

TESTIMONY
HB 2294 HD2
LATE

LINDA LINGLE
Governor



LATE TESTIMONY

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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

Support w/
comments &
amendments

BEFORE THE SENATE COMMITTEE ON
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS
FRIDAY, MARCH 12, 2010
2:45 P.M.

HOUSE BILL NO. 2294, H.D. 2
RELATING TO AGRICULTURE

Chairperson Hee and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2294, H.D. 2. The purpose of this bill is to make various amendments to the agricultural inspection and biosecurity laws to accomplish the following (1) Exempt aggregate bulk freight, cement bulk freight, coal bulk freight, and liquid bulk freight from the Pest Inspection, Quarantine, and Eradication Service Fee; (2) Clarify and expand the purposes for expenditures from the Pest Inspection, Quarantine, and Eradication Fund; (3) Require the deposit of proceeds relating to agricultural inspections into the Pest Inspection, Quarantine, and Eradication Fund; and (4) Repeal the Permit Revolving Fund, and Microorganism Import Certification Revolving Fund, and transfer the moneys in those funds into the Pest Inspection, Quarantine, and Eradication Fund. The department supports this measure and would like to provide additional supporting comments as well as some minor revisions to this bill.

Since it passed in the 2008 special session, Act 3 broadened the imposition of a fee for the inspection, quarantine, and eradication of invasive species contained in any freight to include not only commercial maritime container shipments, but air freight, or any other means of transporting freight, whether foreign or domestic, that is brought into the State. This bill establishes accountability for the collection and remittance of said fees to the department.

The department agrees with the proposed definitions under Section 3 of this measure as it pertains to bulk freight that is sometimes pre-processed, or inspected and certified, and/or is

unpackaged, homogenous materials, and without mark or count, that are usually free-flowing, and bought and sold by weight or volume. The department is supportive of the exemption from the fee for any aggregate bulk freight, cement bulk freight, coal bulk freight, or liquid bulk freight, as proposed in this bill. However, the department would like to state for the record that, although the aforementioned types of bulk freight may pose a very low risk for invasive species entry, the surface vessel transporting these items may pose a risk as a pathway for invasive species, such as mosquitoes, rodents, and other human-related disease pathogens.

The department recommends the following proposed revisions to provide additional clarity to this bill:

- Under Section 4, on page 4, lines 14 and 15, as it relates to §150A-4.5, subsection (a), paragraph (3), the word "rule" should be changed to the plural, "rules", so that these lines would read as follows:

"(3) Fees imposed for services pursuant to this chapter or rules adopted under this chapter;"

- Under Section 4, on page 5, lines 5 thru 15, as it relates to §150A-4.5, subsection (b), the content should be rearranged for clarity with minor clarification so that it would read as follows:

"biosecurity, and monitoring programs, related facilities, [and] the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department [-] , training of inspectors, education of the agricultural industry , permit and certificate holders, and the general public as to import requirements, and for any other purposes deemed necessary to carry out the purposes of this chapter. In addition, the moneys shall be expended to facilitate the processing and issuance of permits and related microorganism import documents and for the operations, activities, and monitoring of permitted and certified plants, animals, and microorganisms."

- Under Section 13, subsection (b) paragraph (1), on page 13, line 22, a default fee needs to be inserted to authorize charging a fee for those after hours services described, so that line 22 would read as follows:

"or days off shall be \$50 plus mileage reimbursement, and an additional fee shall be assessed"

- Under Section 13, on page 14, lines 4 thru 6, as it relates to subsection (b), paragraph (2), the types of off-site inspections that would require this fee need to be identified, so that these lines would read as follows:

"(2) A fee for any inspection during regular work hours conducted away from the port or office, including an inspection for safeguarding, witnessing departure, witnessing treatment, or certification, but excluding those inspections subject to the inspection, quarantine, and eradication service fee under section 150A-5.3, Hawaii Revised Statutes, shall be \$50 per hour plus mileage reimbursement."

The department would like to once again thank the committee for this opportunity to testify on House Bill No. 2294, H.D. 2.



**HB 2294 HD2
RELATING TO AGRICULTURE**

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

Support w/ proposed amendment.

MARCH 12, 2010

Chair Hee and Members of the Senate Committee on Water, Land, Agriculture & Hawaiian Affairs:

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 2294 HD2, "A BILL FOR AN ACT RELATING TO AGRICULTURE."

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 the agricultural inspection and biosecurity programs, which includes 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

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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 authorizes exemptions from the assessment of the invasive species user fee for liquid, cement, coal, and aggregate bulk freight and establishes penalties for the non-payment of the fee. We support the above mentioned exemptions from the fee, as we understand that these exemptions should not impair the State's ability to alleviate the entry of invasive species into our State.

In regards to the establishment of penalties for non-compliance, Matson is very much aware of the importance of our role in the billing, collection, and the remittance to the State for the invasive species user fee and we have set as a priority our compliance with these statutory provisions. Matson supports the general intent of this bill to enhance and strengthen the enforcement of the invasive species user fee. We would sincerely appreciate your consideration to ensure that the fines are appropriate for the violations to which they are imposed, in particular for entities who exhibit a concerted effort to comply with these statutory provisions in a timely manner. We have attached proposed amendments to Section 2 of this bill for your consideration:

"§150A- Failure to pay or remit the inspection, quarantine, and eradication service fee; fines. (a) The following fines shall be imposed for failure to pay, bill, or remit the inspection, quarantine, and eradication service 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 or
- (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

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(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 two times the amount of the inspection, quarantine and eradication service fee or \$100, whichever is higher.

(b) All fines shall be paid to the department and deposited into the pest inspection, quarantine, and eradication fund under section 150A-4.5."

Thank you for the opportunity to testify.



Western States Petroleum Association

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Melissa Pavlicek
Supports Intent w/ Comments

**Senate Committee on Water,
Land, Agriculture, and Hawaiian Affairs**

DATE: Friday, March 12, 2010
TIME: 2:45 p.m.
PLACE: Conference Room 229
RE: HB 2294 HD2 Relating to Agriculture

Re: HB 2294 HD2 Relating to Agriculture

I am testifying on behalf of the Western States Petroleum Association (known as WSPA) with comments on HB 2294 HD2, relating to agriculture. WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states.

WSPA supports the intent of this measure which is to exempt liquid bulk freight from the invasive species fee. The state Department of Agriculture has testified that the exemption is consistent with its understanding of the legislature's original intent when establishing the fee and that liquid bulk freight (e.g. fuel) has not been shown to be significant pest risk pathways. Low risk and legal precedent support retroactive application of the exemption and we therefore request that the bill be amended to retroactively apply the exemption back to the date of the enactment of the fee.

We appreciate the opportunity to comment on this measure.

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HB 2294 HD2
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(END)