

JAN 26 2022

A BILL FOR AN ACT

RELATING TO PEST CONTROL.

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

1 PART I

2 SECTION 1. The legislature finds that the coffee borer
3 beetle and coffee leaf rust are growing threats to Hawaii's
4 coffee industry. Coffee is the second most valuable crop in the
5 State's economy, earning approximately \$50,160,000 per year,
6 according to the United States Department of Agriculture's 2018
7 state agriculture overview. The coffee borer beetle was first
8 found in the Kona and Kau regions of the island of Hawaii in
9 2010 and was detected on the island of Oahu in 2014, the island
10 of Maui in 2016, and the islands of Kauai and Lanai in 2020.
11 More than ninety per cent of coffee farms in the Kona region are
12 affected by the coffee borer beetle, and most farms have
13 experienced some degree of infestation and secondary
14 infestation. The pests have drastically reduced the yield of
15 coffee trees in Kona and adversely impacted the quantity and
16 price of coffee from the region.



1 The legislature recognizes that, in 2020, the United States
2 Department of Agriculture confirmed the presence of coffee leaf
3 rust (the fungus *Hemileia vastrix*) in the Holualoa area of the
4 Kona region. To date, in the United States, coffee leaf rust
5 has only been found in Hawaii, specifically in Holualoa, Hawaii;
6 Haiku, Maui; and on the island of Lanai. A February 2021 survey
7 of commercial coffee farms on the island of Hawaii found that
8 eleven of the seventeen conventional and organic farms surveyed
9 tested positive for coffee leaf rust. The long-term effects of
10 coffee leaf rust may include dieback, or progressive death of
11 the trees' branches, shoots, or roots, which would significantly
12 impact the following year's coffee yield. Some researchers
13 estimate losses of thirty per cent to eighty per cent of
14 Hawaii's coffee crop if coffee leaf rust is left unchecked.

15 The legislature further finds that, in addition to chemical
16 and organic pesticides, there are various organic approaches and
17 ecological pest management strategies that can be used to deter
18 and destroy the coffee borer beetle and coffee leaf rust. These
19 approaches are particularly useful and necessary for allowing
20 organic farms to address pests while maintaining their organic
21 coffee certifications. These non-pesticide methods include



1 field sanitation, biocontrol agents, and soil amendments. A
2 research paper published in 2021 in the journal Agronomy found
3 that soil amendments that balance the mineral nutrition of the
4 coffee plant are effective at reducing coffee leaf rust and
5 preventing its spread, especially when combined with foliar
6 application of nutritional supplements. The College of Tropical
7 Agriculture and Human Resources at the University of Hawaii at
8 Manoa recommended "following an integrated pest management
9 approach, using as many of the suggestions as possible," because
10 "research in foreign coffee-producing regions has proven that no
11 single approach will control [~~the coffee borer beetle~~]."

12 Accordingly, the purpose of this Act is to amend the
13 pesticide revolving fund and pesticide subsidy program to
14 include all effective pest control methods available to farmers,
15 including physical, cultural, organic-compliant chemical, and
16 ecological approaches.

17 PART II

18 SECTION 2. Act 105, Session Laws of Hawaii 2014, as
19 amended by section 1 of Act 152, Session Laws of Hawaii 2015, as
20 amended by section 2 of Act 65, Session Laws of Hawaii 2017, as
21 amended by section 2 of Act 32, Session Laws of Hawaii 2018, as



1 amended by section 43 of Act 111, Session Laws of Hawaii, 2019,
2 as amended by section 2 of Act 138, Session Laws of Hawaii 2021,
3 is amended by amending section 3 to read:

4 "SECTION 3. (a) There is established in the department of
5 agriculture a ~~[pesticide]~~ pest control subsidy program to be
6 administered by the department beginning on July 1, 2014, and
7 ending on June 30, 2023. The department shall grant subsidies
8 to coffee growers to assist the coffee growers in offsetting the
9 costs of purchasing any ~~[pesticide that is listed]~~ appropriate
10 pest control method identified by the department pursuant to
11 ~~[subsection]~~ subsections (f) [-] and (g).

