

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committees on
AGRICULTURE
and
TRANSPORTATION**

**Friday, February 6, 2009
11:00 A.M.
State Capitol, Conference room 312**

**In consideration of
HOUSE BILL 1433
RELATING TO INVASIVE SPECIES**

House Bill 1433 proposes to impose fines on persons and transportation companies that fail to remit the "inspection, quarantine, and eradication fee" (Fee) and to exempt certain categories of freight from the Fee. The Department of Land and Natural Resources recognizes the need to amend provisions of Chapter 150A, Hawaii Revised Statutes, to exempt appropriate bulk cargo from the cargo inspection fees, but rather, recommends the Committee consider the Administration House Bill 1086, RELATING TO INVASIVE SPECIES, that likewise exempts bulk cargo from the inspection fees, but also reduces the inspection fee to 20 cents per thousand pounds and exempts the first 1,000 lbs of freight from the Fee, to reduce the costs to the economy during these current fiscal difficulties.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

LATE
Testimony

**HB 1433
RELATING TO INVASIVE SPECIES**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

**LATE
Testimony**

FEBRUARY 6, 2009

Chair Tsuji, Chair Souki, and Members of the House Committees on Agriculture and Transportation:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and Matson Navigation Company, Inc. (a subsidiary of A&B) on HB 1433, "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES."

In 2008, amendments were enacted to broaden the scope of the invasive species user fee from one that assessed fees only on freight brought into Hawaii by maritime containers to one that assessed fees on all modes by which commercial freight is brought into the State, including air and maritime containerized and non-containerized freight. We understand that at present this invasive species user fee is utilized to fund Department of Agriculture personnel who provide invasive species inspection services for both maritime and air freight entering into the State. We support the present broad based application of the invasive species user fee that requires all shippers to pay for these inspection services through the payment of this fee.

Matson has dedicated a considerable amount of time, effort, and expense to implement the assessment, collection, and disbursement of this new fee by the effective

date of August 1, 2008. We were successful in starting up the collection of this new fee by the effective date and have since been diligently proceeding with its implementation.

This bill establishes fines for a transportation company who fails to remit the invasive species user fee to the State. We respectfully request your consideration to further clarify these provisions by incorporating into this bill a time period within which the transportation company would be required to forward fees collected to the State prior to the assessment of a fine. We also respectfully suggest that an additional penalty be incorporated into this bill for transportation companies who do not bill or assess the invasive species user fee to the shipper/importer. We have attached the following suggested language for your consideration:

§150A- Importing freight without payment of inspection, quarantine, and eradication service fee. (a) The following fines shall be imposed for failure to pay, bill or remit the inspection, quarantine, and eradication fee as provided for in section 150A-5.3:

- (1) A person responsible for paying the freight charges to the transportation company who does not pay the fee shall be assessed a fine of \$ for every one thousand pounds of freight or part thereof; and
- (2) A transportation company that does not:

a) bill the fee to the person responsible for paying the freight charges to the transportation company within fifteen days of the delivery of the freight; or

b) remit the fee to the department within forty five days of collecting the fee from the person responsible for paying the freight charges to the transportation company shall pay a fine of \$ for every one thousand pounds of freight or part thereof.

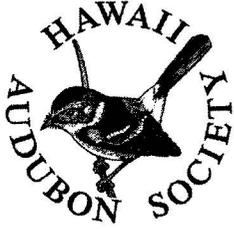
The bill also prohibits a transportation company from releasing freight to the shipper/importer until the invasive species user fee and all applicable fines are paid.

Matson generally has two categories of freight shipments, freight shipments on a cash

basis and freight shipments on a credit basis. With payments for both Matson service charges and the invasive species user fee generally being paid by credit based freight shipments 30 to 45 days after the arrival of the freight, the implementation of the proposed provisions to prohibit the release of freight until the invasive species user fee is paid would be very problematic. We respectfully request your consideration to delete this provision from Section 1 of this bill:

~~[(b) The transportation company shall not release freight to the person responsible for paying the freight charges until all fees and fines are paid. A transportation company that releases freight to a person responsible for paying the freight charges without paying the fee shall pay a fine of \$ per occurrence.]~~

Thank you for the opportunity to testify.



