

JAN 21 2021

A BILL FOR AN ACT

RELATING TO COFFEE BERRY BORER.

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

1 SECTION 1. The legislature finds that Act 105, Session
2 Laws of Hawaii 2014 (Act 105), established a pesticide subsidy
3 program in the department of agriculture for five years for the
4 purpose of assisting coffee growers with offsetting the costs of
5 purchasing certain pesticides known to be effective against the
6 coffee berry borer. The legislature notes that the coffee berry
7 borer is a highly destructive coffee pest that has infested
8 coffee crops on Hawaii island and more recently has been
9 detected on Oahu and Maui.

10 Act 152, Session Laws of Hawaii 2015 (Act 152), established
11 a pesticide subsidy program manager position as a full-time,
12 temporary position exempt from chapters 76 and 89, Hawaii
13 Revised Statutes, and appropriated moneys from the pesticide use
14 revolving fund for the position for fiscal years 2015-2016 and
15 2016-2017. Section 76-16(b)(17), Hawaii Revised Statutes,
16 provides that any exemption from civil service created after
17 July 1, 2014, shall expire three years after its enactment



1 unless affirmatively extended by an act of the legislature.
2 Accordingly, the exemption from civil service of the pesticide
3 subsidy program manager position expired on June 30, 2018, three
4 years after it was created by Act 152.

5 Because it took longer than anticipated for Act 105 to be
6 implemented, Act 65, Session Laws of Hawaii 2017 (Act 65),
7 extended the existence of the pesticide subsidy program from its
8 original sunset date of June 30, 2019, to June 30, 2021, to
9 assist coffee growers for the number of years intended when Act
10 105 was enacted. However, Act 65 did not extend the exemption
11 of the pesticide subsidy program manager position from the civil
12 service and collective bargaining laws.

13 Pursuant to section 3(c) of Act 105, the documentation of
14 pesticide costs required to accompany an application for a
15 subsidy for pesticide purchases made in a fiscal year must be
16 filed in fiscal year immediately following the application. For
17 pesticide purchases made from July 1, 2020, to June 30, 2021,
18 the last fiscal year of the program, the documentation of
19 pesticide costs must be filed at any time from July 1, 2021, to
20 June 30, 2022, during the immediately following fiscal year.
21 The manager position will be needed to process these



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1 applications for subsidies for costs incurred in the final year
2 of the program. Accordingly, Act 32, Session Laws of Hawaii
3 2018, extended the pesticide subsidy program manager position,
4 including the position's exemption from civil service and
5 collective bargaining laws until June 30, 2022.

6 The purpose of this Act is to:

7 (1) Extend the pesticide subsidy program by four years, to
8 June 30, 2026;

9 (2) Extend the pesticide subsidy program manager position,
10 including the position's exemptions from civil service
11 and collective bargaining laws, until the year after
12 the program sunsets, specifically, June 30, 2027; and

13 (3) Make appropriations for the program and program
14 manager position for fiscal year 2021-2022.

15 SECTION 2. Act 105, Session Laws of Hawaii 2014, as
16 amended by section 1 of Act 152, Session Laws of Hawaii 2015, as
17 amended by section 2 of Act 65, Session Laws of Hawaii 2017, as
18 amended by section 2 of Act 32, Session Laws of Hawaii 2018, as
19 amended by section 43 of Act 111, Sessions Laws of Hawaii 2019,
20 is amended as follows:

21 1. By amending section 3 to read:



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1 "SECTION 3. (a) There is established in the department of
2 agriculture a pesticide subsidy program to be administered by
3 the department beginning on July 1, 2014, and ending on June 30,
4 [~~2021.~~] 2026. The department shall grant subsidies to coffee
5 growers to [~~assist them in offsetting the~~] offset the growers'
6 costs of purchasing any pesticide that is listed by the
7 department pursuant to subsection (f).

8 (b) Applications for subsidies by coffee growers shall be
9 submitted on a form furnished by the department and shall be
10 filed with accompanying documentation of the costs of purchasing
11 the pesticide; provided that:

12 (1) The applicant shall indemnify and hold harmless the
13 State and its officers, agents, and employees from all
14 claims arising out of or resulting from the pesticide
15 purchased; and

16 (2) The department may request an applicant to provide
17 necessary information for the purposes of verifying
18 the size or sale weight, as applicable, and amount of
19 the pesticide purchased.

20 (c) Documentation of pesticide costs [~~, as requested by the~~
21 ~~department,~~] shall be filed for pesticides purchased within the



1 [immediate] immediately preceding fiscal year of filing and
2 shall be effective for pesticide costs incurred after June 30,
3 2014, and before July 1, [~~2021.~~] 2026.