12 (b) Applications for subsidies by coffee growers shall be
13 submitted on a form furnished by the department and shall be
14 filed with accompanying documentation of the costs of
15 ~~[purchasing the pesticide,]~~ implementing the pest control
16 method; provided that:

17 (1) The applicant shall indemnify and hold harmless the
18 State and its officers, agents, and employees from all
19 claims arising out of or resulting from the ~~[pesticide~~
20 ~~purchased,]~~ pest control method implemented; and



1 (2) The department may request that an applicant provide
2 necessary information for the purposes of verifying
3 the size or sale weight, as applicable, and amount of
4 the [~~pesticide purchased~~] pest control method
5 implemented.

6 (c) Documentation of [~~pesticide~~] pest control method
7 costs, as requested by the department, shall be filed for
8 [~~pesticides purchased~~] pest control methods implemented within
9 the immediately preceding fiscal year of filing and shall be
10 effective for [~~pesticide~~] pest control method costs incurred
11 after June 30, 2014, and before July 1, 2023.

12 (d) Funds shall be disbursed upon approval on an annual
13 basis by the department to the coffee grower for up to
14 seventy-five per cent of the costs incurred for the purchase of
15 the [~~pesticide~~] pest control method before July 1, 2023.

16 (e) The department shall aggregate the total subsidy
17 applications pursuant to this section and divide and distribute
18 the available subsidy funds on a pro rata basis; provided that
19 no single coffee grower shall receive subsidies that are more
20 than \$600 per year for coffee berry borer control per acre of
21 land in coffee production and more than \$600 per year for coffee



1 leaf rust control per acre of land in coffee production;
2 provided further that no single coffee grower shall receive
3 subsidies that are more than \$9,000 per year; provided further
4 that no single coffee grower shall receive subsidies that total
5 more than \$6,000 per year for the period after June 30, 2018,
6 and before July 1, 2021; provided further that no single coffee
7 grower shall receive subsidies that total more than \$12,000 per
8 year for the period after June 30, 2021, and before July 1,
9 2023.

10 (f) The department shall establish a list of pesticides
11 that are registered with the United States Environmental
12 Protection Agency and are licensed with the State that contain
13 *Beauveria bassiana*, a fungus known to eradicate the coffee berry
14 borer, as an active ingredient. The department shall also
15 establish a list of pesticides that are registered with the
16 United States Environmental Protection Agency; are licensed with
17 the State; and are contact and systemic fungicides that, when
18 combined, are effective against coffee leaf rust.

19 (g) The department, in collaboration with an organic
20 agricultural expert from the university of Hawaii college of
21 tropical agriculture and human resources, shall establish a list



1 of pest control methods that are eligible for the subsidy,
2 including:

- 3 (1) Soil amendments;
4 (2) Biological and ecological control strategies for
5 invasive species; and
6 (3) Other recognized practices in the agricultural
7 industry.

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

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



1 ~~[pesticide]~~ pest control subsidy program manager position,
 2 including the position's exemption from chapters 76 and 89,
 3 Hawaii Revised Statutes, shall expire on June 30, 2024.

4 ~~[(h)]~~ (i) Not later than twenty days prior to the
 5 convening of the regular session of 2023, the department shall
 6 submit a report of its findings and recommendations, including
 7 any proposed legislation, to the legislature on the results of
 8 the subsidy program and whether the program should be allowed to
 9 expire or be extended, and if extended, with or without
 10 modification.

11 ~~[(i)]~~ (j) 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 ~~[(j)]~~ (k) As used in this Act, "department" means the
 15 department of agriculture."

