

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON
AGRICULTURE
AND
ENERGY AND ENVIRONMENTAL PROTECTION
Thursday, February 5, 2009
8:30 A.M.
Room 325

HOUSE BILL NO. 1684
RELATING TO INVASIVE SPECIES

Chairpersons Tsuji and Morita and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 1684. The purpose of this bill is to prevent and reduce the intentional introduction and spread of invasive species by establishing severe penalties appropriate to the harm the intentional introduction and spread of pests causes to the economy, natural environment, and the health and lifestyle of Hawaii's people. The department strongly supports this bill and would like to take this opportunity to provide comment and propose revisions to this measure.

First, the department proposes the repeal of section 2 of Act 101, Session Laws of Hawaii 2008, in order to retain the criminal penalty for violations of section 150A-5, Hawaii Revised Statutes (HRS), which will otherwise be deleted effective July 1, 2009, and to change the penalty for those violations from a misdemeanor to a petty misdemeanor. These violations of section 150A-5 range from a transportation company's failure to distribute or collect State plant and animal declaration forms to an importer's failure to provide required information on labels of containers of imported

articles. Act 101, Session Laws of Hawaii 2008, was intended to free up prosecutorial and judicial resources from resolving minor criminal offenses without undermining affected state agencies' ability to enforce these violations. Relatively few department of agriculture cases have been prosecuted under section 150A-5, HRS, thus the department believes that the effect of decriminalizing section 150A-5 violations on judicial system resources would be minimal. However, if Section 2 of Act 101 takes effect as scheduled on July 1, 2009, the decriminalization of these violations will require the department to establish an administrative enforcement process that will consume substantial staff resources at a time when they are limited and already overstretched due to budgetary constraints. In light of the department's mission to prevent the introduction of invasive species and control their spread, and in order to deter violations to Section 150A-5, HRS, the department believes that its mission would be better served if section 150A-5 violations remain criminal offenses. Because these violations are considered minor criminal offenses, the department further agrees with this bill's change of the penalty for these violations from a misdemeanor to a petty misdemeanor. To prevent the decriminalization of these violations, the department proposes findings, as described above, and the insertion of a new Section 2 that amends Act 101, Session Laws of Hawaii 2008, to repeal section 2, which decriminalizes section 150A-5, HRS, violations, to read as follows:

SECTION 2. Act 101, Session Laws of Hawaii 2008, is amended by repealing Section 2.

["SECTION 2. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) as follows:“(a) Any person who violates any provision of this chapter other than sections 150A-5[(2)(B), 150A-5(2)(C)], 150A-6(3), and 150A-6(4) or who violates any rule adopted under this chapter other than those rules involving an animal that is prohibited or a plant, animal, or microorganism that is restricted, without a permit, shall be guilty of a misdemeanor and fined not less than \$100. For a second offense committed within five years of a prior offense, the person or organization shall be fined not less than \$500 and not more than \$25,000.

(b) Any [transportation company that] person who violates section 150A-5[(2)(B) or section 150A-5(2)(C)] shall be [guilty of a misdemeanor and] fined not less than \$100[. The provisions of section 706-640 notwithstanding, the maximum fine shall be] and not more than \$10,000. For a second [offense] violation committed within five years of a prior [offense,] violation, the [company] person may be fined not less than \$500 and not more than \$25,000.”]

As for this bill’s amendment to penalty section 150A-14 (b), HRS, the department notes that under the bill’s language, only a transportation company can be found guilty of a petty misdemeanor for violations of section 150A-5, HRS, but a penalty is not provided for section 150A violations by others, such as a person who gives false information or fails to declare items enumerated in the chapter on the agricultural declaration form. Further, the department believes that the fines for a petty misdemeanor in section 150A-14(b) should be adjusted to reflect that they are a less severe violation than those categorized a misdemeanor in section 150A-14(a), HRS. Consequently, the department recommends that subsection (b) of Section 150A-14, HRS, starting on page 3, line 6 of this bill, be revised to read as follows:

“(b) Any person, including a transportation company, that violates section 150A-5 shall be guilty of a petty misdemeanor and fined not less than \$100. The provisions of section 706-640 notwithstanding, the maximum fine shall be \$5,000. For a second offense committed within five years of a prior offense, the person or company may be fined not less than \$250 and not more than \$15,000.”