4 (d) Funds shall be disbursed upon approval on an annual
5 basis by the department to the coffee grower for up to seventy-
6 five per cent of the costs incurred for the purchase of the
7 pesticide before July 1, 2016, and for up to fifty per cent of
8 the costs incurred after June 30, 2016, and before July 1,
9 [~~2021.~~] 2026.

10 (e) The department shall aggregate the total subsidy
11 applications pursuant to this section and divide and distribute
12 the available subsidy funds on a pro rata basis; provided that
13 [~~no~~]:

14 (1) No single coffee grower shall receive subsidies that
15 are more than \$600 per year per acre of land in coffee
16 production; [~~provided further that no~~]

17 (2) No single coffee grower shall receive subsidies that
18 are more than \$9,000 per year; [~~provided further that~~
19 ~~no~~] and



1 (3) No single coffee grower shall receive subsidies that
2 total more than \$6,000 per year for the period after
3 June 30, 2018, and before July 1, [~~2021-~~] 2026.

4 (f) The department shall establish a list of pesticides
5 that are registered with the Environmental Protection Agency and
6 are licensed with the State that contain *Beauveria bassiana*, a
7 fungus known to eradicate the coffee berry borer, as an active
8 ingredient.

9 (g) There is established within the department a pesticide
10 subsidy program manager position, which shall be a full-time,
11 temporary position exempt from chapters 76 and 89, Hawaii
12 Revised Statutes. The pesticide subsidy program manager shall
13 possess a requisite level of knowledge and expertise in the area
14 of program management necessary to carry out the duties of the
15 position. The pesticide subsidy program manager shall:

16 (1) Facilitate the efficient division and distribution of
17 available subsidy funds; and

18 (2) Manage the day-to-day coordination [~~for~~] of the
19 pesticide subsidy program.

20 The pesticide subsidy program manager shall receive a
21 salary of not more than \$50,000 per year. The pesticide subsidy



1 program manager position, including the position's exemption
2 from chapters 76 and 89, Hawaii Revised Statutes, shall expire
3 on June 30, [~~2022~~] 2027.

4 (h) Not later than twenty days prior to the convening of
5 the regular [~~session~~] sessions of 2021[~~7~~] and 2026, the
6 department shall submit a report of its findings and
7 recommendations, including any proposed legislation, to the
8 legislature on the results of the pesticide subsidy program and
9 whether the program should be allowed to expire or be extended,
10 and if extended, with or without modification.

11 (i) Actions taken by the department pursuant to this
12 section shall be exempt from the rulemaking requirements of
13 section 91-3, Hawaii Revised Statutes."

14 2. By amending section 6 to read:

15 "SECTION 6. This Act shall take effect on July 1, 2014;
16 provided that [+

17 ~~(1) Section~~] section 3 shall be repealed on June 30,
18 [~~2021~~], 2026, except that section 3(g) shall be
19 repealed on June 30, [~~2022~~], and

20 ~~(2) The amendment made to section 149A-13.5(b), Hawaii~~
21 ~~Revised Statutes, under section 2 of this Act shall~~



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1 ~~not be repealed when section 149A-13.5(b), Hawaii~~
2 ~~Revised Statutes, is repealed and reenacted on June~~
3 ~~30, 2015, by section 4 of Act 168, Session Laws of~~
4 ~~Hawaii 2010.] 2027."~~

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2021-2022 and
8 the same sum or so much thereof as may be necessary for fiscal
9 year 2022-2023 for the pesticide subsidy program established by
10 Act 105, Session Laws of Hawaii 2014; provided that of the
11 amount appropriated, the sum of \$ or so much thereof
12 as may be necessary for fiscal years 2021-2022 and 2022-2023
13 shall be allocated for the salary and fringe benefits of the
14 pesticide subsidy program manager position established by Act
15 152, Session Laws of Hawaii 2015.

16 The sums appropriated shall be expended by the department
17 of agriculture for the purposes of this Act.

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

20



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1 SECTION 5. This Act shall take effect on July 1, 2021.

2

INTRODUCED BY:





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Report Title:

Coffee Berry Borer; Subsidy Program; Appropriation

Description:

Extends the sunset date for the Coffee Berry Borer Pesticide Subsidy Program until 6/30/2026, for the purchase of pesticides containing *Beauveria bassiana* to combat the coffee berry borer. Extends the program manager position to 6/30/2027. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

