

JAN 22 2021

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3 lawful way to dispose of banned, outdated, or unwanted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 civil 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 to dispose of restricted use and
8 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 to dispose of restricted use and
15 nonrestricted use pesticides for a duration to be determined by
16 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 that the
6 financial obligation of the department to accept
7 pesticides for disposal is limited to the monetary
8 amount appropriated by this Act, less the cost of
9 pesticide storage; and

10 (2) The department may impose a fee schedule, which shall
11 be exempt from chapters 91 and 201M, Hawaii Revised
12 Statutes, for disposing of restricted use pesticides
13 or nonrestricted use pesticides containing a
14 restricted use ingredient in weights or volumes that
15 exceed the amount determined by the department
16 pursuant to paragraph (1).

17 (d) The department of agriculture shall implement the
18 pesticide disposal collection program no later than June 30,
19 2022, and operate the program for a duration to be determined by
20 the department.



1 (e) For purposes of this Act, "bona fide agricultural
2 entity" means one or more individuals or a company, corporation,
3 partnership, association, or other legal entity in the State
4 that engages in or has engaged in an agricultural operation as
5 defined in section 46-88(d), Hawaii Revised Statutes, provided
6 that a bona fide agricultural entity shall include any
7 successor, heir, or beneficiary that received from a bona fide
8 agricultural entity any restricted use or nonrestricted use
9 pesticide.

10 (f) No later than July 31, 2021, the department of
11 agriculture shall convene a pesticide disposal collection
12 program steering committee to guide and monitor the pesticide
13 disposal collection program. The steering committee shall
14 comprise the advisory committee on pesticides established
15 pursuant to section 149A-51, Hawaii Revised Statutes; provided
16 that a representative of the Hawaii Agriculture Research Center
17 and representatives of any other entities deemed necessary by
18 the chairperson of the board of agriculture shall be invited to
19 participate.

20 SECTION 3. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$800,000 or so much



1 thereof as may be necessary for fiscal year 2021-2022 and the
2 same sum or so much thereof as may be necessary is appropriated
3 for fiscal year 2022-2023 for establishing and operating the
4 pesticide disposal collection program.

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

7 PART II

8 SECTION 4. Section 149A-41, Hawaii Revised Statutes, is
9 amended by amending subsections (b) and (c) to read as follows:

10 "(b) Administrative penalties.

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

16 (2) Any private applicator or other person not included in
17 paragraph (1) who violates any provision of this
18 chapter relating to the use of pesticides while on
19 property owned or rented by that person or the
20 person's employer, subsequent to receiving a written
21 warning from the department or following a citation



1 for a prior violation, may be assessed an
2 administrative penalty by the board of not more than
3 [~~\$1,000~~] \$5,000 for each offense. Any private
4 applicator or other person not included in paragraph
5 (1) who violates any provision of this chapter
6 relating to licensing, transport, sale, distribution,
7 or application of a pesticide for commercial purposes
8 may be assessed an administrative penalty as provided
9 in paragraph (1);

10 (3) No administrative penalty shall be assessed unless the
11 person charged shall have been given notice and an
12 opportunity for a hearing on the specific charge in
13 the county of the residence of the person charged.
14 The administrative penalty and any proposed action
15 contained in the notice of finding of violation shall
16 become a final order unless, within twenty days of
17 receipt of the notice, the person or persons charged
18 make a written request for a hearing. In determining
19 the amount of penalty, the board shall consider the
20 appropriateness of the penalty to the size of the
21 business of the person charged, the effect on the



1 person's ability to continue business, and the gravity
2 of the violation; and

3 (4) In case of inability to collect the administrative
4 penalty or failure of any person to pay all or such
5 portion of the administrative penalty as the board may
6 determine, the board shall refer the matter to the
7 attorney general, who shall recover the amount by
8 action in the appropriate court. For any judicial
9 proceeding to recover the administrative penalty
10 imposed, the attorney general need only show that
11 notice was given, a hearing was held or the time
12 granted for requesting a hearing has expired without
13 such a request, the administrative penalty was
14 imposed, and that the penalty remains unpaid.

15 (c) Criminal penalties.

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



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

7 (3) Any person, who, with intent to defraud, uses or
 8 reveals information relative to formulas of products
 9 acquired under the authority of section 3, Federal
 10 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
 11 as amended, shall be fined not more than \$10,000, or
 12 imprisoned for not more than three years, or both."

PART III

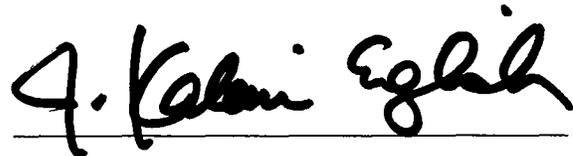
14 SECTION 5. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

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

19 SECTION 7. This Act shall take effect on July 1, 2021.

20

INTRODUCED BY:



J. Kalani Egler



S.B. NO. 719

Report Title:

HDOA; 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 civil and criminal penalties for violating the Hawaii pesticides law. Appropriates moneys.

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