As for the bill’s addition of a new violation and penalty under section 150A-14(c) for intentional import or movement of pests, with intent to propagate, sell, or release, the department agrees that strict penalties should be provided to deter such violations, as they present a serious risk to Hawaii’s environment and agriculture. However, the department submits that the pests referred to in this section should be pests designated by statute or rule rather than pests, generally. Therefore, to provide clarification on

"intent to propagate" in related section 150A-14(g), HRS, the department offers the following proposed revision for your consideration, starting at page 5, line 18:

"(g) For purposes of this section "intent to propagate" shall be presumed when the person or organization in question is found to possess, transport, harbor, or import:

- (1) Any two or more animal specimens of the opposite sex that are prohibited or restricted, without a permit, or are a pest designated by statute or rule;
- (2) Any three or more animal specimens of either sex that are prohibited or restricted, without a permit, or are a pest designated by statute or rule;
- (3) Any plant or microorganism having the inherent capability to reproduce and that is restricted without a permit; or
- (4) Any specimen that is in the process of reproduction."

The department also proposes a new bill Section 5 to provide for an earlier effective date, June 30, 2009, for the Section 2 amendment that repeals Act 101, SLH 2008, section 2 (decriminalization of the section 150A-5, HRS, violations) relative to the bill's subsequent amendments to the section 150A-14 penalty section, which are proposed to take effect on July 1, 2009. Providing for staggered effective dates will restore the language in sections 150A-14(a) and 150A-14(b), HRS, to their status pre-Act 101, Session Laws of Hawaii 2008, before the amendments in Section 3 of this bill are made. This appears necessary to avoid confusion as to when the different amendments take effect and what language is being amended. Proposed new Section 5 reads as follows:

"SECTION 5. Section 2 of this Act shall take effect on June 30, 2009. Section 3 of this Act shall take effect on July 1, 2009."

In the attachment to our testimony, the above-proposed revisions are included in a revised bill draft for your consideration. The department would like to once again thank you for this opportunity to testify on House Bill No. 1684.

H.B. NO. 1684

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1 SECTION 1. The legislature finds that the unchecked spread
2 of invasive species is one of the greatest threats to Hawaii's
3 economy, natural environment, and the health and lifestyle of
4 Hawaii's people. Invasive pests can cause millions of dollars
5 in crop losses, the extinction of native species, the
6 destruction of native forests, the spread of disease, and the
7 quarantine of exported agricultural crops.

8 Despite our ongoing efforts to detect and eradicate
9 invasive species, our fragile island ecosystems are constantly
10 at risk from insects, disease-bearing organisms, weeds, and
11 other invasive pests. The coqui frog, giant salvinia, miconia,
12 ohia rust, nettle caterpillar, and little fire ant are all
13 present in Hawaii, disrupting the delicate balance of our
14 ecosystems, crowding out native species, and reducing the
15 biodiversity of our islands. Other harmful species like the
16 papaya mealybug, erythrina gall wasp, Asian citrus psyllid, and
17 the varroa mite have the potential to devastate Hawaii's

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1 environment and agriculture if allowed to become widespread and
2 remain unchecked by natural predators.

3 The legislature further finds that decriminalization of the
4 penalty for violations of section 150A-5, Hawaii Revised
5 Statutes, pertaining to the department of agriculture's plant
6 and animal declaration form for declaring entry of certain
7 articles into the State as well as certain pre-entry
8 requirements for such articles, effective July 1, 2009, as
9 provided in Section 2 of Act 101, Session Laws of Hawaii 2008,
10 does not fulfill the purpose of Act 101 to free up prosecutorial
11 and judicial resources from resolving minor criminal offenses
12 without undermining the department's ability to enforce these
13 violations. Cases prosecuted for violations of section 150A-5,
14 Hawaii Revised Statutes, are very few and, consequently, their
15 effect on judicial system resources is minimal. By contrast,
16 decriminalization of these violations will require the
17 department of agriculture to establish an administrative
18 enforcement process which will consume substantial staff
19 resources at a time when those resources are very limited and
20 overstretched due to budgetary constraints. In view of the
21 department's critical mission to prevent introduction of
22 invasive species and control their spread, and to deter

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1 commission of section 150A-5 offenses, the legislature believes
2 the department's mission is better served if section 150A-5
3 violations remain criminal offenses. Because section 150A-5
4 violations are minor criminal offenses, the legislature finds
5 that it is appropriate to change the penalty for these
6 violations from a misdemeanor to a petty misdemeanor.

