

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

THURSDAY, MARCH 27, 2025
2:00 PM
CONFERENCE ROOM 325 & VIDEOCONFERENCE

SENATE BILL NO. 330, SD1, HD1
RELATING TO INVASIVE SPECIES PREVENTION

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 330, SD1, HD1, relating to invasive species prevention. The bill authorizes the Department of Agriculture to enforce federal quarantines. Effective 7/1/3000.

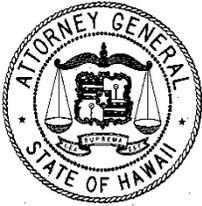
The Department agrees with the intent of this measure to facilitate in the inspection and quarantine of pests covered under federal quarantines and offers comments regarding implementation. While this measure seeks to provide additional authority to the Department to help prevent the introduction of federally actionable pests into the State, the Department notes that most of the authority that this measure seeks to create already exists. Pursuant to HRS 141, the Department is already able to enter into cooperative agreements with Federal partners and already actively works with the U.S. Department of Agriculture (USDA) on issues of shared concern. Additionally, HRS 141 already authorizes the Department to establish rules to regulate the importation of specific commodities regardless of whether a federal quarantine is in place or not, such as Chapter 4-70, Hawaii Administrative Rules, to help prevent the introduction of specific pests and their host commodities, and as a result, the statement "The



department may establish a quarantine and adopt rules against a pest not covered by federal regulations or orders.”, located on page 4, beginning on line 5, can be removed.

The Department has some concerns about some of the provisions contained in this measure as currently drafted. Section (b) appears to enable the State to take regulatory action even without a cooperative agreement in place. Currently, when a regulatory issue arises involving a USDA regulation, the Department works directly with USDA to achieve a resolution and USDA utilizes their authority for regulatory action. Without a cooperative agreement, the Department is unsure if USDA would like the Department to act on its behalf and if so, a cooperative agreement would detail what the Department would be doing and define the specific standards that would need to be met for compliance. As such, this section could unknowingly conflict with the execution of a future cooperative agreement. Additionally, effective implementation would need the creation of a small, specialized unit to constantly look for changes in any federal quarantine; gather and synthesize this information for staff; create policies/procedures for identification of the target pest and inspection procedures for the regulated commodities; and subsequently disseminate information and train staff. Unfortunately, this measure does not provide any allocation for this.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 330, S.D. 1, H.D. 1, RELATING TO INVASIVE SPECIES PREVENTION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Thursday, March 27, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Travis T. Moon or Christopher J.I. Leong, Deputy Attorneys
General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to authorize the Department of Agriculture to enforce quarantines issued by the United States Department of Agriculture to prevent the introduction of invasive pests and diseases into the State, by adding a new section to chapter 150A, Hawaii Revised Statutes, regarding the quarantining of pests not covered by federal regulation and the shipment of federally regulated or restricted articles into the State.

Requiring an owner or carrier of regulated or restricted articles originating in nonregulated areas of a quarantined state to provide a certificate of origin or phytosanitary certificate for entry into the State, as proposed by paragraph (2) of the new section 150A- (b) in section 2 of this bill (page 4, line 17, to page 5, line 2) is likely challengeable under the United States Constitution's Supremacy Clause, which provides that the laws of the United States are declared to be supreme to those of the individual states. See U.S. Const. art. VI, cl. 2.

The Plant Protection Act (7 U.S.C. § 7711, *et. seq.*) (federal act), and its corresponding regulations, title 7 Code of Federal Regulations § 301.1 *et seq.* (federal regulation), regulate the movement in interstate commerce of articles, means of

conveyance, plants, biological control organisms, plant pests, noxious weeds, and plant products.

The federal act expressly preempts states from regulating "the movement in interstate commerce of article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed, if the Secretary [of Agriculture] has issued a regulation or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed within the United States." See 7 U.S.C. § 7756(b)(1).

States, however, "may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, or plant products that are **consistent with and do not exceed** the regulations or orders issued by the Secretary [of Agriculture]." See 7 U.S.C. § 7756(b)(2)(A) (emphasis added). Any prohibitions or restrictions that are "in addition to the existing prohibitions or restrictions imposed by the Secretary [of Agriculture]" are preempted unless the "Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment." See 7 U.S.C. § 7756(b)(2)(B).

