

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

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**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON
AGRICULTURE
AND
TRANSPORTATION
Friday, February 6, 2009
11:00 A.M.
Room 312**

**HOUSE BILL NO. 1433
RELATING TO INVASIVE SPECIES**

Chairpersons Tsuji and Souki, and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 1433. The purpose of this bill is to establish fines for failing to pay or remit the inspection, quarantine and eradication fee, as well as providing exemptions for liquid bulk freight and cement bulk freight from the fee requirements. The department supports the overall intent of this measure and would like to provide comment and offers a suggested change to this bill for your consideration.

When Act 3 passed in special session last year, it broadened the imposition of a fee for the inspection, quarantine, and eradication of invasive species contained in any freight to include not only commercial container shipments, but also air freight, or any other means of transporting freight, whether foreign or domestic, that is brought into the State. However, neither the initial legislation establishing this fee nor Act 3 provided a means to enforce collection of the fee from the person responsible for paying freight charges or the failure of a transportation company to forward collected fees to the

department. The provisions in this bill assure proper collection and forwarding of the inspection, quarantine, and eradication service fee for incoming commercial freight.

The department suggests adding qualifying language to paragraph (a)(2) of new section 150A- , Hawaii Revised Statutes (HRS), to clarify that a fine would be imposed on the transportation company *if it receives* the fee and fails to forward it to the department. Although this meaning may be implicit in the present language of the new section 150A- , the proposed clarification seems appropriate in order to avoid potential conflict with section 150A-5.3, HRS, which provides that “a transportation company is not liable for any fee that is not paid by the person responsible for paying freight charges to the department.” Consequently, the department recommends that paragraph (2) of subsection (a) of new Section 150A- , at page 1, line 13 of this bill, be revised to read as follows:

(2) A transportation company that receives but does not remit the fee to the department shall pay a fine of \$ _____ for every one thousand pounds of freight or part thereof.

The suggested revision will clarify the bill’s intent.

Further, we would like to draw upon attention to the Administration's bill, HB1086 which includes language about penalties, defines goods exempt from the cargo fee, and lowers the cargo fee to reflect the current economic conditions.



DATE: Friday, February 6, 2009

TIME: 11:00 AM

PLACE: Conference Room 312

TO:

Committee on Agriculture: Rep. Clift Tsuji, Chair Rep. Jessica Wooley, Vice Chair

Committee on Transportation: Rep. Joseph M. Souki, Chair Rep. Karen Leinani Awana, Vice Chair

FROM: Hawaii Food Industry Association

Dick Botti, President and Lauren Zirbel, Government Relations

Re: HB 1433 Relating to Invasive Species

Thank you Chair Tsuji, Chair Souki and committee members for the opportunity to testify.

According to sections 37-52.3 and 37-52.4 of the Hawaii Revised Statutes special or revolving funds should: 1.)reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; 2)demonstrate the capacity to be financially self-sustaining.

To address the first point, the invasive species fee does not provide a clear nexus between how frozen and packaged foods are beneficial to inspect for invasive species, since invasive species can not live in freezing temperatures or inside pre-sealed processed food packages. To address the second point, HFIA believes it is inappropriate to finance a program aimed at helping the entire state of Hawaii through any fund other than the general fund because this program should be considered important enough to garner those funds. To address the third point, it is difficult to determine whether the fund will be self-sustaining as the fee was increased and broaden substantially after it was first passed into law in 2007.

HFIA requests the following amendment on Page 3 line 2:

except for frozen foods and processed sealed foods

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 1433 Relating to Invasive Species
House Committee on Agriculture
House Committee on Transportation
Friday, February 6, 2009, 11:00am, Rm. 312

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i supports H.B. 1433 Relating to Invasive Species.

Invasive insects, diseases, snakes, weeds, and other pests are one of the greatest threats to Hawaii's economy, natural environment, and the health and lifestyle of its people.

The Hawai'i Department of Agriculture (HDOA) is responsible for the inspection of domestic cargo and passengers arriving at Hawaii's ports to protect the state from introduction of unwanted plant and animal pests and diseases. The HDOA also inspects interisland shipments to prevent movement of pests between islands. Pest risk assessments conducted by the Department at ports of entry across the state have helped the Department identify high-risk pathways for pest introductions and prioritize the allocation of departmental resources. The Department has also developed a multi-faceted Biosecurity Plan to enhance its efforts with more inspectors, more efficient and effective inspection services, joint state-federal inspection facilities, and agreements with importers and producers for improved sanitary protocols before items are shipped to Hawai'i. The financial and personnel support provided by the Legislature has been essential to implementing this plan.