7 The purposes of this Act are: (1) to prevent and reduce
8 the intentional introduction and spread of invasive species by
9 establishing severe penalties appropriate to the harm the
10 intentional introduction and spread of pests causes to the
11 economy, natural environment, and the health and lifestyle of
12 Hawaii's people; and (2) to retain the criminal penalty for
13 violations of section 150A-5, Hawaii Revised Statutes, that will
14 otherwise be deleted effective July 1, 2009, pursuant to Act
15 101, Session Laws of Hawaii 2008, and to change the penalty for
16 section 150A-5 violations from a misdemeanor to a petty
17 misdemeanor.

18 SECTION 2. Act 101, Session Laws of Hawaii 2008, is
19 amended by repealing Section 2.

20 ["SECTION 2. Section 150A-14, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) as follows:"(a) Any

.B. NO.

1 person who violates any provision of this chapter other than
2 sections 150A-5[~~(2)(B)~~, ~~150A-5(2)(C)~~], 150A-6(3), and 150A-6(4)
3 or who violates any rule adopted under this chapter other than
4 those rules involving an animal that is prohibited or a plant,
5 animal, or microorganism that is restricted, without a permit,
6 shall be guilty of a misdemeanor and fined not less than \$100.
7 For a second offense committed within five years of a prior
8 offense, the person or organization shall be fined not less than
9 \$500 and not more than \$25,000.

10 (b) Any [~~transportation company that~~] person who violates
11 section 150A-5[~~(2)(B)~~ or ~~section 150A-5(2)(C)~~] shall be [~~guilty~~
12 ~~of a misdemeanor and~~] fined not less than \$100[~~. The provisions~~
13 ~~of section 706-640 notwithstanding, the maximum fine shall be~~
14 and not more than \$10,000. For a second [~~offense~~] violation
15 committed within five years of a prior [~~offense,~~] violation, the
16 [~~company~~] person may be fined not less than \$500 and not more
17 than \$25,000.”]

18 SECTION 3. Section 150A-14, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **“§150A-14 Penalty.** (a) Any person who violates any
21 provision of this chapter other than sections 150A-5[~~(2)(B)~~,

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1 ~~150A-5(2)(C)]~~, 150A-6(3), and 150A-6(4) or who violates any rule
2 adopted under this chapter other than those rules involving an
3 animal that is prohibited or a plant, animal, or microorganism
4 that is restricted, without a permit, shall be guilty of a
5 misdemeanor and fined not less than \$100. The provisions of
6 section 706-640 notwithstanding, the maximum fine shall be
7 \$10,000. For a second offense committed within five years of a
8 prior offense, the person or organization shall be fined not
9 less than \$500 and not more than \$25,000.

10 (b) Any person, including a transportation company, that
11 violates section 150A-5[~~(2)(B) or section 150A-5(2)(C)]~~ shall be
12 guilty of a [~~misdemeanor~~] petty misdemeanor and fined not less
13 than \$100. The provisions of section 706-640 notwithstanding,
14 the maximum fine shall be [~~\$10,000~~] \$5,000. For a second
15 offense committed within five years of a prior offense, the
16 transportation company or person may be fined not less than \$250
17 and not more than [~~\$25,000~~] \$15,000.