The federal regulation provides specific requirements for the interstate movement of more than twenty different plant pests. See 7 C.F.R. part 301. Furthermore, the federal regulation establishes interstate movement procedures for regulated articles of specific plant pests that originate outside of quarantined area. See *id.* For example, the interstate movement of a regulated article of fruit flies originating outside of a quarantined area does not require a certificate issued by the Animal and Plant Health Inspection Service of the United States Department of Agriculture if, among other things, "[t]he point of origin of the regulated article is indicated on the waybill" See *id.*, at sections 301.32-4(b)(2) and 301.55-4(b)(2). Because the interstate movement requirements for regulated articles originating outside a quarantine area is specific to the named plant pests in the federal regulation, allowing the State to generally require

owners and carriers of regulated or restricted articles to provide a certificate of origin or phytosanitary certificate for entry into the State is an additional prohibition not consistent with and exceeding the federal regulation. *See id.*

As such, paragraph (2) of the new section 150A- (b) in section 2 of this bill on page 4, line 17, to page 5, line 2, is likely preempted by the federal regulation and thus we recommend replacing "certificate of origin or phytosanitary certificate" with "waybill, or other shipping document, unless otherwise required in title 7 Code of Federal Regulations Part 301" on page 5, lines 1-2.

Thank you for the opportunity to provide comments.



House of Representatives
Committee on Judiciary & Hawaiian Affairs
Thursday, March 27, 2025
2:00 p.m. Conference Room 325 & Videoconference
State Capitol

Testimony in Support of SB 330 SD1 HD1

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The Coordinating Group on Alien Pest Species (CGAPS) is **in support of SB 330 SD1 HD1** *Relating to Invasive Species Prevention*. This bill allows the Hawaii Department of Agriculture (HDOA) to enforce federal domestic pest quarantines issued by the United States Department of Agriculture (USDA).

USDA issues quarantines for a variety of pests to prevent their spread. If those quarantines relate to foreign countries, enforcement is straightforward as federal entities inspect items imported into the U.S. from foreign countries. During those inspections, the federal entity has the authority to enforce the federal USDA quarantine.

However, the Hawaii Department of Agriculture (HDOA) is the agency that inspects domestic imports for pests yet they do not have the statutory authority to enforce USDA quarantines. If an HDOA inspector detects an item that is or could be prohibited from being imported into Hawaii under a USDA quarantine, the inspector does not have the legal authority to hold or refuse entry of the item.

As an example of this gap, Hawaii is one of the very few citrus-producing states that does not have documented cases of citrus greening, the most serious citrus disease in the world. There is no cure for this disease, which has devastated millions of acres of citrus production globally.¹ Citrus greening is present in several U.S. states and counties, and USDA has an interstate quarantine to prevent its spread. Citrus greening is a bacterial infection of citrus plants that is spread by a tiny insect called the Asian citrus psyllid. This insect is already present in Hawaii. If the bacterial disease itself arrives undetected, the conditions are right for citrus greening to spread. USDA has implemented the citrus greening quarantine because the disease may not be readily apparent at inspection, as infected citrus may show no symptoms. Currently, HDOA

¹ See <https://www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-greening>

does not have the authority to refuse entry to USDA quarantined citrus plants and plant parts. The language in SB 330 SD1 HD1 provides HDOA with the authority to enforce this and any other pest quarantine by USDA to better protect our State.

We appreciate the testimony of the Department of the Attorney General (AG) to the Committee on Agriculture and Environment to address any possible issues with federal pre-emption. We believe the language of SB 330 SD1 HD1 is in accord with the USDA quarantine, nothing more. Section 436(b) of the federal Plant Protection Act (PPA) restricts any state or political subdivision thereof from regulating in interstate commerce the introduction or dissemination of a biological control organism, plant pest, or noxious weed if USDA has issued a regulation to or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed within the United States.² (7 USC § 7756(b))

However, there is an exception to this pre-emption that provides:

“A State or a political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, or plant products that are consistent with and do not exceed the regulations or orders issued by the Secretary [of USDA].” (7 USC §7756(b)(2)(A)) (emphasis added)

The proposed language in SB 330 SD1 HD1 falls within this exception. Additionally, we note the language in SB 330 SD1 HD1 on page 4, lines 2 through 11, is similar to section 2(1) of the Idaho Plant Pest Act of 2002³ and the restrictions in SB 330 SD1 HD1 on page 4, line 12 through page 5, line 2, are similar to the interstate shipment restrictions in section 2(4)(a) of that Idaho statute.⁴ That statute has been in effect for more than 20 years and does not appear to have ever been challenged under PPA preemption or on any other grounds.

² Section 436(a) of the federal PPA totally preempts any state or political subdivision thereof from regulating in foreign commerce the introduction or dissemination of a biological control organism, plant pest, or noxious weed. (7 USC 7756(a)) HDOA does not inspect items imported into Hawaii from foreign countries; those inspections are carried out by federal entities. As such, the amendments proposed by SB 330 SD1 do not violate subsection (a) of PPA section 436.

³ Idaho Code § 22-2013 (1) provides: “The [Idaho Department of Agriculture] may enter into cooperative agreements with the U.S. department of agriculture, and other federal, state, city or county agencies to assist in the enforcement of federal quarantines. The department may establish a quarantine and promulgate a rule against a plant pest or an area not covered by a federal quarantine. The department may seize, destroy or require treatment of products moved from a federally regulated area if they were not moved in accordance with the federal quarantine rules or, if certified, they were found to be infested with the plant pest.”