The authority given to the HDOA to assess reasonable service fees on its invasive species inspection, quarantine and eradication activities provide a relevant and useful source of revenue to achieve the goal of enhanced prevention systems at ports of entry for the state.

This bill appropriately amends that authority by establishing penalties for non-payment of inspection fees, and exempting certain bulk freight that is not a high-risk pathway for introduction of invasive species.

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The House of Representatives
Committee on Agriculture
Committee on Transportation
Friday, February 6, 2009
11:00 a.m., Conference Room 312
State Capitol

Testimony in Support of HB 1433

Aloha Chairs Tsuji and Souki, Vice Chairs, and Members of the Committees,

The Coordinating Group on Alien Pest Species (CGAPS) **supports HB 1433**, *Relating to Invasive Species*, and submits the following suggestions for consideration.

First, thank you to legislators for supporting the cargo fee initiative last year. These past few months of budget reductions and cuts have shown the wisdom in transitioning funding for these crucial inspection and quarantine services from dependence on unpredictable general funds towards a fee-for-service model.

HB 1433 proposes improvements to ensure the collection of fees, which has also proved necessary over the past few months. One suggestion might be to change the wording and penalty for a person responsible for paying the freight charges to the transportation company who does not pay so that the fee is compounded with time and is never any less than the original amount owed. For example, payment must be made to the transportation company within a specified time period (say, 30 days), beyond which a fine of a percentage (10%?) of the original fee is owed for every day payment is not made, in addition to the original fee.

Under this billing scenario, it might not be possible for transportation companies to hold cargo, or for the Hawai'i Department of Agriculture to hold it until payment is made. However, it might be an opportunity to flag the shipper and not take future shipments until the fee is paid. This would quickly encourage compliance. We encourage further discussions between legislators, Hawai'i Department of Agriculture and transportation companies to find the solution that best allows this fee-for-service to function as intended, to protect Hawai'i from new invasive species.

CGAPS respectfully requests your support of HB 1433. Mahalo.

CGAPS--Coordinating Group on Alien Pest Species
Ph: (808) 722-0995



TESTIMONY

House Agriculture Committee and Committee on Transportation

RE: HB 1433 Relating to Invasive Species

Chair Tsuji, Chair Morita and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of its member farmers and ranchers is in **strong support** of HB1433 which further clarifies the provisions associated with the Hawaii Biosecurity Plan.

The passage of the Hawaii Biosecurity Plan and the invasive species cargo fee bill marked a new trend in Hawaii. It paved the way for Hawaii to begin controlling its' destiny regarding invasive species. Over the years the threat of invasive species has increased and without adequate funding, Hawaii's agriculture and the environment were losing in the war. The passage of the comprehensive plan, coupled by the funding mechanism turned the tide and the outlook for Hawaii to protect itself from unwanted pests is bright. This measure goes to further clarify what cargo will fall under the fee collection requirements as well as clarify the implications of not complying with the law.

The Plan along with the funding are critical to Hawaii's agriculture future. New pests will put undue strain on our already struggling industry. Pests in the watershed threaten not only our source of water but that for public needs as well. The implications of not carrying out the Biosecurity Plan as intended can be very detrimental to Hawaii.

We respectfully request your strong support of HB1433 as proposed. Thank you for this opportunity to provide our views on this matter.

Maui County Farm Bureau

An Affiliate of the American Farm Bureau Federation and Hawaii Farm Bureau Federation

Serving Maui's Farmers and Ranchers

P.O. Box 148

Kula, Hawaii 96790

TESTIMONY

House Agriculture Committee and Committee on Transportation

RE: HB 1433 Relating to Invasive Species

Chair Tsuji, Chair Souki and Members of the Committee:

Maui County Farm Bureau is Maui's general agriculture advocacy non-profit organization. Affiliated with the Hawaii Farm Bureau and American Farm Bureau Federation, we represent Maui's farm and ranch families and organizations. MCFB **strongly supports** HB1433 adding provisions to the Hawaii Biosecurity Plan cargo fee collection program.

Coqui frogs are threatening the viability of our nursery and landscape members and the varroa mite may cause havoc to our budding fruit tree industry, not to mention our flower and vegetable farms. Invasive species affects us all.....including the watersheds from which we receive our water.

This bill provides clarity of what cargo will require fee collection as well as "hammer" for not complying with the program. This program provided hope to us that we may actually start seeing a reduction in the introduction of new pests. It is critical that it be implemented as planned and so we support these changes.

MCFB respectfully requests your strong support of HB 1433. Thank you for this opportunity to testify on this matter.