
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 PART I

2 SECTION 1. The legislature finds that invasive species
3 collectively present one of the single greatest threats to
4 Hawaii's economy and natural environment, its native species,
5 and the health and lifestyle of Hawaii's people. Impacts of
6 invasive species have been severe, negative, and expensive and
7 have included serious habitat degradation, extinction of native
8 species, increased wildfire risk, increases in the cost of
9 agriculture and livestock production, and many other impacts.
10 For example, the State's horticultural and agricultural
11 industries face a serious threat from the introduction of the
12 plant diseases citrus black spot (*Phyllosticta citricarpa*),
13 citrus canker (*Xanthomonas axonopodis*), and citrus greening or
14 huanglongbing (*Candidatus Liberibacter asiaticus*), and fruit
15 flies (species in the family Tephritidae).

16 The legislature also finds that protecting Hawaii from
17 invasive pests requires more than the mere application of



1 chemicals to each new infestation. Necessary actions include
2 efforts to prevent pests from entering the State and spreading
3 within the State.

4 The legislature, like the federal government, recognizes
5 the value of preventing the movement of invasive pests.

6 Section 10811 of the Farm Security and Rural Investment Act
7 of 2002 requires the United States Department of Agriculture to
8 inspect all passengers, baggage, cargo, and any other articles
9 moving from Hawaii to other areas of the United States.

10 However, federal law does not require any similar inspections of
11 passengers or material arriving in Hawaii from the continental
12 United States. The legislature believes that the State should
13 have the authority to conduct those inspections if the federal
14 government will not do so.

15 The legislature finds that if an invasive pest infestation
16 that will seriously impact residents, businesses, or native
17 species is found within the State, the infested material should
18 be contained to prevent the spread of the pest so it does not
19 move across an island. Further, the infested material or area
20 should be treated to control or eradicate the pest. Preventing
21 the spread of invasive species protects agricultural producers



1 and businesses. Preventing the sale of merchandise that is
2 infested with pests addresses the highest-risk situations where
3 unsuspecting consumers purchase pest-infested merchandise and
4 bring the merchandise home, spreading the pest across an island.
5 Notably, there exists a serious danger to the forests and the
6 horticultural and agricultural industries of Hawaii from the
7 introduction of plant pathogens and other pests transported in
8 or on firewood from outside the State, including *Agrilus*
9 *planipennis* (emerald ash borer), *Anoplophora glabripennis* (Asian
10 longhorned beetle), *Solenopsis invicta* (red imported fire ant),
11 and bark and ambrosia beetles, including *Euwallacea* species and
12 associated fungal pathogens.

13 The legislature notes that other states routinely
14 quarantine areas that are infested with a high impact pest and
15 prevent the sale of infested merchandise. In cases of high
16 impact species, other states quarantine the infested areas. For
17 instance, in June 2023, after the highly invasive giant African
18 land snail was detected north of Miami, the State of Florida
19 declared a quarantine and treatment area of several square miles
20 in Broward County. Florida quarantined the movement of the
21 snails themselves and other materials that could be harboring



1 the snails, including plants, soil, and certain building
2 materials. Florida subsequently commenced a robust program
3 using molluscicide, or snail bait, on properties in the area,
4 followed by multiple surveys to assess the effectiveness of the
5 quarantine and treatment.

6 In Oregon, the state's agricultural department took steps
7 to eradicate the Japanese beetle, a serious pest of ornamental
8 plants, turfgrass, and crops grown in the state. The
9 department's efforts included the quarantine of yard debris,
10 including grass clippings and plants with soil, and the
11 implementation of sod. The quarantine required residents to
12 contain their yard waste and deliver it to a specific location.
13 The state also treated private property, either with the consent
14 of the landowner or pursuant to an administrative warrant, with
15 appropriate pesticide.

16 The legislature notes that the prevention of the spread of
17 invasive pests in Hawaii is part of the state department of
18 agriculture's responsibility to promote agriculture in the
19 State. However, the department has limited staff and resources
20 and has not been able to update its administrative rules to
21 adapt to new invasive pests and control methods. The department



1 has not developed a list of restricted plants pursuant to
2 section 150A-6.1, Hawaii Revised Statutes, since that statutory
3 section was enacted on July 1, 2000. Further, the department
4 last updated its list of noxious weeds and their distribution
5 more than thirty years ago. The department has also not had the
6 capacity to add many high impact pests, including the two-lined
7 spittlebug (*Prosapia bicincta*) that has been devastating ranch
8 lands on Hawaii island since its detection in 2016, to its list
9 of pests for control and eradication, which was last updated in
10 2008.

