

MAR 10 2022

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF AGRICULTURE TO SUBMIT A REPORT ON
PESTICIDE INSPECTIONS CONDUCTED WITHIN THE PAST FIVE YEARS
AND STRENGTHEN STATEWIDE ENFORCEMENT OF RESTRICTED USE
PESTICIDE VIOLATIONS.

1 WHEREAS, the failure to adhere to pesticide use
2 instructions poses significant risks to public health and the
3 environment, including potential health injuries to farm workers
4 and nearby residents, injury to non-target sensitive plants and
5 species, drift harms to nearby farms and gardens, and short- and
6 long-term contamination of the State's soil, air, and water; and
7

8 WHEREAS, despite these risks, pesticides have been misused
9 and continue to be misused within the State; and
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11 WHEREAS, according to a 2016 news release by Region 9 of
12 the United States Environmental Protection Agency, in January
13 2016, nineteen workers entered a west Kauai agribusiness field
14 recently sprayed with a restricted use organophosphate
15 insecticide, ten of whom were taken to a nearby hospital for
16 medical treatment; and
17

18 WHEREAS, the agricultural operation reportedly failed in
19 its duties to adequately implement the Federal Insecticide,
20 Fungicide, and Rodenticide Act's Worker Protection Standard by
21 failing to notify its workers to avoid fields recently treated
22 with pesticides, then allowing or directing workers to enter the
23 treated field before the required waiting period had passed and
24 without proper personal protective equipment, which resulted in
25 the workers' exposure to a restricted use pesticide with the
26 active ingredient chlorpyrifos; and
27

28 WHEREAS, although the United States Environmental
29 Protection Agency initially sought civil penalties of over



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1 \$4,800,000, in February 2018, a settlement was reached for the
2 improper use of chlorpyrifos in 2016 and 2017 for a \$150,000
3 payment and \$400,000 in costs to train farmers, particularly
4 small-scale growers, in pesticide use; and
5

6 WHEREAS, in March 2018, the United States Environmental
7 Protection Agency fined a commercial pesticide applicator
8 \$168,535 for misusing restricted use fumigant pesticides on
9 Kauai, saying that the applicator had failed to ensure that only
10 certified workers or workers directly supervised by a certified
11 worker applied a restricted use pesticide, failed to provide
12 proper worker protection equipment, failed to properly monitor
13 the pesticide's application or measure the amount of pesticide
14 used, and failed to maintain at least two years of routine
15 operational records; and
16

17 WHEREAS, in November 2019, an agribusiness operation agreed
18 to plead guilty to illegally spraying a banned pesticide known
19 as Penncap-M, containing the active ingredient methyl parathion,
20 on Maui in 2014 and entered into a deferred prosecution
21 agreement involving unlawfully storing an acute hazardous waste
22 at facilities on Maui and Molokai, agreeing to pay \$10,200,000;
23 and
24

25 WHEREAS, two years later, in December 2021, the same
26 agribusiness operation agreed to plead guilty to thirty
27 environmental misdemeanor crimes related to the use of a
28 pesticide in 2020 on fields on Oahu and allowing workers to
29 enter the fields during a restricted-entry period after the
30 product was applied and pay another \$12,000,000 in fines and
31 community service payments; and
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33 WHEREAS, a May 2016 study entitled "Pesticide Use by Large
34 Agribusinesses on Kaua'i", prepared by an independent Joint Fact
35 Finding Study Group, points out the need for additional
36 pesticide inspections and reporting on the results of
37 inspections, and faster follow-through of inspections and legal
38 compliance reviews; and
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40 WHEREAS, according to the same study, the use of drift-
41 prone pesticides needs to be more strictly monitored through
42 inspections and proven violators should be fined; and



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1
 2 WHEREAS, Act 45, Session Laws of Hawaii 2018, established
 3 additional state requirements for users of restricted use
 4 pesticides, prohibited restricted use pesticides within school
 5 buffer zones, and prohibited the use of pesticides containing
 6 chlorpyrifos as an active ingredient, among other measures; and
 7

8 WHEREAS, under existing state law, commercial and private
 9 pesticide applicators who violate pesticide regulations may
 10 receive a written warning upon their first offense, regardless
 11 of whether the offense resulted in injury or illness; and
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13 WHEREAS, enforcement of Hawaii's pesticide laws, as well as
 14 timely and routine inspections and compliance investigations of
 15 potential pesticide misuse, are crucial to protecting public
 16 health and ensuring public confidence in the State's oversight
 17 of pesticide use; now, therefore,
 18

19 BE IT RESOLVED by the Senate of the Thirty-first
 20 Legislature of the State of Hawaii, Regular Session of 2022, the
 21 House of Representatives concurring, that the Department of
 22 Agriculture is requested to submit a report on pesticide
 23 inspections conducted within the past five years and strengthen
 24 statewide enforcement of restricted use pesticide violations;
 25 and
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27 BE IT FURTHER RESOLVED that the Department of Agriculture
 28 is requested to submit its report, including any findings,
 29 recommendations, and proposed legislation, to the Legislature no
 30 later than twenty days prior to the convening of the Regular
 31 Session of 2023; and
 32

33 BE IT FURTHER RESOLVED that certified copies of this
 34 Concurrent Resolution be transmitted to the Governor, Director
 35 of Health, Chairperson of the Board of Agriculture, and
 36 Chairperson of the Board of Land and Natural Resources.
 37
 38
 39

OFFERED BY: Kal Ahook

