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# A BILL FOR AN ACT

RELATING TO COFFEE PEST CONTROL.

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

1           SECTION 1. The legislature finds that coffee is one of the  
2 largest agricultural crops in the State and is a highly valued  
3 commodity in Hawai'i's economy. In recent years, the coffee  
4 berry borer, a small beetle, has infested coffee crops in the  
5 Kona and Ka'u regions of Hawai'i island, and more recently has  
6 been detected on O'ahu, Maui, Kaua'i, and Lana'i. In 2020, coffee  
7 leaf rust, caused by a fungal pathogen, was discovered for the  
8 first time in the State on Maui and Hawai'i island. These two  
9 pests threaten the viability of the State's entire coffee  
10 industry. Efforts to control coffee berry borer and coffee leaf  
11 rust are critical to the local coffee industry, and it is  
12 incumbent upon the State to continue to support these efforts.

13           The legislature further finds that in response to these  
14 threats to the industry, the coffee berry borer pesticide  
15 subsidy program was established by Act 105, Session Laws of  
16 Hawaii 2014 (Act 105), to assist Hawai'i coffee farmers with  
17 offsetting the cost of pesticides containing the fungus



1 *Beauveria bassiana*, which is known to control coffee berry  
2 borer. Due to a longer-than-anticipated implementation of Act  
3 105, in 2017, the legislature extended the pesticide subsidy  
4 program from its original sunset date of June 30, 2019, to  
5 June 30, 2021, via Act 65, Session Laws of Hawaii 2017 (Act 65).  
6 After continued programmatic success and the initial discovery  
7 of coffee leaf rust in the islands, in 2021, the legislature  
8 extended the pesticide subsidy program for another two years,  
9 adding a subsidy for coffee leaf rust pesticides.

10 As of December 9, 2022, the department of agriculture has  
11 received nine hundred eighty receipts for reimbursement under  
12 the coffee berry borer pesticide subsidy program, expending a  
13 total of \$812,319.99 for the mitigation of coffee berry borer  
14 and coffee leaf rust throughout the State. The legislature  
15 finds that, as illustrated by program demand, coffee berry borer  
16 and coffee leaf rust continue to pose a severe threat to the  
17 State's coffee industry, and it is incumbent upon the State to  
18 continue supporting farmers' mitigative efforts, including  
19 through reducing the financial burden of having to purchase  
20 certain pesticides at market value.



1           The legislature additionally finds that in addition to  
2 pesticides, fertilizers are also vital to soil health and plant  
3 nutrition, which can improve the health of coffee plants and  
4 their resistance to pests and thereby ultimately increase the  
5 quantity and quality of Hawaii's premium coffee crop.

6           Accordingly, the purpose of this Act is to:

- 7           (1) Include the costs to purchase certain fertilizers  
8                 under the grant subsidies provided through the  
9                 pesticide subsidy program;
- 10          (2) Rename the program as the pesticide and fertilizer  
11                 subsidy program and the manager position as the  
12                 pesticide and fertilizer subsidy program manager;
- 13          (3) Extend the pesticide and fertilizer subsidy program to  
14                 June 30, 2025;
- 15          (4) Extend the pesticide and fertilizer subsidy manager  
16                 position, including the position's exemptions from  
17                 civil service and collective bargaining laws, until  
18                 June 30, 2026; and
- 19          (5) Appropriate funds for the program and program manager  
20                 position.



1 SECTION 2. Act 105, Session Laws of Hawaii 2014, as  
2 amended by section 1 of Act 152, Session Laws of Hawaii 2015, as  
3 amended by section 2 of Act 65, Session Laws of Hawaii 2017, as  
4 amended by section 2 of Act 32, Session Laws of Hawaii 2018, as  
5 amended by section 43 of Act 111, Session Laws of Hawaii 2019,  
6 as amended by section 2 of Act 138, Session Laws of Hawaii 2021,  
7 is amended as follows:

8 1. By amending section 3 to read:

9 "SECTION 3. (a) There is established in the department of  
10 agriculture a pesticide and fertilizer subsidy program to be  
11 administered by the department beginning on July 1, 2014, and  
12 ending on June 30, [~~2023.~~] 2025. The department shall grant  
13 subsidies to coffee growers to assist the coffee growers in  
14 offsetting the costs of purchasing any pesticide or fertilizer  
15 that is listed by the department pursuant to subsection (f).