11 The purpose of this Act is to:

- 12 (1) Require the department of agriculture to designate
13 certain species as pests, and periodically update taxa
14 designated as pests, for control or eradication and
15 develop and implement a control or eradication program
16 for each designated pest but, if the department fails
17 to do so, authorize the applicable county to develop
18 or implement the program;
- 19 (2) Establish a plant nursery licensing program, as part
20 of the department of agriculture's biosecurity
21 program, to regulate the sale of nursery stock;



- 1 (3) Prohibit the import of any material infested or
- 2 infected with a pest or that is a pest unless imported
- 3 under an appropriate permit or compliance agreement
- 4 and amend the department of agriculture's authority to
- 5 impose other limits on imports and transportation; and
- 6 (4) Amend the method by which the board of agriculture
- 7 makes and updates noxious weed designations and
- 8 clarify responsibilities for the control or
- 9 eradication of noxious weeds.

PART II

11 SECTION 2. Section 141-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§141-2 Rules.** Subject to chapter 91, the department of
14 agriculture shall adopt, amend, and repeal rules not
15 inconsistent with law, for and concerning:

16 (1) The introduction, transportation, and propagation of
17 trees, shrubs, herbs, and other plants;

18 (2) The quarantine, inspection, fumigation, disinfection,
19 destruction, or exclusion, either upon introduction
20 into the State, or at any time or place within the
21 State, of any [~~nursery stock,~~] nursery stock, tree,



1 shrub, herb, vine, cut-flower, cutting, graft, scion,
2 bud, seed, leaf, root, or rhizome; any nut, fruit, or
3 vegetable; any grain, cereal, or legume in the natural
4 or raw state; any moss, hay, straw, dry-grass, or
5 other forage; any unmanufactured log, limb, or timber;
6 or any other plant growth or plant product unprocessed
7 or in the raw state; any sand, soil, or earth; any
8 live bird, reptile, insect, or other animal, in any
9 stage of development, that is in addition to the
10 so-called domestic animals, which are provided for in
11 section 142-2; and any box, barrel, crate, or other
12 containers in which the articles, substances, or
13 objects have been transported or contained, and any
14 packing material used in connection therewith, or any
15 other pest host material that is or may be diseased or
16 infested with insects or likely to assist in the
17 transmission or dissemination of any insect or plant
18 disease injurious, harmful, or detrimental, or likely
19 to become injurious, harmful, or detrimental to the
20 agricultural or horticultural industries or the
21 forests of the State, or the public health and



1 welfare, or that is or may be in itself injurious,
 2 harmful, or detrimental to the same; provided that
 3 included therein may be rules governing the
 4 transportation of any of the articles, substances, or
 5 objects enumerated above in this section between
 6 different localities on any one of the islands within
 7 the State;

8 (3) The prohibition of importation into the State, from
 9 any or all foreign countries or from other parts of
 10 the United States, or the shipment from one island
 11 within the State to another island therein, or the
 12 transportation from one part or locality of any island
 13 to another part or locality of the same island, of any
 14 [specifie] article, substance, or object or class of
 15 articles, substances, or objects[~~, among those~~
 16 ~~enumerated above in this section,~~] that is diseased or
 17 infested with insects or likely to assist in the
 18 transmission or dissemination of any insect or plant
 19 disease injurious, harmful, or detrimental or likely
 20 to be injurious, harmful, or detrimental to the
 21 agricultural or horticultural industries, or the



- 1 forests of the State, or that is or may be in itself
2 injurious, harmful, or detrimental to the same;
- 3 (4) The preparation by cargo carriers of manifests of
4 cargo transported into the State or between islands of
5 the State and the submission of the manifests to the
6 department;
- 7 (5) The establishment, maintenance, and enforcement of
8 compliance agreements with federal or state
9 departments of agriculture authorizing agriculture
10 inspectors from the state of origin in the case of
11 imports to the State, or state agricultural inspectors
12 in the case of state exports, to monitor the growing
13 and packing of plant commodities and any treatment
14 procedures to ensure compliance with quarantine laws,
15 and further authorizing the assessment of fees for
16 conducting inspections required under the compliance
17 agreement; [~~and~~]
- 18 (6) The manner in which agricultural product promotion and
19 research activities may be undertaken, after
20 coordinating with the agribusiness development
21 corporation[-]; and



1 (7) The protection of members of the public and property.
2 All rules adopted under this section shall have the force
3 and effect of law."