⁴ Idaho Code § 22-2013 (4)(a) provides: “(a) Interstate shipments:
(i) Any regulated article that is prohibited interstate movement or is required to be certified, if moved interstate from an area regulated by a state or federal quarantine, shall be refused entry into the state.

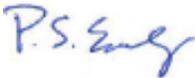
Finally, we note that USDA issued a citrus greening quarantine for the entire state of Mississippi in February 2025. (<https://www.aphis.usda.gov/news/program-update/citrus-greening-quarantine-mississippi-da-2025-07>) The Committee may want to add “Mississippi” to the list of states where citrus greening is found on page 2, line 11 of SB 330 SD1 HD1.

Thank you for the opportunity to support this bill.

Aloha,



Christy Martin
CGAPS Program Manager



Stephanie Easley
CGAPS Legal Fellow

-
- (ii) The owner or carrier of regulated articles that are reportedly originating in nonregulated areas of a quarantined state must provide proof of origin of the regulated articles through an invoice, waybill or other shipping document.
 - (iii) If only a portion of a state is under a state or federal quarantine, the shipment will not be refused nor a certificate required if the article originates from a nonregulated area of the shipping state, unless the article is found to be infested or prohibited.”



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Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the House Judiciary & Hawaiian Affairs Committee,

The Hawaii Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFU supports SB330.**

Devastating pests and diseases, such as citrus greening, have inflicted severe damage on global and mainland U.S. citrus crops, and we must do everything in our power to prevent them from taking hold in our islands. Currently, the absence of explicit legal authority for the Hawaii Department of Agriculture to enforce federal quarantines creates a dangerous gap in our biosecurity strategy. The United States Department of Agriculture may establish quarantines to halt the spread of pests and diseases; however, without local enforcement, shipments arriving from quarantined areas remain insufficiently monitored.

Closing this gap by granting the Department of Agriculture enforcement authority is essential to protecting Hawaii's farms and safeguarding a rapidly growing sector of our local food supply. Hawaii's citrus growers, including many members of the Hawaii Farmers Union, provide fresh produce that benefits our local communities. By passing this measure, the Legislature not only bolsters the resilience of our farms against invasive species but also reinforces the broader goal of strengthening Hawaii's food security.

Mahalo for the opportunity to testify.

Hunter Heavilin
Advocacy Director
Hawaii Farmers Union



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

March 27, 2025

HEARING BEFORE THE
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

TESTIMONY ON SB 330, SD1, HD1
RELATING TO INVASIVE SPECIES PREVENTION

Conference Room 325 & Videoconference
2:00 PM

Aloha Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 330, SD1, HD1, which authorizes the Department of Agriculture to enforce federal quarantines. Strengthening quarantine enforcement is essential to protecting Hawai'i's agricultural industry, natural environment, and overall economy from the devastating impact of invasive species.

Hawai'i's farmers and ranchers continue to face serious threats from invasive species such as the coconut rhinoceros beetle, little fire ant, coffee berry borer, two-lined spittlebug, macadamia felted coccid, and varroa mite. These pests not only damage crops and livestock but also increase production costs and threaten the long-term viability of local agriculture. Prevention and early intervention are the most effective and cost-efficient ways to manage these threats.

By authorizing DOA to enforce federal quarantines, Hawai'i will be better equipped to:

- Strengthen biosecurity measures at ports of entry to prevent the movement of restricted agricultural goods that may carry pests.
- Improve coordination with federal agricultural agencies to ensure more effective quarantine enforcement.
- Respond more quickly to new pest threats before they become widespread.

Preventing the introduction of invasive pests is far more cost-effective than attempting to control them after they have been established. Every dollar spent on biosecurity and quarantine enforcement saves significantly more in long-term eradication and control

efforts. Protecting Hawai'i's farms, ranches, and ecosystems from harmful pests and diseases is crucial to maintaining local food production, supporting agricultural sustainability, and preserving the state's biodiversity.

We urge the committee to pass SB 330, SD1, HD1, to give DOA the necessary authority to enforce federal quarantines and protect Hawai'i's agriculture and natural resources.

Thank you for the opportunity to testify on this measure.

SB-330-HD-1

Submitted on: 3/25/2025 11:52:29 PM

Testimony for JHA on 3/27/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
M. Leilani DeMello	Individual	Support	Written Testimony Only

Comments:

Aloha,

I SUPPORT this bill.

Mahalo,

M. Leilani DeMello

‘Ōla‘a, Puna, Hawai‘i

SB-330-HD-1

Submitted on: 3/27/2025 6:55:06 AM

Testimony for JHA on 3/27/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Uilani Naipo	Individual	Support	Written Testimony Only

Comments:

I support this measure.

SB-330-HD-1

Submitted on: 3/27/2025 11:42:52 AM

Testimony for JHA on 3/27/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Support	Remotely Via Zoom

Comments:

I support SB330 SD1 HD1.

Gregory Misakian