For the Protection of Hawaii's Native Wildlife
HAWAII AUDUBON SOCIETY

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LATE
Testimony

**TO: Committee on Agriculture, Representative Cliff Tsuji, Chair
Committee on Transportation, Representative Joseph Souki, Chair**

HEARING: February 6, 2009; 11:00 A.M., Conference Rm. 312

Re: HB1433, Relating to Invasive Species

Testimony in Support

Chair Tsuji, Chair Souki and members of the Committee's on Agriculture and Transportation. My name is George Massengale, and I am member of the Hawaii Audubon Society and during session I serve as their Legislative Analyst. Thank you for the opportunity to submit our testimony in support of HB1433, which would establish fines for failing to pay or remit the inspection, quarantine and eradication fee. It also exempts liquid bulk freight and cement bulk freight from the fee.

The Hawaii Audubon Society was founded in 1939, and it is Hawaii oldest conservation organization. The primary missions of the society is to foster community values that result in the protection and restoration of native ecosystems and conservation of natural resources through education, science and advocacy in Hawaii and the Pacific. The society strongly supports measures that protect our ecosystems from invasive species. Once established, invasive plants crowd out endemic (native) plants. The sad fact is that Hawai'i has the highest number of listed threatened and endangered species in the nation. There are 394 threatened and endangered species in the State of Hawai'i, of which 294 are plants. Invasive plants have led to the extinction of 55 species of plants in the State with another 42 possibly extinct. This extinction, along with the introduction of non-endemic animals has lead to the extinction 24 bird species and is endangering another 32.

Hawaii Audubon Society believes that HB1433 is a good measure as it deposits the amount paid by fine into the pest inspection, quarantine, and eradication fund. As you know in the past, funding for eradication of invasive species has been problematic and funds were often obtained from a variety of sources and agencies. Sometimes there were gaps in funding thus eradication efforts could not be sustained. Hopefully depositing all fines into the pest inspection, quarantine, and eradication fund, will help address the problems caused by not being able to fully undertake eradication measures when needed.

Thank you for the opportunity to testify here today.

Sincerely,
George Massengale, JD
Legislative Analyst

Testimony of Mar Labrador of Horizon Lines, LLC
Vice President and General Manager of Hawaii/Guam/Micronesia
On HB1433
Joint hearing of House Committees on Agriculture and Transportation
February 6, 2009

Chair Tsuji, Chair Souki and members of the joint committees on Agriculture and Transportation, I am Mar Labrador, the Vice-President of Horizon Lines, LLC for Hawaii/Guam/Micronesia

Thank you for taking my testimony in regards to HB1433. **I am not tendering a position, but do have two serious concerns with this bill**; namely the proposed statutory requirement of having transportation companies hold freight; and the bill's vague rules.

Undeniably, the backbone of our state's system of commerce is maritime shipping. Due to factors which include, lack of space, the price of real estate and the cost of labor, our Hawaiian style commerce abandons the traditional warehouse and distribution model and instead relies on a "just-in-time" inventory system that runs virtually 24 hours as day.

The majority of the freight that comes in on our vessels, and indeed throughout the whole harbor, never sees a warehouse. The containers go directly to stores, restaurants or construction sites where they are unloaded with their contents being immediately stocked, consumed or put to use.

Any delay in cargo availability will impact a business' ability to efficiently and profitably run its operations.

Requiring a "hold" on cargo because it has not paid the proposed fee will be very intrusive to a business' operation.

Taking into consideration that the neighbor island ports are serviced through Honolulu as a hub and spoke system further exacerbates the potential for problems. If we are required to hold a container on our pier in Honolulu it may miss its neighbor island connection. Once we get permission to release it, it may then have to wait a few days, or even up to a week, until the next barge sails for its targeted island.

These delays may be extremely costly, especially in instances where commodities such as perishable goods or construction materials are involved. Again, I would ask you weigh the impact of these scenarios.

My second concern is with the absence of any clear and specific rules. For instance: Does the infraction in the bill refer to billing, collecting or remitting? Does it refer to all three of these steps? Is there a time limit for each of these steps? If so, what are they?

These are very serious concerns for us, as the majority of our customers have some form of credit with our company. So if this statute ends up referencing a certain time frame, for payment of these fees, which presumably would be more restrictive than our own credit terms, it will put considerable administrative burden to our operation as well as our customers.

I thank you for taking my two points of concern into consideration during your discussion and deliberation of HB1433.