4 SECTION 3. Section 141-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§141-3 Designation of pests; control or eradication of**
7 **pests; emergency power.** (a) The department of agriculture
8 shall [designate]:

9 (1) Designate the coconut rhinoceros beetle (Oryctes
10 rhinoceros), coqui frog (Eleutherodactylus coqui),
11 little fire ant (Wasmannia auropunctata), and two-
12 lined spittlebug (Prosapia bicincta) as [a pest. All
13 ~~other pest designations shall be established by rule,~~
14 including] pests for control or eradication;

15 (2) Designate, by rule, other pests for control or
16 eradication and update designated taxa no less than
17 once every two years; and

18 (3) Establish, by rule, the criteria and procedures for
19 the designation of pests for control or
20 eradication[-]; provided that criteria shall be
21 written with the understanding that:



1 (A) Pests designated for control or eradication shall
2 be:

3 (i) High-risk pests upon which statewide or
4 local control is necessary to prevent
5 serious impacts to native species and the
6 environment; or

7 (ii) Injurious, deleterious, or likely to become
8 injurious or deleterious to the public
9 health and welfare, private property, or the
10 agricultural, horticultural, aquacultural,
11 or livestock industries of the State; and

12 (B) Not every invasive species poses a risk that
13 warrants designation of the species as a pest for
14 control or eradication.

15 (b) The department of agriculture [~~shall~~], so far as
16 reasonably practicable, shall assist, free of cost to
17 [~~individuals,~~] persons, in the control or eradication of
18 insects, mites, diseases, noxious weeds, or other pests or any
19 other taxa injurious to the environment or vegetation of value;
20 and in the investigation, suppression, and eradication of
21 contagious, infectious, and communicable diseases among domestic



1 animals; and shall in like manner distribute to points where
2 needed, beneficial insects, or pathogens and other antidotes for
3 the control of insects, mites, diseases, or other pests or any
4 other taxa injurious to the environment or vegetation of value,
5 and for the control or eradication of vegetation of a noxious
6 character.

7 (c) Notwithstanding subsection (a), if the department
8 finds the incipient infestation of a pest that [~~has an adverse~~
9 ~~effect on the environment or that~~] is injurious or deleterious
10 or that is likely to become injurious or deleterious to native
11 species, the environment, public health and welfare, private
12 property, or the agricultural, horticultural, aquacultural, or
13 livestock industries of the State without immediate action, it
14 may proceed without prior notice or upon a minimum of forty-
15 eight hours notice and hearing to adopt an emergency rule for
16 the eradication of the pest [~~to~~], or incipient infestation,
17 regardless of whether the pest is currently designated as a pest
18 for control or eradication. The emergency rule shall be
19 effective for a period of [~~not~~] no longer than one hundred
20 eighty days without renewal."



1 SECTION 4. Section 141-3.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§141-3.5 Control or eradication programs.** (a) The
4 department of agriculture shall develop and implement a detailed
5 control or eradication program for ~~[any pest]~~ each taxa
6 designated [in] as a pest for control or eradication pursuant to
7 section 141-3, using the best available technology in a manner
8 consistent with state and federal law. Each program shall
9 include actions to prevent the introduction or spread of the
10 pest, including the quarantine of appropriate material within
11 the infested area, treatment to control or eradicate the pest,
12 and outreach to the affected communities. The department shall
13 consider that risks posed by a pest may be different for
14 different islands of the State; provided that the department
15 shall consider conditions and impacts to each island in
16 developing and implementing each program required by this
17 section.

