
A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

PART I

SECTION 1. The legislature finds that responsible environmental stewardship requires managing and supervising the safe collection and lawful disposal of banned, outdated, or unwanted pesticides. The legislature further finds that although Hawaii's pesticides law prohibits the disposal of agricultural pesticides in sanitary landfills, but there are currently no options for the legal disposal of these substances within the State. According to the Pesticide Stewardship Alliance, more than forty states have pesticide disposal programs. The legislature also finds that there is great urgency for the establishment of a pesticide disposal collection program in this State so that individuals and entities may legally dispose of banned, outdated, or unwanted pesticides.

Accordingly, the purpose of this part is to:

- (1) Require the department of agriculture, in consultation with the department of health, to develop and



1 implement a pesticide disposal collection program to
2 provide a one-time, affordable, and environmentally
3 accessible means for the disposal of restricted use
4 pesticides and nonrestricted use pesticides from a
5 bona fide agricultural entity;

6 (2) Convene a steering committee to guide and monitor the
7 pesticide disposal collection program; and

8 (3) Appropriate funds for purposes of the pesticide
9 disposal collection program.

10 SECTION 2. (a) The department of agriculture, in
11 consultation with the department of health, shall develop and
12 implement a pesticide disposal collection program to provide a
13 one-time, affordable, and environmentally accessible means for
14 the disposal of restricted use pesticides and nonrestricted use
15 pesticides from a bona fide agricultural entity.

16 For purposes of this Act, "bona fide agricultural entity"
17 means one or more individuals, a company, corporation, a
18 partnership, an association, or any other type of legal entity
19 in the State that engages or engaged in an agricultural
20 operation as defined in section 46-88(d), Hawaii Revised
21 Statutes; provided that bona fide agricultural entity shall



1 include any successor, heir, or beneficiary that received
2 ownership of any restricted use pesticide or nonrestricted use
3 pesticide from a bona fide agricultural entity.

4 (b) There shall be established on the islands of Hawaii,
5 Kauai, Lanai, Maui, Molokai, and Oahu disposal locations for
6 restricted use pesticides and nonrestricted use pesticides as
7 part of the pesticide disposal collection program. Each site
8 shall offer the opportunity for disposal of restricted use
9 pesticides and nonrestricted use pesticides for a duration to be
10 determined by the department of agriculture during the pesticide
11 disposal collection program.

12 (c) The department of agriculture shall operate the
13 pesticide disposal collection program as a free or low-cost
14 program to encourage the safe and legal disposal of restricted
15 use pesticides and nonrestricted use pesticides.

16 (1) The department of agriculture shall not charge a fee
17 for the disposal of restricted use pesticides or
18 nonrestricted use pesticides, which contain an active
19 ingredient of a restricted use pesticide, up to a
20 maximum weight or volume to be determined by the
21 department of agriculture. The obligation of the



1 department of agriculture to accept restricted use
2 pesticides or nonrestricted use pesticides, which
3 contain an active ingredient of a restricted use
4 pesticide, in an amount less than that determined by
5 the department for disposal is limited to the monetary
6 amount appropriated by this Act less the cost of
7 storage for pesticides collected under this pesticide
8 disposal collection program.

9 (2) The department of agriculture may impose a fee
10 schedule, which shall be exempt from chapters 91 and
11 201M, for the disposal of a restricted use pesticide
12 or nonrestricted use pesticide, which contains an
13 active ingredient of a restricted use pesticide, in
14 excess of the amount determined by the department
15 pursuant to paragraph (1).

16 (d) The department of agriculture shall implement the
17 pesticide disposal collection program no later than June 30,
18 2021, for a duration to be determined by the department.

19 (e) No later than July 31, 2020, the department of
20 agriculture shall convene a pesticide disposal collection
21 program steering committee to guide and monitor the pesticide



1 disposal collection program. The steering committee shall be
2 comprised of the advisory committee on pesticides established
3 pursuant to section 149A-51, Hawaii Revised Statutes, a
4 representative of the Hawaii Agriculture Research Center, and
5 representatives from any other entity deemed necessary by the
6 chairperson of the board of agriculture.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$800,000 or so much
9 thereof as may be necessary for fiscal year 2020-2021 for the
10 establishment and operation of the pesticide disposal collection
11 program.