18 (c) Notwithstanding section 706-640:

19 (1) Any person or organization that violates section 150A-
20 6(3) or 150A-6(4), or owns or intentionally
21 transports, possesses, harbors, transfers, or causes
22 the importation of any snake or other prohibited

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1 animal seized under section 150A-7(b), or whose
2 violation involves an animal that is prohibited or a
3 plant, animal, or microorganism that is restricted,
4 without a permit, shall be guilty of a misdemeanor and
5 subject to a fine of not less than \$5,000, but not
6 more than \$20,000; [and]

7 (2) Any person or organization who intentionally
8 transports, harbors, or imports with the intent to
9 propagate, sell, or release any animal that is
10 prohibited or any plant, animal, or microorganism that
11 is restricted, without a permit, shall be guilty of a
12 class C felony and subject to a fine of not less than
13 \$50,000, but not more than \$200,000[.]; and

14 (3) Any person or organization who intentionally imports,
15 possesses, harbors, transfers, or transports,
16 including interisland or intrainland movement, with
17 the intent to propagate, sell or release, any pest
18 designated by statute or rule, unless otherwise
19 allowed by law, shall be guilty of a class C felony
20 and subject to a fine of not less than \$100,000, but
21 not more than \$400,000.

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1 (d) Whenever a court sentences a person or organization
2 pursuant to subsection (a) or (c) for an offense which has
3 resulted in the escape or establishment of any pest and caused
4 the department to initiate a program to capture, control, or
5 eradicate that pest, the court shall also require that the
6 person or organization pay to the state general fund an amount
7 of money to be determined in the discretion of the court upon
8 advice of the department, based upon the cost of the development
9 and implementation of the program.

10 (e) The department may, at its discretion, refuse entry,
11 confiscate, or destroy any prohibited articles or restricted
12 articles that are brought into the State without a permit issued
13 by the department, or order the return of any plant, fruit,
14 vegetable, or any other article infested with pests to its place
15 of origin or otherwise dispose of it or such part thereof as may
16 be necessary to comply with this chapter. Any expense or loss
17 in connection therewith shall be borne by the owner or the
18 owner's agent.

19 (f) Any person or organization that voluntarily surrenders
20 any prohibited animal or any restricted plant, animal, or
21 microorganism without a permit issued by the department, prior

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1 to the initiation of any seizure action by the department, shall
2 be exempt from the penalties of this section.

3 (g) For purposes of this section "intent to propagate"
4 shall be presumed when the person or organization in question is
5 found to possess, transport, harbor, or import:

6 (1) Any two or more animal specimens of the opposite sex
7 that are prohibited or restricted, without a permit,
8 or are a pest designated by statute or rule;

9 (2) Any three or more animal specimens of either sex that
10 are prohibited or restricted, without a permit, or are
11 a pest designated by statute or rule;

12 (3) Any plant or microorganism having the inherent
13 capability to reproduce and that is restricted,
14 without a permit; or

15 (4) Any specimen that is in the process of reproduction.

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. Section 2 of this Act shall take effect on June
19 30, 2009. Section 3 of this Act shall take effect on July 1,
20 2009.

21 INTRODUCED BY: _____

22 BY REQUEST



OFFICE OF HAWAIIAN AFFAIRS

Legislative Testimony

HB 1684, RELATING TO INVASIVE SPECIES

House Committees on Agriculture, and Energy & Environmental Protection

February 5, 2009

8:30 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) SUPPORTS SB1684, which prevents and reduces the intentional introduction and spread of invasive species by establishing more severe penalties, up to the felony level.

OHA points out that Hawai'i surpasses even the Galapagos Islands in the number and variety of species that evolved from a small set of colonizing ancestors, and we possess the world's highest degree of endemism, including 90% for our terrestrial species. For more than 70 million years in Hawai'i, the evolution of new species has greatly exceeded losses of species due to extinction. Yet, within just a few generations, we have begun to lose hundreds of endemic plant species; undoubtedly thousands of lesser known taxa such as insects, spiders and snail species; and half the bird species in this state.

Today, with less than 0.2% of the land area of the United States, the Hawaiian Islands support more than 30% of the nation's species listed under the endangered Species Act. In fact, Hawai'i is well known as the extinction capital of the United States. Further, it is estimated that now up to 30% of all established species in Hawai'i are nonnative.

Hawai'i is obviously unique. The natural environment is more than just something to enjoy and marvel at; it is part of Native Hawaiian culture, and Native Hawaiians are genealogically linked to it.

This legislature has called invasive species the single greatest threat to our state. Giving teeth to the laws that we use to protect our state will enhance your past legislative efforts, and in this time of economic hardship, this measure is a practical way to achieve much needed progress in this area.