18 (b) If the department does not develop and implement a
19 detailed control or eradication program for a taxa designated as
20 a pest for control or eradication pursuant to section 141-3 on
21 an island where the pest is, or is likely to be, a threat to



1 public health and welfare, or private property, and is therefore
2 a public nuisance, the applicable county may develop or
3 implement a program for the pest on that island or the impacted
4 area of that island.

5 [~~(b)~~] (c) For any pest designated by emergency rule as
6 provided in section 141-3, the department of agriculture or the
7 applicable county shall implement an emergency program using the
8 best available technology in a manner consistent with state and
9 federal law.

10 [~~(e)~~] (d) The department of agriculture:

11 (1) In conjunction with the Hawaii [~~Ant Lab,~~] ant lab, may
12 identify best practices for the treatment of little
13 fire ants; and

14 (2) Shall post on its website any best practices
15 identified for the treatment of little fire ants."

16 SECTION 5. Section 141-3.6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§141-3.6 Entry of private property to control or**
19 **eradicate any pests.** (a) The department of agriculture or
20 applicable county shall give at least five days notice to the
21 landowner and the occupier of any private property of its



1 intention to enter the property [~~for the control or eradication~~
2 ~~of a pest.~~] to carry out a control or eradication program
3 developed pursuant to section 141-3.5, including the quarantine
4 of materials. Written notice sent to the landowner's last known
5 address by certified mail, postage prepaid, return receipt
6 requested, shall be deemed sufficient notice. If certified mail
7 is impractical because the department or county, despite
8 diligent efforts, cannot determine land ownership or because of
9 urgent need to initiate control or eradication measures, notice
10 given once in a daily or weekly publication of general
11 circulation, in the county where any action or proposed action
12 will be taken, or notice made as otherwise provided by law,
13 shall be deemed sufficient notice. The notice shall set forth
14 all pertinent information on the [~~pest~~] control or eradication
15 program and the procedures and methods to be used for control or
16 eradication.

17 (b) After notice as required by subsection (a), any member
18 of the department, employee of the county, or any agent
19 authorized by the department or county may enter at reasonable
20 times any private property other than dwelling places to
21 [~~maintain a pest~~] carry out a control or eradication program[~~7~~]



1 developed pursuant to section 141-3.5, being liable only for
2 damage caused by acts beyond the scope of the person's
3 authority, or the person's negligence, gross negligence, or
4 intentional misconduct. If [~~entry is refused,~~] the landowner or
5 land occupier does not consent, the department member, county
6 employee, or any authorized agent may apply to the district
7 court in the circuit in which the property is located for a
8 warrant to enter on the premises to effectuate the purposes of
9 this chapter. The district court may issue a warrant directing
10 a [~~police~~] law enforcement officer of the circuit to assist the
11 department member, county employee, or any authorized agent in
12 gaining entry onto the premises during regular working hours or
13 at other reasonable times."

14 SECTION 6. Section 141-6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§141-6 Appeal from [~~inspector's decision.~~] certain**
17 **decisions.** Any person who feels aggrieved at any decision of
18 the chairperson of the board of agriculture, the chairperson's
19 designee, or any inspector of the department of agriculture
20 shall have the right to appeal from the decision to the board of
21 agriculture. The board shall give a prompt hearing to the



1 appellant and the [~~inspector~~] chairperson of the board of
2 agriculture upon the appeal, and decide the question at issue,
3 which decision shall be subject to judicial review as provided
4 in chapter 91."

5 PART III

6 SECTION 7. Chapter 150A, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 "PART . PLANT NURSERY LICENSING PROGRAM

10 §150A-A Definitions. For the purposes of this part,
11 unless the context requires otherwise:

12 "Best management practices" means processes and actions
13 based on the best available science that provide the most
14 cost-effective and efficacious way to address an issue,
15 including the prevention or reduction of pest and pathogen
16 problems.

17 "Effective control" means the elimination or reduction of
18 low-priority pests to the point of an acceptable economic and
19 environmental risk.

20 "High-priority pest" means a pest, including a noxious
21 weed:



- 1 (1) That is not known to appear frequently within the
- 2 State;
- 3 (2) That has a limited distribution within the State;
- 4 (3) That the department or other government entity
- 5 attempts to contain, suppress, or reduce within the
- 6 State or an area of the State; and
- 7 (4) Whose introduction causes or is likely to cause
- 8 economic or environmental harm or harm to human
- 9 health.