PART III

17 SECTION 3. Section 149A-13.5, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "§149A-13.5 ~~[Pesticide use]~~ Pest control revolving fund;
 20 ~~[pesticide]~~ pest control training workshops; training fee. (a)

21 There is established within the treasury of the State, a



1 [~~pesticide-use~~] pest control revolving fund. The fund shall be
2 administered by the department for the purposes of this section.
3 The fund shall consist of:

4 (1) Licensing and registration fees and charges collected
5 by the department under section 149A-13(b);

6 (2) All fees collected by the department through the
7 collection of training fees in accordance with
8 subsection (c);

9 (3) Funds appropriated for the [~~pesticide~~] pest control
10 subsidy program established under Act 105, Session
11 Laws of Hawaii 2014; and

12 (4) All penalties and fines collected by the department
13 under section 149A-41.

14 (b) Moneys in the [~~pesticide-use~~] pest control revolving
15 fund shall be expended by the department:

16 (1) To support the pesticide program's registration and
17 licensing, certification and education, and compliance
18 monitoring activities;

19 (2) To establish [~~pesticide~~] pest control training
20 workshops and educational programs, including, but not
21 limited to, eradication and control programs for pests



1 designated in section 141-3, using the best available
2 technology and best practices in a manner consistent
3 with state and federal law;

4 (3) To develop integrated pest management strategies, the
5 [~~pesticide~~] pest control subsidy program created under
6 Act 105, Session Laws of Hawaii 2014, and other
7 services for [~~pesticide~~] pest control users such as
8 the agricultural pest control industry, the structural
9 pest control industry, and consumer users of
10 pesticides[7] and other pest control methods, which
11 provide [~~pesticide~~] instruction in areas, including
12 but not limited to the collection, disposal, and
13 recycling of pesticide containers; and
14 (4) For all other [~~pesticide~~] pest control services deemed
15 necessary by the department.

16 Moneys from the revolving fund may be used for personnel,
17 services, materials, and equipment for the purposes of this
18 section.

19 Moneys expended by the department from the [~~pesticide use~~]
20 pest control revolving fund for training workshops, educational
21 programs, and other services for the agricultural pest control



1 industry, the structural pest control industry, and consumer
2 groups shall be expended in a manner that appropriately
3 addresses the needs of each category of [~~pesticide~~] pest control
4 user.

5 (c) The department may set fees for the educational
6 services and training provided under this section.

7 (d) All interest earned on the deposit or investment of
8 the moneys in the fund shall become a part of the fund.

9 (e) All unobligated, unencumbered, or unexpended funds
10 remaining in the fund in excess of \$1,000,000 at the close of
11 each fiscal year shall lapse to the state general fund.

12 (f) The department shall submit an annual report to the
13 legislature on all moneys deposited into, and disbursed from,
14 the [~~pesticide-use~~] pest control revolving fund. The report
15 shall be submitted to the legislature not fewer than twenty days
16 prior to the convening of each regular session. The report
17 shall group all moneys deposited into, and disbursed from, the
18 revolving fund according to the categories established in
19 subsections (a) to (e)."



1 PART IV

2 SECTION 4. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$ or so
4 much thereof as may be necessary for fiscal year 2022-2023 to be
5 deposited into the pest control revolving fund.

6 SECTION 5. There is appropriated out of the pest control
7 revolving fund the sum of \$ or so much thereof as may
8 be necessary for fiscal year 2022-2023 for administering the
9 pest control subsidy program.

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

12 PART V

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

15 SECTION 7. This Act shall take effect on July 1, 2022.

16 INTRODUCED BY: *Joe Acasio*



S.B. NO. 3214

Report Title:

HDOA; Pesticide Subsidy Program; Pest Control Subsidy Program;
Pesticide Use Revolving Fund; Pest Control Revolving Fund;
Appropriation

Description:

Amends the title and scope of the pesticide subsidy program and pesticide use revolving fund to include all pest control methods approved by the Hawaii Department of Agriculture. Appropriates moneys into and out of the pest control revolving fund for administering the pest control subsidy program.

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