

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 SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**FEBRUARY 5, 2025
1:03 PM
CONFERENCE ROOM 224 & VIDEOCONFERENCE**

**SENATE BILL NO. 330
RELATING TO INVASIVE SPECIES PREVENTION**

Chair Gabbard, Vice Chair Richards, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 330 relating to invasive species prevention. The bill authorizes the Department of Agriculture to enforce quarantines issued by the United States Department of Agriculture or another state.

The Department agrees with the intent of this measure and offers comments regarding implementation. While this measure seeks to provide additional authority to the Department to help prevent the introduction of pests into the State, the Department notes that most of the authority that this measure seeks to create already exists and as a result, is not necessary to increase biosecurity efforts. Pursuant to HRS 141, the Department is already able to enter into cooperative agreements with Federal partners and is already actively working with the U.S. Department of Agriculture (USDA) on issues of shared concern. Additionally, HRS 141 authorizes the Department to establish rules to regulate the importation of specific commodities, such as Chapter 4-70, Hawaii Administrative Rules, to help prevent the introduction of specific pests and their host commodities.



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, but 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, the 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, section (b)(1)(A) would require inspectors to not only keep abreast of the existing State regulations, including their normal duties and responsibilities, which are already quite extensive, but they would also be required to know all federal quarantines and other states' quarantines to be able to properly implement this measure. While the Department is appreciative of the intent, this would likely require collective bargaining consultation as there is no requirement for the inspectors to know and enforce these additional regulations. Additionally, implementation would need the creation of a small, specialized unit to constantly look for changes in any state or 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.

The Department has additional comments for further clarification. Section (b)(1)(B) is unnecessary as movement interstate without proper certification requirements or discovery of a pest upon inspection would be in direct contravention of a quarantine and regulatory action would be taken regardless. In section (b)(2), the use of an invoice, waybill, or shipping document are not the standard documents used for determining origin as these documents are not aligned with standard phytosanitary requirements. Certificates of origin or phytosanitary certificates are the appropriate documents and are issued by an appropriate regulatory agency as opposed to the shipper, importer, or the carrier. Section (b)(3) should be removed because the proposed revisions to section (b)(2) enabling phytosanitary certificates or certificates of

origin enables the specificity to differentiate between specific areas within a state when only portions therein are quarantined, and the discovery of a pest or other prohibited article would trigger regulatory action regardless of this provision.

Thank you for the opportunity to testify on this measure.

JOSH GREEN
GOVERNOR OF HAWAII

SYLVIA LUKE
LIEUTENANT GOVERNOR



HAWAII INVASIVE SPECIES COUNCIL

1151 PUNCHBOWL ST, #325
HONOLULU, HAWAII 96813

VOTING MEMBERS

DAWN CHANG
DEPARTMENT OF LAND & NATURAL
RESOURCES

SHARON HURD
HAWAII DEPARTMENT OF AGRICULTURE

KATHLEEN HO, D.Env
DEPARTMENT OF HEALTH

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TOURISM

DEXTER KISHIDA
DEPARTMENT OF TRANSPORTATION

**Chelsea Arnott, HISC Coordinator on behalf of
HISC Co-Chair Sharon Hurd and Co-Chair Dawn N.S. Chang**

Senate Committee on AGRICULTURE & ENVIRONMENT

**Wednesday, February 5, 2025
1:03 PM**

State Capitol, Conference Room 224 and Via Videoconference

In consideration of SENATE BILL 330 RELATING TO INVASIVE SPECIES PREVENTION

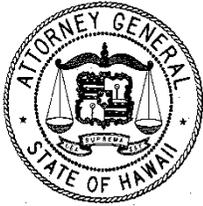
Senate Bill 140 Authorizes the Department of Agriculture to enforce quarantines issued by the United States Department of Agriculture or another state. **The Hawai'i Invasive Species Council (Council) supports this measure.**

Hawai'i faces an ongoing battle with invasive species, many of which have entered our state through imported goods or travel. These pests, such as the Mediterranean fruit fly, the coconut rhinoceros beetle, and the Little Fire Ant, can cause severe economic and environmental damage. By authorizing the HDOA to enforce quarantines set by the USDA or other states, the State can take a proactive approach to halting the spread of new pests before they have a chance to become established here. This added layer of protection will ensure that Hawaii's agricultural and natural resources are better shielded from the devastating impacts new pests.

Beyond the immediate benefits to agriculture and the environment, this measure is an important step in building stronger relationships with federal agencies, other states, and the broader global community. Many other states face similar agricultural pest issues, and through shared enforcement of quarantines, the State can ensure that Hawai'i does not become a pathway for pests to spread to other regions, or a destination for pests that are already being contained elsewhere. Coordinating these efforts will allow us to tackle the issue of invasive species on a broader scale and foster a spirit of collaboration and shared responsibility.