10 "Low-priority pest" means a pest that is not a
11 high-priority pest and may be controlled so that the pest does
12 not pose an unacceptable economic or environmental risk.

13 "Plant nursery license" means a license issued pursuant to
14 this part.

15 "Sale" or "sell" means offering, exposing, or possessing
16 for sale, exchange, barter, or trade.

17 "Standards of nursery cleanliness", with respect to a
18 location where nursery stock is produced or sold, means:

- 19 (1) The implementation at the location of any method of
- 20 treatment required by the department for any pest;



- 1 (2) That nursery stock or other material infested or
- 2 infected with pests at the location is isolated
- 3 pending treatment or disposal;
- 4 (3) That actions are carried out to the extent that is
- 5 reasonably necessary to ensure the location and all
- 6 nursery stock produced or sold at the location are
- 7 free from pests; and
- 8 (4) The fulfillment of any other standard required by the
- 9 department for the location.

10 **§150A-B Plant nursery licenses required; exemption.** (a)

11 A person engaged with the sale of nursery stock shall inform the
12 department of the existence of the person's operation and obtain
13 a valid plant nursery license pursuant to this part for the
14 operation, unless the person sells seeds and does not sell or
15 ship any other nursery stock.

16 (b) A person shall obtain a plant nursery license for each
17 location where the person sells or grows nursery stock.

18 (c) The department may publish on its website and in any
19 other appropriate form a list of persons that hold a valid plant
20 nursery license.



1 **§150A-C Full plant nursery licenses; requirements;**

2 **duration.** (a) Each person seeking a full plant nursery license
3 or a renewal of a full plant nursery license shall submit to the
4 department:

5 (1) An application; and

6 (2) A fee pursuant to section 150A-D.

7 (b) A person shall be eligible to receive and continue
8 operating under a full plant nursery license for a location if
9 the person:

10 (1) Demonstrates good faith in seeking to carry on the
11 business of selling nursery stock;

12 (2) Does not sell any plant species designated by the
13 department as a noxious weed or restricted plant;

14 (3) Consents to and agrees to cooperate with all
15 inspections authorized by section 150A-F;

16 (4) Passes all authorized inspections;

17 (5) Maintains the location free from high-priority pests;

18 (6) Has effective control of low-priority pests;

19 (7) Implements standards of nursery cleanliness at the
20 location; and



1 (8) Implements any best management practices required by
2 the department for the location.

3 (c) A full plant nursery license:

4 (1) Shall be valid for a period of one year; and

5 (2) May be renewed for additional periods of one year per
6 renewal.

7 **§150A-D Full plant nursery licenses; fees.** (a) Each
8 application for the issuance or renewal of a full plant nursery
9 license shall be accompanied by a license fee in an amount
10 determined by the department.

11 (b) The fee required by subsection (a) shall be determined
12 based on:

13 (1) Quantity and dollar value of nursery stock sales;

14 (2) Acreage used by the applicant to produce, store, or
15 sell nursery stock; and

16 (3) Any other criteria the department determines is
17 appropriate.

18 (c) No portion of the fee required by subsection (a) may
19 be refunded to a person if the department denies an application
20 for a full plant nursery license or renewal or revokes the
21 license pursuant to section 150A-G.



1 (d) All fees collected under this section shall be paid to
2 the department and deposited into the pest inspection,
3 quarantine, and eradication fund established pursuant to section
4 150A-4.5.

5 **§150A-E Temporary plant nursery licenses; small seller**

6 **plant nursery licenses.** (a) A person is eligible to receive
7 and continue operating under a temporary plant nursery license
8 if the person:

9 (1) Applies for a temporary plant nursery license;

10 (2) Is a nonprofit, charitable, educational, or religious
11 organization;

12 (3) Demonstrates to the department's satisfaction that:

13 (A) The person will sell nursery stock for no more
14 than days in a calendar year;

15 (B) The person does not sell any plant species
16 designated by the department as a noxious weed or
17 restricted plant;

18 (C) The person's total annual sales of nursery stock
19 will not exceed \$; and



1 (D) The person will use the proceeds of the sale of
2 nursery stock for charitable, educational, or
3 religious purposes;

4 (4) Obtains nursery stock from a person with a valid plant
5 nursery license;

6 (5) Imports necessary stock subject to rules; and

7 (6) Uses best management practices for nursery stock and
8 the sale of the nursery stock required by the
9 department for temporary plant nursery license
10 holders.

