
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL AND AGRICULTURAL PROTECTION.

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

1 SECTION 1. The legislature finds that, to further the
2 State's leadership in addressing climate change, increased
3 environmental and agricultural awareness among travelers to the
4 State is essential in preserving the unique environment of the
5 State. Throughout 2021, an alarming amount of footage
6 circulated on social media of visitors harassing protected
7 marine life. This evidence revealed multiple occasions of
8 individuals touching, violating the physical space, and pursuing
9 marine animals protected under the Endangered Species Act of
10 1973 (ESA). The primary animals targeted were honu, the
11 Hawaiian green sea turtle, and 'ilioholoikauaua, the Hawaiian
12 monk seal. Both animals are endemic to the Hawaiian islands and
13 are protected under the ESA. The threat of their extinction is
14 directly caused by human interaction and impact on the
15 ecosystem. The 'ilioholoikauaua is one of the most endangered
16 marine animals in the world and is only native to Hawai'i, making
17 our responsibility to protect them of global importance. For



1 both species, time on land is essential for survival and the
2 legislature is now aware that this important fact is being
3 ignored. Honu depend on basking, or resting on land, to
4 regulate their body temperature, which can last up to two or
5 three days; and 'ilioholoikauaua spend one-third of their time on
6 land to rest, making safe conditions on land critical for both
7 species. Under the ESA, Congress recognized the importance of
8 protecting vital species and their habits because they are
9 considered the natural heritage of the United States. As stated
10 in the ESA, it is illegal for any person under the jurisdiction
11 of the United States to "take" any species listed under this
12 protection. The term "take" means to harass, harm, pursue,
13 hunt, shoot, wound, kill, trap, capture, collect, or attempt to
14 engage in any such conduct.

15 The legislature further finds that it is in the best
16 interest of the State to protect the natural capital that
17 attracts visitors and stimulates the economy including
18 agricultural products, animals, and resources. The increase in
19 acts of disrespect to and ignorance about the environment, many
20 well publicized, have brought necessary attention to the
21 problem. Likewise, the State's longstanding concerns about the



1 transport of plants and animals into the State that can cause
2 damage and destruction to agricultural crops and land remain
3 unabated. Increasing environmental and agricultural awareness
4 among visitors and residents alike will help to preserve the
5 ecological beauty that sustains the State's economy, continue
6 the State's leadership in addressing climate change, and protect
7 the natural legacy of the State for generations to come.
8 Recently, private organizations and one of the counties have
9 initiated voluntary pledges for visitors to understand and
10 commit to responsible tourism, one example being the island of
11 Hawai'i's Pono Pledge.

12 The purpose of this Act is to establish a mandatory
13 environmental and agricultural affirmation for in-bound
14 travelers to the State to acknowledge state and federal laws and
15 each individual's responsibility to protect the natural
16 environment and agriculture of the State, that will be
17 incorporated into the existing paper plant and animal
18 declaration form and into any other documentation, electronic or
19 otherwise, that travelers are required to complete in order to
20 enter the State.



1 SECTION 2. Section 150A-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§150A-5 Conditions of importation.** The importation into
4 the State of any of the following articles, viz., nursery-stock,
5 tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud,
6 seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain,
7 cereal, or legume in the natural or raw state; moss, hay, straw,
8 dry-grass, or other forage; unmanufactured log, limb, or timber,
9 or any other plant-growth or plant-product, unprocessed or in
10 the raw state; soil; microorganisms; live bird, reptile,
11 nematode, insect, or any other animal in any stage of
12 development (that is in addition to the so-called domestic
13 animal, the quarantine of which is provided for in chapter 142);
14 box, vehicle, baggage, or any other container in which such
15 articles have been transported or any packing material used in
16 connection therewith shall be made in the manner hereinafter set
17 forth:

18 (1) Notification of arrival. Any person who receives for
19 transport or brings or causes to be brought to the
20 State as freight, air freight, baggage, or otherwise,
21 for the purpose of debarkation or entry therein, or as



1 ship's stores, any of the foregoing articles, shall,
2 immediately upon the arrival thereof, notify the
3 department, in writing, of the arrival, giving the
4 waybill number, container number, name and address of
5 the consignor, name and address of the consignee or
6 the consignee's agent in the State, marks, number of
7 packages, description of contents of each package,
8 port at which laden, and any other information that
9 may be necessary to locate or identify the same, and
10 shall hold such articles at the pier, airport, or any
11 other place where they are first received or
12 discharged, in such a manner that they will not spread
13 or be likely to spread any infestation or infection of
14 insects or diseases that may be present until
15 inspection and examination can be made by the
16 inspector to determine whether or not any article, or
17 any portion thereof, is infested or infected with or
18 contains any pest. The department may adopt rules to
19 require identification of specific articles on
20 negotiable and non-negotiable warehouse receipts,
21 bills of lading, or other documents of title for



1 inspection of pests. In addition, the department
2 shall adopt rules to designate restricted articles
3 that shall require:

4 (A) A permit from the department in advance of
5 importation; or

6 (B) A department letter of authorization or
7 registration in advance of importation.

