
A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1 PART I

2 SECTION 1. The legislature finds that providing a safe and
3 lawful way to dispose of banned, outdated, or unwanted
4 pesticides is critical to the State's environmental management
5 efforts. While Hawaii prohibits the disposal of agricultural
6 pesticides in sanitary landfills, no safe or legal alternatives
7 for their disposal are currently offered.

8 The legislature recognizes that more than forty states have
9 successfully created low-cost pesticide disposal collection
10 programs to ensure that unwanted agricultural pesticides are
11 safely discarded.

12 Accordingly, the purpose of this Act is to:

13 (1) Require the department of agriculture, in consultation
14 with the department of health, to develop and
15 implement a one-time, low-cost pesticide disposal
16 collection program; and



1 (2) Increase the administrative and criminal penalties for
2 violating the Hawaii pesticides law.

3 SECTION 2. (a) The department of agriculture, in
4 consultation with the department of health, shall develop and
5 implement a pesticide disposal collection program to provide a
6 one-time, affordable, and accessible means for bona fide
7 agricultural entities and licensed pest control operators to
8 dispose of restricted use and nonrestricted use pesticides.

9 (b) The department of agriculture shall establish on the
10 islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu
11 disposal locations for restricted use and nonrestricted use
12 pesticides to effectuate the purposes of this Act. Each
13 disposal location shall offer the opportunity for bona fide
14 agricultural entities and licensed pest control operators to
15 dispose of restricted use and nonrestricted use pesticides for a
16 duration to be determined by the department.

17 (c) The department of agriculture shall operate the
18 pesticide disposal collection program as a free or low-cost
19 program to encourage the safe and legal disposal of restricted
20 use and nonrestricted use pesticides; provided that:



- 1 (1) The department of agriculture shall not charge a fee
2 for the disposal, up to a maximum weight or volume to
3 be determined by the department, of restricted use
4 pesticides or nonrestricted use pesticides containing
5 a restricted use ingredient; provided further that the
6 financial obligation of the department of agriculture
7 to accept pesticides for disposal shall be limited to
8 the monetary amount appropriated by this Act, less the
9 cost of pesticide storage; and
- 10 (2) The department of agriculture may impose a fee
11 schedule, which shall be exempt from chapters 91
12 and 201M, Hawaii Revised Statutes, for disposing of
13 restricted use or nonrestricted use pesticides
14 containing a restricted use ingredient in weights or
15 volumes that exceed the amount determined by the
16 department pursuant to paragraph (1).
- 17 (d) The department of agriculture shall implement the
18 pesticide disposal collection program before July 1, 2022, and
19 operate the program for a duration to be determined by the
20 department of agriculture.



1 (e) Before August 1, 2021, the department of agriculture
2 shall convene a pesticide disposal collection program steering
3 committee to guide and monitor the pesticide disposal collection
4 program. The steering committee shall comprise the advisory
5 committee on pesticides established pursuant to section 149A-51,
6 Hawaii Revised Statutes; provided that a representative of the
7 Hawaii Agriculture Research Center and representatives of any
8 other entities deemed necessary by the chairperson of the board
9 of agriculture shall also be invited to participate.

10 (f) For purposes of this Act:

11 "Bona fide agricultural entity" means one or more
12 individuals or a company, corporation, partnership, association,
13 or other legal entity in the State that engages in or has
14 engaged in an agricultural operation as defined in
15 section 46-88(d), Hawaii Revised Statutes; provided that a bona
16 fide agricultural entity shall include any successor, heir, or
17 beneficiary that received from a bona fide agricultural entity
18 any restricted use or nonrestricted use pesticide.

19 "Pest control operator" means one or more individuals or a
20 company, corporation, partnership, association, or other legal
21 entity in the State that engages in or has engaged in structural



1 pest control as defined in section 460J-1, Hawaii Revised
2 Statutes; provided that a structural pest control operator
3 entity shall include any successor, heir, or beneficiary that
4 received from a structural pest control entity any restricted
5 use or nonrestricted use pesticide.

6 SECTION 3. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$800,000 or so much
8 thereof as may be necessary for fiscal year 2021-2022 and the
9 same sum or so much thereof as may be necessary for fiscal year
10 2022-2023 for establishing and operating the pesticide disposal
11 collection program.

12 The sums appropriated shall be expended by the department
13 of 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 (b) and (c) to read as follows:

17 "(b) Administrative penalties.

18 (1) In general, any registrant, commercial applicator,
19 wholesaler, dealer, retailer, or other distributor who
20 violates any provision of this chapter may be assessed



1 an administrative penalty by the board of [~~not~~] no
2 more than [~~\$5,000~~] \$10,000 for each offense;

3 (2) Any private applicator or other person not included in
4 paragraph (1) who violates any provision of this
5 chapter relating to the use of pesticides while on
6 property owned or rented by that person or the
7 person's employer, subsequent to receiving a written
8 warning from the department or following a citation
9 for a prior violation, may be assessed an
10 administrative penalty by the board of [~~not~~] no more
11 than [~~\$1,000~~] \$5,000 for each offense. Any private
12 applicator or other person not included in
13 paragraph (1) who violates any provision of this
14 chapter relating to licensing, transport, sale,
15 distribution, or application of a pesticide for
16 commercial purposes may be assessed an administrative
17 penalty as provided in paragraph (1);

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



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

- 11 (4) In case of inability to collect the administrative
12 penalty or failure of any person to pay all or [~~such~~]
13 a portion of the administrative penalty as the board
14 may determine, the board shall refer the matter to the
15 attorney general, who shall recover the amount by
16 action in the appropriate court. For any judicial
17 proceeding to recover the administrative penalty
18 imposed, the attorney general need only show that
19 notice was given, a hearing was held or the time
20 granted for requesting a hearing has expired without



1 [such] a request, the administrative penalty was
 2 imposed, and that the penalty remains unpaid.

3 (c) Criminal penalties.

4 (1) In general, any registrant, commercial applicator,
 5 wholesaler, dealer, retailer, or other distributor who
 6 knowingly violates any provision of this chapter shall
 7 be guilty of a misdemeanor and shall on conviction be
 8 fined [~~not~~] no more than [~~\$25,000,~~] \$35,000, or
 9 imprisoned for [~~not~~] no more than one year, or
 10 both[-];

11 (2) Any private applicator or other person not included in
 12 paragraph (1) who knowingly violates any provision of
 13 this chapter shall be guilty of a misdemeanor and
 14 shall on conviction be fined [~~not~~] no more than
 15 [~~\$1,000,~~] \$5,000, or imprisoned for [~~not~~] no more than
 16 one year, or both[-]; and

17 (3) Any person, who, with intent to defraud, uses or
 18 reveals information relative to formulas of products
 19 acquired under the authority of section 3, Federal
 20 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
 21 as amended, shall be fined [~~not~~] no more than \$10,000,



H.B. NO. 779 H.D. 2

Report Title:

DOA; DOH; Pesticide Disposal; Steering Committee; Penalties; Appropriation

Description:

Requires the department of agriculture, in consultation with the department of health, to develop and implement a one-time pesticide disposal collection program, for a duration to be determined by the department. Requires the department of agriculture to convene a steering committee to guide and monitor the pesticide disposal collection program. Increases the administrative and criminal penalties for violating the Hawaii pesticides law. Appropriates moneys. Effective 7/1/2050.
(HD2)

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