freight, air freight, baggage, or otherwise,
4 for the purpose of debarkation or entry therein, or as
5 ship's stores, any of the foregoing articles, shall,
6 immediately upon the arrival thereof, notify the
7 department, in writing, of the arrival, giving the
8 waybill number, container number, name and address of
9 the consignor, name and address of the consignee or
10 the consignee's agent in the State, marks, number of
11 packages, description of contents of each package,
12 port at which laden, and any other information that
13 may be necessary to locate or identify the same, and
14 shall hold [~~such~~] the articles at the pier, airport,
15 or any other place where they are first received or
16 discharged, in [~~such~~] a manner that they will not
17 spread or be likely to spread any infestation or
18 infection of insects or diseases that may be present
19 until inspection and examination can be made by the
20 inspector to determine whether or not any article, or
21 any portion thereof, is infested or infected with or



1 contains any pest. The department may adopt rules to
2 require identification of specific articles on
3 negotiable and non-negotiable warehouse receipts,
4 bills of lading, or other documents of title for
5 inspection of pests. In addition, the department
6 shall adopt rules to designate restricted articles
7 that shall require:

8 (A) A permit from the department in advance of
9 importation; or

10 (B) A department letter of authorization or
11 registration in advance of importation.

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

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

18 (A) It shall be the responsibility of the
19 transportation company to ~~[distribute,]~~
20 distribute electronically, prior to the
21 debarkation of passengers and baggage, the State



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



1 (B) Completed forms shall be [~~collected by the~~
2 ~~transportation company and be delivered,~~
3 ~~immediately upon arrival,~~] transmitted to the
4 inspector at the first airport or seaport of
5 arrival. Failure to distribute [~~or collect~~]
6 declaration forms [~~or to immediately deliver~~
7 ~~completed forms~~] is a violation of this section;
8 and

9 (C) It shall be the responsibility of the officers
10 and crew of an aircraft or vessel originating in
11 the continental United States or its possessions
12 or from any other area not under the jurisdiction
13 of the appropriate federal agency to immediately
14 report all sightings of any plants and animals to
15 the plant quarantine branch. Failure to comply
16 with this requirement is a violation of this
17 section;

18 (3) Plant and animal declaration form. The form shall
19 include directions for declaring domestic and other
20 animals cited in chapter 142, in addition to the
21 articles enumerated in this chapter;



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

13 (5) Authority to inspect. Whenever the inspector has good
14 cause to believe that the provisions of this chapter
15 are being violated, the inspector may:

16 (A) Enter and inspect any aircraft, vessel, or other
17 carrier at any time after its arrival within the
18 boundaries of the State, whether offshore, at the
19 pier, or at the airport, for the purpose of
20 determining whether any of the articles or pests



1 enumerated in this chapter or rules adopted
2 thereto, is present;

3 (B) Enter into or upon any pier, warehouse, airport,
4 or any other place in the State where any of the
5 above-mentioned articles are moved or stored, for
6 the purpose of ascertaining, by inspection and
7 examination, whether or not any of the articles
8 is infested or infected with any pest or disease
9 or contaminated with soil or contains prohibited
10 plants or animals; and

11 (C) Inspect any baggage or personal effects of
12 disembarking passengers, officers, and crew
13 members on aircraft or vessels arriving in the
14 State to ascertain if they contain any of the
15 articles or pests enumerated in this chapter. No
16 baggage or other personal effects of the
17 passengers or crew members shall be released
18 until the baggage or effects have been passed.

19 Baggage or cargo inspection shall be made at the
20 discretion of the inspector, on the pier, vessel, or
21 aircraft or in any quarantine or inspection area.



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

- 14 (6) Request for importation and inspection. In addition
15 to requirements of the United States customs
16 authorities concerning invoices or other formalities
17 incident to importations into the State, the importer
18 shall be required to file a written statement with the
19 department, signed by the importer or the importer's
20 agent, setting forth the importer's desire to import



1 certain of the above-mentioned articles into the State
2 and:

3 (A) Giving the following additional information:

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

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

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

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

16 (v) The name of the shipper; and

17 (vi) The name of the consignee; and

18 (B) Containing:

19 (i) A request that the department, by its duly
20 authorized agent, examine the articles
21 described;



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

10 Failure or refusal to file a statement, including

11 the agreement and waiver, is a violation of this

12 section and may, in the discretion of the department,

13 be sufficient cause for refusing to permit the entry

14 of the articles into the State;

15 (7) Place of inspection. If, in the judgment of the

16 inspector, it is deemed necessary or advisable to move

17 any of the above-mentioned articles, or any portion

18 thereof, to a place more suitable for inspection than

19 the pier, airport, or any other place where they are

20 first received or discharged, the inspector is

21 authorized to do so. All costs and expenses incident



1 to the movement and transportation of the articles to
2 [~~such~~] another place shall be borne by the importer or
3 the importer's agent. If the importer, importer's
4 agent, or transportation company requests inspection
5 of sealed containers of the above-mentioned articles
6 at locations other than where the articles are first
7 received or discharged and the department determines
8 that inspection at [~~such~~] the place is appropriate,
9 the department may require payment of costs
10 necessitated by these inspections, including overtime
11 costs;

12 (8) Disinfection or quarantine. If, upon inspection, any
13 article received or brought into the State for the
14 purpose of debarkation or entry therein is found to be
15 infested or infected or there is reasonable cause to
16 presume that it is infested or infected and the
17 infestation or infection can, in the judgment of the
18 inspector, be eradicated, a treatment shall be given
19 [~~such~~] the article. The treatment shall be at the
20 expense of the owner or the owner's agent, and the
21 treatment shall be as prescribed by the department.



1 The article shall be held in quarantine at the expense
2 of the owner or the owner's agent at a satisfactory
3 place approved by the department for a sufficient
4 length of time to determine that eradication has been
5 accomplished. If the infestation or infection is of
6 [~~such~~] the nature or extent that it cannot be
7 effectively and completely eradicated, or if it is a
8 potentially destructive pest or it is not widespread
9 in the State, or after treatment it is determined that
10 the infestation or infection is not completely
11 eradicated, or if the owner or the owner's agent
12 refuses to allow the article to be treated or to be
13 responsible for the cost of treatment and quarantine,
14 the article, or any portion thereof, together with all
15 packing and containers, may, at the discretion of the
16 inspector, be destroyed or sent out of the State at
17 the expense of the owner or the owner's agent. [~~Such~~]
18 The destruction or exclusion shall not be made the
19 basis of a claim against the department or the
20 inspector for damage or loss incurred;



1 (9) Disposition. Upon completion of inspection, either at
 2 the time of arrival or at any time thereafter should
 3 any article be held for inspection, treatment, or
 4 quarantine, the inspector shall affix to the article
 5 or the container or to the delivery order in a
 6 conspicuous place thereon, a tag, label, or stamp to
 7 indicate that the article has been inspected and
 8 passed. This action shall constitute a permit to
 9 bring the article into the State; and

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

14 SECTION 2. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

17

INTRODUCED BY: *James Mercedo K*



S.B. NO. 633

Report Title:

Plant and Animal Declaration Form; Electronic; Department of Agriculture; Hawaii Tourism Authority

Description:

Requires the State of Hawaii Plant and Animal Declaration Form to be distributed, completed, and transmitted electronically.

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