This bill also parallels presidential Executive Order 13112, Invasive Species (February 3, 1999), which requires federal agencies to use their authorities to prevent the introduction of invasive species, to detect invasive species, and to eradicate and control such species in a cost-effective and environmentally sound manner.

Therefore, OHA urges the Committee to PASS HB 1684. Thank you for the opportunity to testify.

UNIVERSITY OF HAWAII AT MANOA
Environmental Center

A UNIT OF THE WATER RESOURCES RESEARCH CENTER

RL:2220

HB 1684
RELATING TO INVASIVE SPECIES

House Committee on Agriculture
House Committee on Energy and Environmental Protection

Public Hearing – February 5, 2009
8:30 a.m., State Capitol, Conference Room 325

By
Christopher Dunn, Lyon Arboretum
Peter Rappa, Environmental Center
Kenneth Kaneshiro, Center for Conservation Research & Training

HB 1684 prevents and reduces the intentional introduction and spread of invasive species by establishing severe penalties appropriate to the harm caused by the intentional introduction and spread of invasive species to the economy, natural environment, and the health and lifestyle of Hawaii's people. We emphasize that our testimony on this measure does not represent an official position of the University of Hawaii.

The Environmental Center supports the intent of this bill. Invasive species represent the single biggest threat to Hawaii's economy and natural environment. Pests have already caused millions of dollars in crop losses, the extinction of native species, the destruction of native forests, and the spread of disease. Many more harmful pests, however, currently threaten to invade Hawaii and wreak further damage. Alien species have had a tremendous effect on Hawaii's unique flora and fauna. Due to its isolation, Hawaii originally had thousands of unique species found nowhere else on Earth. It has, however, suffered the highest rates of extinction of any area in the United States and one of the highest rates anywhere in the world, with hundreds or possibly thousands of unique species already extinct. The primary agent of this remarkable loss of native biodiversity has been the massive introduction by humans of alien species to the Hawaiian Islands.

We suggest several changes to the bill. On page 1, line 4 delete the word "can". Invasive species do cause millions of dollars of harm to Hawaii now. In addition to "crop losses" cited on page 1, line 5 there are also negative impacts to non-agricultural commodities such as nursery stock, to the aquatic environment and native stream biota as a results of non-native introductions. The use of the words "by natural predators" is confusing; there are no natural predators for most introduced pests in Hawaii.

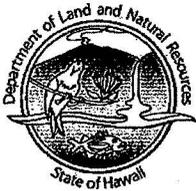
We note that the purpose of the bill is to reduce the intentional introduction and spread of invasive species by establishing severe penalties. We do not think the penalties outlined on page 2, lines 11-21 and on page 3, lines 6 to 11 are particularly severe at the lower limit. We suggest the lower limits of the fines be on the order of \$1,000 instead of \$100 and \$5,000 instead of \$500. This would make the penalties painful.

Will the transportation company added on page 3, line 6 include the SuperFerry? What if the SuperFerry makes a good faith effort to check cars and passengers for invasive species but passengers(s) attempt to bring invasive species from one island to another, will the SuperFerry be liable for transporting the invasive species and consequently be fined?

Finally, some of the fines collected should go to fund the Hawaii Invasive Species Council (HISC) to help continue the work of preventing and eradicating invasive species.

Thank you for the opportunity to comment on this bill.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

Transmittal Cover Sheet for
Department of Land and Natural Resources Testimony

Date Submitted: February 4, 2009

Testifier's Name/Position/Title: Paul Conry, Forestry and Wildlife Division Administrator

**Committee the comments are directed to: HOUSE COMMITTEE ON AGRICULTURE
AND ENERGY & ENVIRONMENTAL
PROTECTION**

**The Date & Time of Hearing: Thursday, February 5, 2009
8:30 AM, Conference, Room 325**

Measure Number: HB 1684 RELATING TO INVASIVE SPECIES

**Number of Copies the Committee is Requesting: In paper, 5 copies (including original) to
Room 317 in the State Capitol**

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
LAURA H. THIELEN
Chairperson