16 (b) Applications for subsidies by coffee growers shall be  
17 submitted on a form furnished by the department and shall be  
18 filed with accompanying documentation of the costs of purchasing  
19 the pesticide[+] or fertilizer; provided that:

20 (1) The applicant shall indemnify and hold harmless the  
21 State and its officers, agents, and employees from all



1 claims arising out of or resulting from the pesticide  
2 or fertilizer purchased; and

3 (2) The department may request that an applicant provide  
4 necessary information for the purposes of verifying  
5 the size or sale weight, as applicable, and amount of  
6 the pesticide or fertilizer purchased.

7 (c) Documentation of pesticide or fertilizer costs, as  
8 requested by the department, shall be filed for pesticides or  
9 fertilizers purchased within the immediately preceding fiscal  
10 year of filing and shall be effective for pesticide or  
11 fertilizer costs incurred after June 30, 2014, and before July  
12 1, [~~2023.~~] 2025.

13 (d) Funds shall be disbursed upon approval on an annual  
14 basis by the department to the coffee grower for up to  
15 [~~seventy-five~~]:

16 (1) Seventy-five per cent of the costs incurred for the  
17 purchase of the pesticide or fertilizer before July 1,  
18 2016[~~, and for up to fifty~~];

19 (2) Fifty per cent of the costs incurred for the purchase  
20 of the pesticide or fertilizer for the period



1            beginning after June 30, 2016, and before July 1,  
2            2023[-]; and  
3            (3) Seventy-five per cent of the costs incurred for the  
4            purchase of the pesticide or fertilizer for the period  
5            beginning July 1, 2023, through June 30, 2025.

6            (e) The department shall aggregate the total subsidy  
7            applications pursuant to this section and divide and distribute  
8            the available subsidy funds on a pro rata basis; provided that  
9            no single coffee grower shall receive subsidies that are more  
10           than \$600 per year for coffee berry borer control and more than  
11           \$600 per year for coffee leaf rust control per acre of land in  
12           coffee production; provided further that no single coffee grower  
13           shall receive subsidies that are more than \$9,000 per year;  
14           provided further that no single coffee grower shall receive  
15           subsidies that total more than \$6,000 per year for the period  
16           after June 30, 2018, and before July 1, 2021; provided further  
17           that no single coffee grower shall receive subsidies that total  
18           more than \$12,000 per year for the period after June 30, 2021,  
19           and before July 1, [~~2023-~~] 2025.

20           (f) The department shall establish a list of [~~pesticides~~]:



1        (1) Pesticides that are registered with the United States  
2        Environmental Protection Agency and are licensed with  
3        the State that contain *Beauveria bassiana*, a fungus  
4        known to eradicate the coffee berry borer, as an  
5        active ingredient [~~—The department shall also~~  
6        ~~establish a list of pesticides~~];

7        (2) Pesticides that are registered with the United States  
8        Environmental Protection Agency; are licensed with the  
9        State; and are contact and systemic fungicides that,  
10       when combined, are effective against coffee leaf  
11       rust [~~—~~]; and

12       (3) Fertilizers that are synthetic substances allowed for  
13       use in organic crop production under the National List  
14       of Allowed and Prohibited Substances pursuant to  
15       title 7 Code of Federal Regulations section 205.601  
16       and approved by the department for use on coffee  
17       plants.

18       (g) There is established within the department a pesticide  
19       and fertilizer subsidy program manager position, which shall be  
20       a full-time, temporary position exempt from chapters 76 and 89,  
21       Hawaii Revised Statutes. The pesticide and fertilizer subsidy



1 program manager shall possess a requisite level of knowledge and  
2 expertise in the area of program management necessary to carry  
3 out the duties of the position. The pesticide and fertilizer  
4 subsidy program manager shall:

- 5 (1) Facilitate the efficient division and distribution of  
6 available subsidy funds; and
- 7 (2) Manage the day-to-day coordination for the pesticide  
8 and fertilizer subsidy program.

9 The pesticide and fertilizer subsidy program manager shall  
10 receive a salary of not more than \$50,000 per year. The  
11 pesticide and fertilizer subsidy program manager position,  
12 including the position's exemption from chapters 76 and 89,  
13 Hawaii Revised Statutes, shall expire on June 30, [~~2024.~~] 2026.