This legislation is a simple amendment that gives HDOA that tool in their toolbox and makes it clear to USDA APHIS that a domestic quarantine can be enforced in all 50 states.

Mahalo for the opportunity to provide testimony in support of 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, RELATING TO INVASIVE SPECIES PREVENTION.

BEFORE THE:

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

DATE: Wednesday, February 5, 2025 **TIME:** 1:03 p.m.

LOCATION: State Capitol, Room 224

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

Chair Gabbard 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 or another state 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 interstate shipments from federally quarantined areas.

Establishing and adopting rules for an area not covered by a federal quarantine (page 4, line 10) and prohibiting the interstate movement of a regulated or restricted article pursuant to a state-issued quarantine (page 5, lines 1-2 and 13) may be subject to challenge 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 any 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).

However, states "may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, and 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 restrictions on the interstate movement of more than twenty different plant pests. See 7 C.F.R. part 301. The federal regulation establishes quarantine procedures for each specific pest and provides the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture with the authority to quarantine a state or a portion of a state. See *id.* Because quarantining procedures and quarantined areas are specific to the named plant pests in the federal regulation, allowing the State to generally establish a quarantine and adopt rules for an area not covered by a federal quarantine could be an additional prohibition not consistent with and exceeding the federal regulation. See *id.* As such, page 4, line 10, may be preempted by the federal regulation. We recommend deleting "or an area" and replace "quarantine" with "regulations or orders" on page 4, line 10, of the bill to address this issue.

Quarantines mandated by the states are not recognized under the federal regulation. Furthermore, there is nothing in the federal act or the federal regulation to suggest that the United State Department of Agriculture adheres to state-mandated quarantines. Therefore, prohibiting the interstate movement of a regulated or restricted article pursuant to a valid quarantine issued by a state is not consistent with and exceeds the federal regulation and could be considered preempted. Thus, we recommend deleting "or a valid quarantine issued by a state" on page 5, lines 1-2, and "state or" on page 5, line 13, of the bill.

For clarity, we recommend deleting the word "products" from page 4, lines 11, 12, and 14, and replacing it with "articles." We also recommend defining the following terms at page 5, line 19, as they are used in the federal act and regulation:

1. "Article" means any material or tangible object that could harbor plant pests or noxious weeds.
2. "Federal quarantine" or "quarantined state" means any state or any portion of a state, designated as a quarantined area in accordance with any federal regulation or order of the Secretary of the United States Department of Agriculture or the Administrator of the Animal and Plant Health Inspection Service.
3. "Federally regulated area" means any quarantined state, territory, or district, or any portion thereof.
4. "Interstate" (A) means from one state into or through any other state; or (B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.
5. "Move" or "movement" means (A) to carry, enter, import, mail, ship, or transport; (B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; (C) to offer to carry, enter, import, mail, ship, or transport; (D) to receive to carry, enter, import, mail, ship, or transport; or (E) to release into the environment.
6. "Nonregulated area" means an area outside a federally regulated area.

7. "Regulated or restricted article" means any article identified as a regulated article by the Secretary of the United States Department of Agriculture or the Administrator of the Animal and Plant Health Inspection Service.

Thank you for the opportunity to provide comments.



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Aloha Chair Gabbard, Vice Chair Richards, and Members of the Senate Agriculture and Environment 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. **HFUU 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

February 5, 2025

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 330
RELATING TO INVASIVE SPECIES PREVENTION

Conference Room 224 & Videoconference
1:03 PM

Aloha Chair Gabbard, Vice-Chair Richards, 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, which authorizes the Department of Agriculture (DOA) to enforce quarantines issued by the United States Department of Agriculture (USDA) or another state. Strengthening quarantine enforcement is essential to protecting Hawai'i's agricultural industry, natural environment, and overall economy from the devastating impact of invasive species.

Invasive species have become one of the most devastating problems impacting Hawai'i. Many invasive species are damaging Hawai'i's environment and economy. Hawai'i's farmers and ranchers face ongoing challenges from invasive pests such as the coconut rhinoceros beetle, little fire ant, coffee berry borer, two-lined spittlebug, macadamia felted coccid, and varroa mite. These pests cause significant damage to crops, increase production costs, and threaten the viability of local agriculture. Once established, invasive species are costly and difficult to control, making prevention and early intervention essential.

By authorizing DOA to enforce federal and other state quarantines, Hawai'i will be able to take proactive steps to prevent the introduction of pests and diseases rather than relying solely on reactive measures after they have arrived. This will allow DOA to:

- Strengthen biosecurity measures at ports of entry to prevent the movement of restricted agricultural goods that may carry pests.
- Improve coordination with federal and state agricultural agencies to enforce quarantines more effectively and consistently.