12 The sum appropriated shall be expended by the department of
13 agriculture for the purposes of this Act.

14 PART II

15 SECTION 4. Section 149A-41, Hawaii Revised Statutes, is
16 amended by amending subsections (a) to (c) to read as follows:

17 "(a) Warning notice. Any person who violates this chapter
18 or any rule issued under this chapter may upon the first
19 violation be issued a written warning notice citing the specific
20 violation and necessary corrective action.

21 (b) Administrative penalties.



1 (1) In general, any registrant, commercial applicator,
2 wholesaler, dealer, retailer, or other distributor who
3 violates any provision of this chapter may be assessed
4 an administrative penalty by the board of not more
5 than [~~\$5,000~~] \$10,000 for each offense;

6 (2) Any private applicator or other person not included in
7 paragraph (1) who violates any provision of this
8 chapter relating to the use of pesticides while on
9 property owned or rented by that person or the
10 person's employer, subsequent to receiving a written
11 warning from the department or following a citation
12 for a prior violation, may be assessed an
13 administrative penalty by the board of not more than
14 [~~\$1,000~~] \$5,000 for each offense. Any private
15 applicator or other person not included in paragraph
16 (1) who violates any provision of this chapter
17 relating to licensing, transport, sale, distribution,
18 or application of a pesticide for commercial purposes
19 may be assessed an administrative penalty as provided
20 in paragraph (1);



1 (3) No administrative penalty shall be assessed unless the
2 person charged shall have been given notice and an
3 opportunity for a hearing on the specific charge in
4 the county of the residence of the person charged.

5 The administrative penalty and any proposed action
6 contained in the notice of finding of violation shall
7 become a final order unless, within twenty days of
8 receipt of the notice, the person or persons charged
9 make a written request for a hearing. In determining
10 the amount of penalty, the board shall consider the
11 appropriateness of the penalty to the size of the
12 business of the person charged, the effect on the
13 person's ability to continue business, and the gravity
14 of the violation; and

15 (4) In case of inability to collect the administrative
16 penalty or failure of any person to pay all or such
17 portion of the administrative penalty as the board may
18 determine, the board shall refer the matter to the
19 attorney general, who shall recover the amount by
20 action in the appropriate court. For any judicial
21 proceeding to recover the administrative penalty



1 imposed, the attorney general need only show that
2 notice was given, a hearing was held or the time
3 granted for requesting a hearing has expired without
4 such a request, the administrative penalty was
5 imposed, and that the penalty remains unpaid.

6 (c) Criminal penalties.

7 (1) In general, any registrant, commercial applicator,
8 wholesaler, dealer, retailer, or other distributor who
9 knowingly violates any provision of this chapter shall
10 be guilty of a misdemeanor and shall on conviction be
11 fined not more than [~~\$25,000~~] \$35,000, or imprisoned
12 for not more than one year, or both.

13 (2) Any private applicator or other person not included in
14 paragraph (1) who knowingly violates any provision of
15 this chapter shall be guilty of a misdemeanor and
16 shall on conviction be fined not more than [~~\$1,000~~]
17 \$5,000, or imprisoned for not more than one year, or
18 both.

19 (3) Any person, who, with intent to defraud, uses or
20 reveals information relative to formulas of products
21 acquired under the authority of section 3, Federal



1 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
2 as amended, shall be fined not more than \$10,000, or
3 imprisoned for not more than three years, or both."

4 PART III

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

7 SECTION 6. This Act shall take effect on September 1,
8 2020.



Report Title:

HDOA; Department of Health; Pesticides; Restricted Use
Pesticides; Nonrestricted Use Pesticides; Pesticide Disposal
Collection Program; Steering Committee; Appropriation

Description:

Establishes the Pesticide Disposal Collection Program within the Department of Agriculture to provide a one-time, affordable, and environmentally accessible means for the disposal of restricted and nonrestricted use pesticides from a bona fide agricultural entity. Convenes a Pesticide Disposal Collection Program Steering Committee to guide and monitor the program. Increases fines for pesticide use violations. Appropriates funds. Effective 9/1/2020. (SD2)

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