14 (h) Not later than twenty days prior to the convening of  
15 the regular session of [~~2023,~~] 2025, the department shall submit  
16 a report of its findings and recommendations, including any  
17 proposed legislation, to the legislature on the results of the  
18 subsidy program and whether the program should be allowed to  
19 expire or be extended, and if extended, with or without  
20 modification.



1 (i) Actions taken by the department pursuant to this  
2 section shall be exempt from the rulemaking requirements of  
3 section 91-3, Hawaii Revised Statutes.

4 (j) As used in this Act, "department" means the department  
5 of agriculture."

6 2. By amending section 6 to read:

7 "SECTION 6. This Act shall take effect on July 1, 2014;  
8 provided that:

9 (1) Section 3 shall be repealed on June 30, [~~2023,~~] 2025,  
10 except that section 3(g) shall be repealed on June 30,  
11 [~~2024,~~] 2026; and

12 (2) The amendment made to section 149A-13.5(b), Hawaii  
13 Revised Statutes, under section 2 of this Act shall  
14 not be repealed when section 149A-13.5(b), Hawaii  
15 Revised Statutes, is repealed and reenacted on  
16 June 30, 2015, by section 4 of Act 168, Session Laws  
17 of Hawaii 2010."

18 SECTION 3. Section 149A-13.5, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) There is established within the treasury of the  
21 State, a pesticide use revolving fund. The fund shall be



1 administered by the department for the purposes of this section.

2 The fund shall consist of:

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

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

8 (3) Funds appropriated for the pesticide and fertilizer  
9 subsidy program established under Act 105, Session  
10 Laws of Hawaii 2014; and

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

13 (b) Moneys in the pesticide use revolving fund shall be  
14 expended by the department:

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

18 (2) To establish pesticide training workshops and  
19 educational programs, including, but not limited to,  
20 eradication and control programs for pests designated  
21 in section 141-3, using the best available technology



1 and best practices in a manner consistent with state  
2 and federal law;

3 (3) To develop integrated pest management strategies, the  
4 pesticide and fertilizer subsidy program created under  
5 Act 105, Session Laws of Hawaii 2014, and other  
6 services for pesticide users such as the agricultural  
7 pest control industry, the structural pest control  
8 industry, and consumer users of pesticides, which  
9 provide pesticide instruction in areas, including but  
10 not limited to the collection, disposal, and recycling  
11 of pesticide containers; and

12 (4) For all other pesticide services deemed necessary by  
13 the department.

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

17 Moneys expended by the department from the pesticide use  
18 revolving fund for training workshops, educational programs, and  
19 other services for the agricultural pest control industry, the  
20 structural pest control industry, and consumer groups shall be



1 expended in a manner that appropriately addresses the needs of  
2 each category of pesticide user."

3 SECTION 4. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2023-2024 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2024-2025 to be deposited into the pesticide use revolving  
8 fund established under section 149A-13.5, Hawaii Revised  
9 Statutes.

10 SECTION 5. There is appropriated out of the pesticide use  
11 revolving fund the sum of \$ or so much thereof as may  
12 be necessary for fiscal year 2023-2024 and the same sum or so  
13 much thereof as may be necessary for fiscal year 2024-2025 for  
14 the operation and implementation of the pesticide subsidy and  
15 fertilizer program.

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

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



1 SECTION 7. This Act shall take effect on June 30, 3000;  
2 provided that sections 4 and 5 of this Act shall take effect on  
3 July 1, 2050.



**Report Title:**

HDOA; Coffee Berry Borer; Coffee Leaf Rust; Pesticide Subsidy and Fertilizer Program; Appropriation

**Description:**

Extends the sunset date for the coffee berry borer and coffee leaf rust pesticide and fertilizer subsidy program to 6/30/2025 and the program manager position, including the position's civil service and collective bargaining laws exemption, to 6/30/2026. Requires the Department of Agriculture to report to the Legislature. Appropriates funds for the operation and implementation of the pesticide and fertilizer subsidy program. Effective 6/30/3000; provided that the appropriation shall take effect on 7/1/2050. (HD1)

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