- Ensure faster response times to new pest threats by granting DOA the authority to act immediately when needed.

-

Prevention is the most effective and cost-efficient strategy for managing invasive species. Every dollar spent on quarantine enforcement and prevention 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 to give DOA the necessary authority to protect Hawai'i's agriculture and natural resources through strengthened quarantine enforcement.

Thank you for the opportunity to testify on this matter.



The Senate
Committee on Agriculture and Environment
Wednesday, February 5, 2025
1:03 pm Conference Room 224 & Videoconference
State Capitol

Testimony in Support of SB 330

Aloha Chair Gabbard, Vice Chair Richards, and Members of the Committee,

The Coordinating Group on Alien Pest Species (CGAPS) is **in support of SB 330** *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 two 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 placed an interstate quarantine to prevent its spread. Citrus greening can arrive in Hawaii when infected citrus plants or fruit, or the tiny insect that carries the disease is moved here. If a citrus plant is shipped from Florida to Hawaii, HDOA can only take action if they detect a pest or if they have “good cause” to believe it contains a pest, yet infected citrus may show no symptoms. HDOA may not otherwise quarantine or refuse entry to the plant. The language in SB 330 provides

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

HDOA with the authority to enforce this and any other serious pest quarantine by USDA to better protect our State.

We note that in 2024 testimony on this issue, the AG cited concerns with possible pre-emption, but this proposed language 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 U.S.C. § 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 amendments made by SB 330 fall within this exception. Beginning on page 4, lines 15 through page 5, line 1, SB 330 prohibits articles prohibited by an existing USDA quarantine from entering Hawaii. That prohibition is consistent with, and does not exceed, the USDA regulation or order and, as a State law, can be enforced by HDOA. The restriction on page 5, lines 3 through 6, is also permissible under the PPA exception as it merely prohibits the articles that are actually infested with pests quarantined by USDA from entering the State from the quarantined area.

Page 5, lines 1 and 2, prohibit articles from entering Hawaii if that importation is prohibited by a valid quarantine issued by another state. A state-issued quarantine would not be “valid” if it violated the preemption requirements of the PPA. This prohibition would apply to plant pests and noxious weeds regulated by another state but not by USDA.

We note the language in SB 330 on page 4, lines 5 through 14, is almost identical to section 2(1) of the Idaho Plant Pest Act of 2002³ and the restrictions in SB 330 on page 4, line 17 through

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 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

page 5, line 18, are very 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.

To further clarify that SB 330 does not violate the PPA preemption requirements, we respectfully ask this Committee to consider amending SB 330:

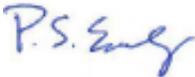
1. On page 4, line 8, by inserting “domestic” before “quarantines.” so the text will read “assist in the enforcement of federal domestic quarantines.”
2. On page 4, line 10, by striking “or an area”.

Thank you for the opportunity to support SB 330.

Aloha,



Christy Martin
CGAPS Program Manager



Stephanie Easley
CGAPS Legal Fellow

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.
(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.”



February 4, 2025

To: Chair Gabbard, Vice Chair Richards and the Senate Committee on Agriculture and Environment

Subject: **SB330**, Relating to Invasive Specie Prevention

Aloha,

Please pass SB330, which authorizes the Department of Agriculture to enforce quarantines issued by the United States Department of Agriculture or another state. When discussing the impacts of passing **SB330** and how it would affect citrus production in Hawai'i's food system, Hawai'i Food+Policy interns reflect on some of their previous experiences with food security.

First, a few of our interns shared the challenge of completing college during COVID, which sparked the realization of the fragility of our food system. It was noted that a Civil Beat article published at the time raised critical questions as to whether the food system of Hawai'i is capable of delivering adequate nutrition in times of disaster or if the ecological, economic, cultural, public health and food security needs of its residents and visitors are met.

Another intern shared their experience in how becoming a mother altered her perspective of the future generations. Now, she sees the future generation more obviously everyday and is becoming concerned with what may lie ahead. Passing bills such as SB330 will help residents and future residents achieve food security while reducing reliance upon imports.

We strongly urge the committee to pass **SB330** since it will positively impact our food system by increasing our local food production as well as ensuring quality of the food. We thank you for the opportunity to testify.

Mahalo,

Jeanette & the Food+ Policy Team
#fixourfoodsystem

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2025, the cohort of interns are undergraduate and graduate students and young professionals working in the food system. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

SB-330

Submitted on: 2/1/2025 5:11:20 PM

Testimony for AEN on 2/5/2025 1:03:00 PM

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

Comments:

I support this measure.