



1           §27-B Pesticide and fertilizer use on state property. (a)

2 The following substances are allowed for use on state property  
3 as pesticides or fertilizers:

4           (1) Pesticides and fertilizers listed as "allowed" on the  
5 National List of Allowed and Prohibited Substances as  
6 listed in title 7 Code of Federal Regulations 205.601,  
7 205.603, 205.605, and 205.606;

8           (2) "Minimum risk pesticides" exempt from registration  
9 under the Federal Insecticide, Fungicide, and  
10 Rodenticide Act (40 C.F.R. 152.25(f)); and

11           (3) The following, when used in compliance with  
12 manufacturer specifications:

13           (A) Disinfectants, germicides, bactericides,  
14 miticides, and virucides;

15           (B) Insect repellents;

16           (C) Rat and rodent extermination products;

17           (D) Swimming pool supplies;

18           (E) General use paints, stains, and wood  
19 preservatives and sealants; and

20           (F) Citric acid.



1 (b) Unless a waiver is approved under section 27-D, the  
2 use of substances not allowed under subsection (a) as pesticides  
3 and fertilizers on state property is prohibited; provided that  
4 substances not allowed under subsection (a) may be used as  
5 pesticides to control:

6 (1) Mosquitoes;

7 (2) Animals or insects, including fire ants and termites,  
8 that may cause damage to buildings and structures; and

9 (3) Invasive species whose introduction causes, or is  
10 likely to cause, economic or environmental harm or  
11 harm to human health.

12 **§27-C Exemptions.** This part shall not apply to:

13 (a) State agricultural parks or state property used for  
14 agricultural purposes; and

15 (b) Whole structure fumigation on school property pursuant  
16 to section 149A-28.

17 **§27-D Waiver.** (a) A state department or agency may apply  
18 to the department of agriculture for a waiver from section 27-B  
19 prior to the use of a substance prohibited by section 27-B as a  
20 pesticide or fertilizer on state property owned, controlled, or



1 managed by the applying department or agency. The waiver  
2 application shall include:

- 3 (1) A location map for the proposed area of use;
- 4 (2) A landscape plan;
- 5 (3) Photographs of the proposed area of use and vegetation  
6 on the area;
- 7 (4) A summary of the existing plants, soils, and  
8 environmental conditions for the area;
- 9 (5) A history of vegetation management practices,  
10 including pesticide and fertilizer application amounts  
11 and frequency;
- 12 (6) Cost estimates and a timeline;
- 13 (7) Information on how the public's health and safety is  
14 threatened;
- 15 (8) An evaluation and list of the results of alternative  
16 methods and materials; and
- 17 (9) An explanation of how the application of a substance  
18 prohibited by this part as a pesticide or fertilizer  
19 will, to the greatest extent practical, minimize the  
20 impact of the application on abutting properties,  
21 human health, and the environment.



1 (b) The department of agriculture may approve a waiver  
2 application or waiver extension request in writing upon finding  
3 that:

4 (1) A situation exists that threatens the public's health  
5 and safety;

6 (2) Alternative control methods and allowed substances  
7 have been evaluated and determined to be insufficient;  
8 and

9 (3) The application of a substance prohibited by section  
10 27-B will, to the greatest extent practical, minimize  
11 the impact of the application on abutting properties.

12 (c) A waiver may be granted for a period of up to two  
13 years and may include conditions such as signage to protect  
14 public health and safety.

15 (d) A waiver extension request shall be submitted at least  
16 ninety days prior to the expiration of the waiver. The  
17 extension request shall include the same information as the  
18 initial application.

19 (e) If the department of agriculture fails to approve or  
20 disapprove a waiver application or waiver extension request in



1 writing within one hundred eighty days, the application or  
2 request shall be deemed approved.

3       **§27-E No conflict with federal law.** Nothing in this part  
4 shall be interpreted or applied so as to create a requirement or  
5 duty in conflict with any federal law."