Before the House Committees on
AGRICULTURE
And
ENERGY & ENVIRONMENTAL PROTECTION

Thursday, February 5, 2009
8:30 A.M.
State Capitol, Conference room 325

In consideration of
HOUSE BILL 1684
RELATING TO INVASIVE SPECIES

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
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

House Bill 1684 proposes to reduce the intentional introduction and spread of invasive species by establishing severe penalties appropriate to the harm caused by the intentional introduction and spread of invasives. The Department of Land and Natural Resources (Department) supports House Bill 1684 if amended to broaden the penalties to apply to all persons and not just transportation companies, and if further amended to reduce the excessively harsh fine amounts proposed for interisland or intransland movement of invasives (Line 16, Page 4) to the current fine amount in section 150A-14 (c) (2), Hawaii Revised Statutes (HRS), "not less than \$50,000, but not more than \$200,000".

The Department, along with the other member departments of the Hawaii Invasive Species Council and its conservation partners are tasked with efforts to not only detect and eradicate invasive species once they're here but to also prevent invasive species from taking up residence in Hawaii. The negative impacts of invasive species on the health of our fragile native ecosystems, our economy, and human health are well documented. Prevention of invasive species from being introduced is the most cost effective way to address invasive threats.

Several economic studies done at Hawaiian universities on frogs, snakes, and ants show that their establishment could cost the state many hundreds of millions of dollars each year. If we can prevent those invasive species from being introduced, those costs can be avoided.

The Department does not support the change in section 150A-14(b), HRS, to reduce the scope of the penalty application from "Any person" to "Any transportation company". Any person or company should be subject to fine for the violation of section 150A-5, HRS. Importation can come via individuals on personal air or water craft; it can also come via companies that do transportation of their own goods (not using a transportation company). Not all goods are imported via transportation companies and therefore the violation and penalties should apply to all persons as well. The proposed revision in section 150A-14(b, HRS) appears to remove penalties or application to persons other than transportation companies.

The Department recommends amending new subsection (b) so that it reads: "Any person including transportation companies that violates..." as it would restore the scope of the original subsection (b).

With regard to the proposed fine amounts, the Department feels that the current fine amount in section 150A-14 (c) (2), HRS, "not less than \$50,000, but not more than \$200,000", is sufficient.

The Department defers to the Department of Agriculture for specifics on amendments to meet their enforcement needs.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
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HOUSE COMMITTEE ON AGRICULTURE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 5, 2009, 8:30 A.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1684

Chair Mortia, Chair Tsuji, and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 1684, which prevents and reduces the spread of invasive species.

Hawai'i is losing the war on alien species. Some alien species, such as miconia, threaten to destroy watersheds and native ecosystems, jeopardizing freshwater supplies and pushing species to extinction. Other alien species, such as the coqui frog and dengue and its carriers, threaten our health, tourist industry, and our quality of life. We remain concerned about the possible introduction of the brown tree snake—a snake that nearly wiped out the native bird population on Guam.

Invasive pests from the Asia and the US mainland wreck havoc on native ecosystems. The cost—both economic and environmental—of introduced species in Hawai'i is astronomical. Estimates by one state biologist show that alien pests cost residents and the agriculture industry upwards of \$400 million annually. Hawaii's residents, businesses, and agricultural operations foot this bill. Tourism, agriculture, native species, and citizens' way of life are threatened with each new introduction. Sufficient funding to reduce introductions is clearly warranted; this is one area where an ounce of prevention is worth many pounds of cure.

Thank you for the opportunity to testify.

Representative Cliff Tsuji, Chair
Representative Jessica Wooley, Vice Chair
Committee on Agriculture

Representative Hermina Morita, Chair
Representative Denny Coffman, Vice Chair
Committee on Energy and Environmental Protection

February 5, 2009, 8:30 AM
Room 325
Support for HB 1684, Invasive Species; Penalties

Aloha members of the Agriculture and Energy & Environmental Protection Committees:

I support the intent of HB 1684 to impose penalties for the intentional introduction and spread of invasive species.

Varroa Mites should be a high priority on the list of invasive species.

It is very very unfortunate that the varroa mite has made its way to the Big Island and has now spread causing all stakeholders there to be in a mode of "how to manage bees with the varroa mite" vs. containment and eradication.