11 (b) A person is eligible to receive and continue operating
12 under a small seller plant nursery license if the person:

13 (1) Applies for a small seller plant nursery license;

14 (2) Demonstrates to the department's satisfaction that the
15 person's total annual sales of nursery stock will not
16 exceed \$;

17 (3) Does not sell any plant species designated by the
18 department as a noxious weed or restricted plant;

19 (4) Produces nursery stock with, or obtains nursery stock
20 from, a person with a valid plant nursery license;

21 (5) Imports necessary stock subject to rules; and



1 (6) Uses best management practices for nursery stock and
2 the sale of the nursery stock required by the
3 department for small seller plant nursery license
4 holders.

5 (c) The department may inspect the plant nursery location,
6 all nursery stock at the plant nursery location, and any other
7 area used by an applicant or licensee to produce, store, or sell
8 nursery stock under a temporary plant nursery license or a small
9 seller plant nursery license.

10 (d) The department may charge a fee for the issuance of a
11 temporary plant nursery license or a small seller plant nursery
12 license; provided that all fees collected under this section
13 shall be deposited into the pest inspection, quarantine, and
14 eradication fund established pursuant to section 150A-4.5.

15 **§150A-F Inspection; quarantine.** (a) After receiving an
16 application for issuance or renewal of a plant nursery license
17 for a location, an inspector shall inspect the location, all
18 nursery stock at the location, and any other area used by the
19 applicant to produce or store nursery stock to be sold at the
20 location before the issuance or renewal of the plant nursery
21 license.



1 (b) The department may conduct additional inspections of
2 any location issued a plant nursery license with or without
3 notice, at any time and in any manner as the department
4 determines appropriate.

5 (c) No applicant or licensee shall deny access to or
6 impede an inspector conducting an inspection under this section
7 or hinder the inspection by misrepresenting or concealing facts
8 or conditions.

9 (d) To be eligible to receive and continue operating under
10 a plant nursery license, an applicant or licensee that sells
11 nursery stock shall ensure that each location at which the
12 applicant or licensee operates shall be found at each inspection
13 authorized under this section to:

- 14 (1) Be free from high-priority pests;
- 15 (2) Have effective control of low-priority pests;
- 16 (3) Be implementing standards of nursery cleanliness; and
- 17 (4) Be implementing any best management practices required
18 by the department.

19 (e) If the department is notified pursuant to an
20 inspection authorized under this section or any other means that
21 a high-priority pest is present in nursery stock or a location



1 where nursery stock is present, that low-priority pests are not
2 under effective control at a location, or that the holder of a
3 full plant nursery license, temporary plant nursery license, or
4 small seller plant nursery license is otherwise not in
5 compliance with the requirements of this part, the department:

6 (1) Shall place a quarantine order for the affected
7 nursery stock or location and mitigate potential
8 spread and, if appropriate, shall place a destruction
9 order for the affected nursery stock;

10 (2) Shall notify the person applying for or holding the
11 full plant nursery license, temporary plant nursery
12 license, or small seller plant nursery license for the
13 affected nursery stock or location of the existence of
14 the high-priority pest, low-priority pest, or other
15 compliance issue and advise the person on acceptable
16 mitigation methods; and

17 (3) Shall mitigate and require the affected nursery stock,
18 affected material, and affected location to be
19 mitigated by whatever means necessary, including
20 destruction, confiscation, treatment, return shipment,
21 or quarantine, at the expense of the nursery or person



1 without any form of compensation from the department
2 or State.

3 (f) During the period when an order under subsection (e)
4 is in effect for nursery stock or a location, the person
5 operating the plant nursery location shall not sell, ship,
6 transport, give away, or otherwise move, alter, or tamper with
7 affected nursery stock or material at the location, other than
8 for activities to mitigate the high-priority or low-priority
9 pests or other compliance issue.

10 (g) The applicant or person affected by the department's
11 actions under subsection (e) may submit a request to the
12 department for a contested case hearing in writing within thirty
13 days following the date of the department's notice issued under
14 subsection (e).