6       SECTION 2. Section 27-1, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       "**§27-1 Functions of statewide concern.** The purpose of the  
9 chapter is to fix responsibility for certain functions, which  
10 are of statewide concern, in the state government. These  
11 functions which are declared to be state functions are as  
12 follows:

13       (1) Planning, construction, improvement and maintenance of  
14 public school facilities and grounds and the  
15 transportation of school children; provided that  
16 nothing in this paragraph shall preclude the several  
17 counties from expending their own funds to supplement  
18 state funds;

19       (2) Burial of indigents;



- 1 (3) Planning, construction, improvement, maintenance, and
- 2 operation of public hospitals and other public health
- 3 and medical facilities;
- 4 (4) Rendering of medical treatment and hospitalization
- 5 services to state and county pensioners;
- 6 (5) Administration and operation of district courts; [~~and~~]
- 7 (6) Providing information and services to the public
- 8 through joint cooperation with the several
- 9 counties[~~-~~]; and
- 10 (7) Use or application of substances as pesticides and
- 11 fertilizers on state property."

12 SECTION 3. Section 149A-31, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14 "**§149A-31 Prohibited acts.** No person shall:

- 15 (1) Use any pesticide in a manner inconsistent with its
- 16 label, except that it shall not be unlawful to:
- 17 (A) Apply a pesticide at any dosage, concentration,
- 18 or frequency less than that specified on the
- 19 label or labeling; provided that the efficacy of
- 20 the pesticide is maintained; provided further
- 21 that when a pesticide is applied by a commercial



- 1 applicator, the deviation from the label  
2 recommendations shall be with the consent of the  
3 purchaser of the pesticide application services;
- 4 (B) Apply a pesticide against any target pest not  
5 specified in the labeling if the application is  
6 to a crop, animal, or site specified on the label  
7 or labeling; provided that the label or labeling  
8 does not specifically prohibit the use on pests  
9 other than those listed on the label or labeling;
- 10 (C) Employ any method of application not prohibited  
11 by the labeling;
- 12 (D) Mix a pesticide or pesticides with a fertilizer  
13 when the mixture is not prohibited by the label  
14 or labeling; or
- 15 (E) Use in a manner determined by rule not to be an  
16 unlawful act;
- 17 (2) Use, store, transport, or discard any pesticide or  
18 pesticide container in any manner that would have  
19 unreasonable adverse effects on the environment;
- 20 (3) Use or apply restricted use pesticides unless the  
21 person is a certified pesticide applicator or under





1 the direct supervision of a certified pesticide  
2 applicator with a valid certificate issued pursuant to  
3 rules adopted under section 149A-33(1); provided that  
4 it shall be prohibited to use or apply a restricted  
5 use pesticide for structural pest control uses for a  
6 fee or trading of services, unless the user or  
7 applicator is a pest control operator or is employed  
8 by a pest control operator licensed under chapter  
9 460J;

10 (4) Use or apply pesticides in any manner that has been  
11 suspended, canceled, or restricted pursuant to section  
12 149A-32.5;

13 (5) Falsify any record or report required to be made or  
14 maintained by rules adopted pursuant to this chapter;

15 (6) Fill with water, through a hose, pipe, or other  
16 similar transmission system, any tank, implement,  
17 apparatus, or equipment used to disperse pesticides,  
18 unless the tank, implement, apparatus, equipment,  
19 hose, pipe, or other similar transmission system is  
20 equipped with an air gap or a reduced-pressure  
21 principle backflow device meeting the requirements



1 under section 340E-2 and the rules adopted thereunder;  
2 [~~e~~]

3 (7) Beginning January 1, 2019, use or apply any pesticide  
4 containing chlorpyrifos as an active ingredient;  
5 provided that:

6 (A) The department shall grant to any person, upon  
7 request, a temporary permit authorizing the  
8 person, until December 31, 2022, to use or apply  
9 a pesticide containing chlorpyrifos as an active  
10 ingredient; and

11 (B) Any person who violates this paragraph shall be  
12 subject to a penalty pursuant to section  
13 149A-41[~~r~~]; or

14 (8) Use or apply any substance as a pesticide on state  
15 property in violation of section 27-B."

16 SECTION 4. In codifying the new sections added by section  
17 1 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.



# H.B. NO. 1984

1 SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2023.

7

INTRODUCED BY: \_\_\_\_\_



JAN 24 2022



# H.B. NO. 1984

**Report Title:**

Pesticides; Fertilizers; State Property; Prohibition

**Description:**

Establishes a list of substances allowed for use as pesticides and fertilizers on state property. Provides that the use of substances not specifically allowed as pesticides and fertilizers on state property is prohibited, unless certain exceptions, a waiver, or exemption apply. Requires a state department or agency seeking a waiver to apply to the department of agriculture. Effective July 1, 2023.

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