8 The restricted articles shall include but not be
9 limited to certain microorganisms or living insects.
10 Failure to obtain the permit, letter of authorization,
11 or registration in advance is a violation of this
12 section;

13 (2) Individual passengers, officers, and crew.

14 (A) It shall be the responsibility of the
15 transportation company to distribute, prior to
16 the debarkation of passengers and baggage, the
17 State of Hawaii plant and animal declaration form
18 to each passenger, officer, and crew member of
19 any aircraft or vessel originating in the
20 continental United States or its possessions or
21 from any other area not under the jurisdiction of



1 the appropriate federal agency in order that the
2 passenger, officer, or crew member can comply
3 with the directions and requirements appearing
4 thereon. All passengers, officers, and crew
5 members, whether or not they are bringing or
6 causing to be brought for entry into the State
7 the articles listed on the form, shall complete
8 the declaration, except that one adult member of
9 a family may complete the declaration for other
10 family members. Any person who defaces the
11 declaration form required under this section,
12 gives false information, fails to declare
13 restricted articles in the person's possession or
14 baggage, or fails to declare in cargo manifests
15 is in violation of this section;

16 (B) Completed forms shall be collected by the
17 transportation company and be delivered,
18 immediately upon arrival, to the inspector at the
19 first airport or seaport of arrival. Failure to
20 distribute or collect declaration forms or to



1 immediately deliver completed forms is a
2 violation of this section; and

3 (C) It shall be the responsibility of the officers
4 and crew of an aircraft or vessel originating in
5 the continental United States or its possessions
6 or from any other area not under the jurisdiction
7 of the appropriate federal agency to immediately
8 report all sightings of any plants and animals to
9 the plant quarantine branch. Failure to comply
10 with this requirement is a violation of this
11 section;

12 (3) Plant and animal declaration form. The form shall
13 include directions for declaring domestic and other
14 animals cited in chapter 142, [~~in addition to~~] the
15 articles enumerated in this chapter[+], and an
16 environmental and agricultural affirmation that the
17 signatory acknowledges the signatory's responsibility
18 to respect and protect the State's environmental and
19 agricultural resources and that the signatory will
20 abide by all state and federal laws, including those



1 that protect endangered plants, animals, and
2 ecosystems;

3 (4) Labels. Each container in which any of the above-
4 mentioned articles are imported into the State shall
5 be plainly and legibly marked, in a conspicuous manner
6 and place, with the name and address of the shipper or
7 owner forwarding or shipping the same, the name or
8 mark of the person to whom the same is forwarded or
9 shipped or the person's agent, the name of the
10 country, state, or territory and locality therein
11 where the product was grown or produced, and a
12 statement of the contents of the container. Upon
13 failure to comply with this paragraph, the importer or
14 carrier is in violation of this section;

15 (5) Authority to inspect. Whenever the inspector has good
16 cause to believe that the provisions of this chapter
17 are being violated, the inspector may:

18 (A) Enter and inspect any aircraft, vessel, or other
19 carrier at any time after its arrival within the
20 boundaries of the State, whether offshore, at the
21 pier, or at the airport, for the purpose of



1 determining whether any of the articles or pests
2 enumerated in this chapter or rules adopted
3 thereto, is present;

4 (B) Enter into or upon any pier, warehouse, airport,
5 or any other place in the State where any of the
6 above-mentioned articles are moved or stored, for
7 the purpose of ascertaining, by inspection and
8 examination, whether or not any of the articles
9 is infested or infected with any pest or disease
10 or contaminated with soil or contains prohibited
11 plants or animals; and

12 (C) Inspect any baggage or personal effects of
13 disembarking passengers, officers, and crew
14 members on aircraft or vessels arriving in the
15 State to ascertain if they contain any of the
16 articles or pests enumerated in this chapter. No
17 baggage or other personal effects of the
18 passengers or crew members shall be released
19 until the baggage or effects have been passed.



1 Baggage or cargo inspection shall be made at the
2 discretion of the inspector, on the pier, vessel, or
3 aircraft or in any quarantine or inspection area.

4 Whenever the inspector has good cause to believe
5 that the provisions of this chapter are being
6 violated, the inspector may require that any box,
7 package, suitcase, or any other container carried as
8 ship's stores, cargo, or otherwise by any vessel or
9 aircraft moving between the continental United States
10 and Hawaii or between the Hawaiian Islands, be opened
11 for inspection to determine whether any article or
12 pest prohibited by this chapter or by rules adopted
13 pursuant thereto is present. It is a violation of
14 this section if any prohibited article or any pest or
15 any plant, fruit, or vegetable infested with plant
16 pests is found;

17 (6) Request for importation and inspection. In addition
18 to requirements of the United States customs
19 authorities concerning invoices or other formalities
20 incident to importations into the State, the importer
21 shall be required to file a written statement with the



1 department, signed by the importer or the importer's
2 agent, setting forth the importer's desire to import
3 certain of the above-mentioned articles into the State
4 and:

5 (A) Giving the following additional information:

6 (i) The kind (scientific name), quantity, and
7 description;