It is only a matter of time before there is realization of the effects on pollination of crops, yields, and other domino effects on the balance of our natural environment which includes all plants, animals, insects and microbes. No doubt, there will also be an economic loss due to lower honey production as well as the loss of exporting Queen bees.

Now more than ever when our state and county policy makers are recognizing that we as an island state need to be less dependent on imports, please remember that the bees play a huge role in our ability to be self sustainable.

In order for this bill to be most effective, this information needs to be distributed to DOA, the Hawaii Invasive Species Committee and other State level agencies, USDA, Postal Services, all Airport and Harbor users as well as the general public.

We all need to work together proactively and diligently to ensure that Kauai, Maui, Molokai, Lanai, Niihau and Kahoolawe remain varroa mite free.

Mahalo for your support.

Chris Kobayashi
Kauai Bee Association, Board member



TESTIMONY

House Agriculture Committee and Committee on Energy and Environmental Protection

RE: HB 1684 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 HB1684 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 HB1684 as proposed. Thank you for this opportunity to provide our views on this matter.

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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 Energy and Environmental Protection

RE: HB 1684 Relating to Invasive Species

Chair Tsuji, Chair Morita 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** HB1684 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 1684. Thank you for this opportunity to testify on this matter.

Testimony from:

Penny Levin
224 Ainahou Place
Wailuku, Maui 96793

TO: Committee on Agriculture and Committee on Energy and Environment Protection
Rm329 8:30am

RE: **Testimony for HA1684 *Relating to Invasive Species***

Aloha Honorable Committee members;

My name is Penny Levin and I am testifying as an individual and a resident of Maui.

Regarding HB 1684 *Relating to Invasive Species*, I am IN SUPPORT with one recommended amendment (see below).

As a member of the conservation community and the Coordinating Group on Alien Pest Species, I strongly support the need to control invasive species through transportation corridors as an important part of a system-wide approach to limit the entry and spread of invasive species into the islands.

There are a number of invasive species that may be considered either incipient populations (small enough to be eradicated) or are well-established in certain districts in the state but are not yet present in others. Some of those species were raised in the state and have escaped into the natural environment through trade, sale, careless transport or deliberate release. One example is the invasive apple snail, *Pomacea canaliculata*, which has been introduced in this way to estuaries, ponds, reservoirs, springs, wetlands, irrigation systems and wet agricultural systems throughout certain districts in the state severely impacting crop yields, livelihoods and traditional cultural practices, out-competing native freshwater fauna, and increasing human health risks. The same is true of many aggressive alien fish species, plants such as *Salvinia molesta*, or animals such as veiled chameleons, which have made their way into the natural environment.

Deliberate release of prohibited plants, animals or microorganisms into water bodies and natural habitats of the state is a persistent problem. A number of prohibited species continue to be raised and sold in the state through several loopholes in the law, including:

- HAR § 4-69A which lists alien species for control or eradication but does not address possession or propagation for aquaculture purposes from on-island sources;
- HAR § 4-9-5 and § 4-54-2 relating to the DOA Aquaculture Loan Program and Marketing and Consumer Services Eligibility for Product Promotion Assistance respectively provides no language to prevent or restrict assistance to enterprises based on the production or promotion of a product whose sole source is an invasive species identified by HDOA as a pest; and

- HRS §197-3 prohibiting the deliberate introduction of alien species applies only to the Department of Land and Natural Resources but not to the Department of Agriculture, nor to the private sector.

To remedy this situation, I recommend HB 1684 be amended on page 4, line 8 with the following addition (underlined):

(3) Any person or organization who intentionally imports, possesses, harbors, transfers, or transports, including the interisland or intransland movement of any prohibited or restricted plant, animal, or microorganism without a permit, with the intent to propagate, sell, or release that plant, animal, or microorganism, or intentionally propagates, sells, trades, transfers, transports or releases a prohibited invasive plant, animal or microorganism whether new or already present in the State of Hawaii, unless otherwise specifically allowed by law, shall be guilty of a class C felony and subject to a fine of not less than \$100,000, but not more than \$400,000.

I urge you to support HB 1684 with these amendments.

Respectfully,

Penny Levin
[transmitted by email 3 Feb 2009]