

JAN 20 2017

A BILL FOR AN ACT

RELATING TO COUNTY ACCESS TO PRIVATE PROPERTY.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to part I to be appropriately designated
3 and to read as follows:

4 "§46- Authority to enter private property; pests or
5 invasive species. Each county of this State through its
6 employees or authorized agents may enter private property within
7 the respective county to control or eradicate pests and invasive
8 species pursuant to sections 141-3.6 and 194-5."

9 SECTION 2. Section 141-3.6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§141-3.6 Entry of private property to control or
12 eradicate any pests. (a) The department of agriculture or
13 applicable county shall give at least five days notice to the
14 landowner and the occupier of any private property of its
15 intention to enter the property for the control or eradication
16 of a pest. Written notice sent to the landowner's last known
17 address by certified mail, postage prepaid, return receipt



1 requested, shall be deemed sufficient notice. [~~In the event~~
2 ~~that~~] If certified mail is impractical because the department [~~7~~]
3 or county, despite diligent efforts, cannot determine land
4 ownership or because of urgent need to initiate control or
5 eradication measures, notice given once in a daily or weekly
6 publication of general circulation, in the county where any
7 action or proposed action will be taken, or notice made as
8 otherwise provided by law, shall be deemed sufficient notice.

9 The notice shall set forth all pertinent information on the pest
10 control program and the procedures and methods to be used for
11 control or eradication.

12 (b) After notice as required by subsection (a), any member
13 of the department, the county, or any agent authorized by the
14 department or county may enter at reasonable times any private
15 property other than dwelling places to maintain a pest control
16 or eradication program, being liable only for damage caused by
17 acts beyond the scope of the person's authority, or the person's
18 negligence, gross negligence, or intentional misconduct. If
19 entry is refused, the department member, county member, or agent
20 may apply to the district court in the circuit in which the
21 property is located for a warrant to enter on the premises to



1 effectuate the purposes of this chapter. The district court may
2 issue a warrant directing a police officer of the circuit to
3 assist the department member, county member, or agent in gaining
4 entry onto the premises during regular working hours or at other
5 reasonable times."

6 SECTION 3. Section 194-5, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) Whenever any invasive species identified by the
10 council for control or eradication is found on private property,
11 a department or applicable county may enter [~~such~~] the premises
12 to control or eradicate the invasive species after reasonable
13 notice is given to the owner of the property and, if entry is
14 refused, pursuant to the court order in subsection (d)."

15 2. By amending subsections (c) to (f) to read:

16 "(c) The department or county may instead cause notice to
17 be given, and order the owner to control or eradicate the
18 invasive species, if [~~such~~] the species was intentionally and
19 knowingly established by the owner on the owner's property and
20 not naturally dispersed from neighboring properties, at the
21 owner's expense within [~~such~~] a reasonable time as the



1 department or county may deem proper, pursuant to the notice
2 requirements of this section.

3 (d) If the owner thus notified fails to comply with the
4 order of the department, the county, or its agent, within the
5 time specified by the department [7] or county, or if entry is
6 refused after notice is given pursuant to subsection (a) and, if
7 applicable subsection (b), the department, the county, or its
8 agent may apply to the district court of the circuit in which
9 the property is situated for a warrant, directed to any police
10 officer of the circuit, commanding the police officer to take
11 sufficient aid and to assist the department member, county
12 member, or its agent in gaining entry onto the premises, and
13 executing measures to control or eradicate the invasive species.

14 (e) The department or county may recover by appropriate
15 proceedings the expenses incurred by its order from any owner
16 who, after proper notice, has failed to comply with the
17 department's order.

18 (f) In no case shall the department, the county, or any
19 officer or agent thereof be liable for costs in any action or
20 proceeding that may be commenced pursuant to this
21 [†]chapter [†]."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

7

INTRODUCED BY:

Hal Rhoad



S.B. NO. 637

Report Title:

Invasive Species; Pests; Control; Removal; Private Property

Description:

Authorizes the counties to enter private property to control or eradicate invasive species and pests.

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