8 (ii) The locality where the same were grown or
9 produced;

10 (iii) Certification that all animals to be
11 imported are the progeny of captive
12 populations or have been held in captivity
13 for a period of one year immediately prior
14 to importation or have been specifically
15 approved for importation by the board;

16 (iv) The port from which the same were last
17 shipped;

18 (v) The name of the shipper; and

19 (vi) The name of the consignee; and

20 (B) Containing:



- 1 (i) A request that the department, by its duly
2 authorized agent, examine the articles
3 described;
- 4 (ii) An agreement by the importer to be
5 responsible for all costs, charges, or
6 expenses; and
- 7 (iii) A waiver of all claims for damages incident
8 to the inspection or the fumigation,
9 disinfection, quarantine, or destruction of
10 the articles, or any of them, as hereinafter
11 provided, if any treatment is deemed
12 necessary.

13 Failure or refusal to file a statement, including
14 the agreement and waiver, is a violation of this
15 section and may, in the discretion of the department,
16 be sufficient cause for refusing to permit the entry
17 of the articles into the State;

- 18 (7) Place of inspection. If, in the judgment of the
19 inspector, it is deemed necessary or advisable to move
20 any of the above-mentioned articles, or any portion
21 thereof, to a place more suitable for inspection than



1 the pier, airport, or any other place where they are
2 first received or discharged, the inspector is
3 authorized to do so. All costs and expenses incident
4 to the movement and transportation of the articles to
5 such place shall be borne by the importer or the
6 importer's agent. If the importer, importer's agent,
7 or transportation company requests inspection of
8 sealed containers of the above-mentioned articles at
9 locations other than where the articles are first
10 received or discharged and the department determines
11 that inspection at such place is appropriate, the
12 department may require payment of costs necessitated
13 by these inspections, including overtime costs;

14 (8) Disinfection or quarantine. If, upon inspection, any
15 article received or brought into the State for the
16 purpose of debarkation or entry therein is found to be
17 infested or infected or there is reasonable cause to
18 presume that it is infested or infected and the
19 infestation or infection can, in the judgment of the
20 inspector, be eradicated, a treatment shall be given
21 such article. The treatment shall be at the expense



1 of the owner or the owner's agent, and the treatment
2 shall be as prescribed by the department. The article
3 shall be held in quarantine at the expense of the
4 owner or the owner's agent at a satisfactory place
5 approved by the department for a sufficient length of
6 time to determine that eradication has been
7 accomplished. If the infestation or infection is of
8 such nature or extent that it cannot be effectively
9 and completely eradicated, or if it is a potentially
10 destructive pest or it is not widespread in the State,
11 or after treatment it is determined that the
12 infestation or infection is not completely eradicated,
13 or if the owner or the owner's agent refuses to allow
14 the article to be treated or to be responsible for the
15 cost of treatment and quarantine, the article, or any
16 portion thereof, together with all packing and
17 containers, may, at the discretion of the inspector,
18 be destroyed or sent out of the State at the expense
19 of the owner or the owner's agent. Such destruction
20 or exclusion shall not be made the basis of a claim



1 against the department or the inspector for damage or
2 loss incurred;

3 (9) Disposition. Upon completion of inspection, either at
4 the time of arrival or at any time thereafter should
5 any article be held for inspection, treatment, or
6 quarantine, the inspector shall affix to the article
7 or the container or to the delivery order in a
8 conspicuous place thereon, a tag, label, or stamp to
9 indicate that the article has been inspected and
10 passed. This action shall constitute a permit to
11 bring the article into the State; and

12 (10) Ports of entry. None of the articles mentioned in
13 this section shall be allowed entry into the State
14 except through the airports and seaports in the State
15 designated and approved by the board."

16 SECTION 3. The department of agriculture, in consultation
17 with the department of business, economic development, and
18 tourism, shall revise the plant and animal declaration form to
19 include the environmental and agricultural affirmation pursuant
20 to section 150A-5, Hawaii Revised Statutes. The revised form
21 shall be in effect for distribution by all transportation



1 companies to in-bound passengers, officers, and crew members
2 pursuant to section 150A-5(2), Hawaii Revised Statutes, no later
3 than April 22, 2024.

4 SECTION 4. The environmental and agricultural affirmation
5 required by section 150A-5(3), Hawaii Revised Statutes, shall be
6 included in any documentation, electronic or otherwise, that
7 passengers, officers, and crew members are required to complete
8 in order to enter the State; provided that if the only purpose
9 of the documentation is related to a dangerous communicable
10 disease, the affirmation shall not be required.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on June 30, 3000.



Report Title:

Environmental and Agricultural Affirmation; Tourism; Declaration Form; Department of Agriculture; Department of Business, Economic Development, and Tourism

Description:

Modifies the existing plant and animal declaration form to also require in-bound travelers to the State to acknowledge federal and state laws, and individual responsibility to protect the environment and agriculture of the State. Requires all other documents travelers are required to complete to enter the State, except documents only relating to a dangerous communicable disease, to include an environmental and agricultural affirmation. Effective 6/30/3000. (HD1)

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