15 **§150A-G Refusal to issue or renew; suspension; revocation.**

16 Subject to chapter 91 and the rules adopted by the board, the
17 department may refuse to issue or renew a full plant nursery
18 license, temporary plant nursery license, or small seller plant
19 nursery license or may suspend or revoke a full plant nursery
20 license, temporary plant nursery license, or small seller plant



1 nursery license for a location if the department determines that
2 the licensee or the applicant has:

- 3 (1) Wilfully refused to comply with this part or other
4 laws relating to nursery stock or to any pest that
5 might be carried by nursery stock;
- 6 (2) Committed fraud or deception in obtaining the plant
7 nursery license;
- 8 (3) Committed fraud or misrepresentation in the handling
9 or sale of nursery stock;
- 10 (4) Failed to maintain the nursery stock or location:
 - 11 (A) Free from high-priority pests;
 - 12 (B) With effective control of low-priority pests; or
 - 13 (C) In accordance with any best management practices
14 required by the department;
- 15 (5) Failed to maintain nursery stock produced, stored, or
16 sold by the licensee or applicant in accordance with
17 the standards of nursery cleanliness; or
- 18 (6) Failed to comply with any lawful order issued by the
19 department.

20 **§150A-H Civil penalties.** (a) A person who violates any
21 provision of this part or any rule adopted by the department

1 pursuant to this part shall be fined no more than
2 \$ for each separate offense. Each date of violation
3 shall constitute a separate offense. Any action taken to impose
4 or collect the penalty provided for in this subsection shall be
5 considered a civil action.

6 (b) All fines collected under this section shall be paid
7 to the department and deposited into the pest inspection,
8 quarantine, and eradication fund under section 150A-4.5."

9 SECTION 8. Chapter 150A, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 "§150A- Firewood quarantine. (a) The import of
13 firewood into the State and the transportation or sale within
14 the State of firewood imported into the State are prohibited
15 except for:

16 (1) Firewood that is certified by an appropriate federal
17 or state agency as heat-treated and labeled in
18 accordance with subsection (b); or

19 (2) Firewood imported pursuant to subsection (c) and
20 labeled in accordance with subsection (b).



1 (b) Firewood imported into the State shall bear a clear
2 and conspicuous label that contains the following information on
3 each package of firewood intended to be offered, exposed, or
4 held for sale:

5 (1) The state of origin of the firewood;
6 (2) If the firewood is imported pursuant to
7 subsection (a) (1):

8 (A) A statement that the firewood has been certified
9 as heat-treated; and

10 (B) The name of the federal or state certifying
11 agency and the certification number;

12 (3) Identification of the commodity as firewood, unless
13 the contents can be easily identified through the
14 wrapper or container; and

15 (4) The name and address of the manufacturer, packer, or
16 distributor of the firewood.

17 (c) The chairperson may allow the importation or sale of
18 firewood on a case-by-case basis if the person producing,
19 processing, or importing the firewood is operating under a
20 compliance agreement or other contract with an appropriate



1 federal or state agency that the chairperson determines will
2 ensure that the firewood:

3 (1) Is heat-treated; or
4 (2) Will not pose an unacceptable risk of introducing or
5 spreading an insect, disease, or other pest.

6 (d) The chairperson may at any time revoke an exemption
7 under subsection (c) due to a change in the risk assessment.

8 (e) Any person that imports firewood into the State shall
9 maintain, and make available to the chairperson upon request,
10 records of those imports for at least two years.

11 (f) Firewood harvested within the State shall not be
12 subject to the requirements of this section.

13 (g) As used in this section:

14 "Firewood" means any kindling, logs, timber, or other
15 portions of a tree of any species four feet or less in length,
16 cut or split, or intended to be cut or split, into a form and
17 size appropriate for use as fuel for fires in an open or closed
18 pit, grill, fireplace, stove, wood burning furnace, or in any
19 other form commonly used for burning in campfires, stoves, or
20 fireplaces.



1 "Heat-treated" with respect to firewood means firewood that
2 has been heated to a minimum wood core temperature of one
3 hundred sixty degrees Fahrenheit for seventy-five minutes.

4 §150A- Cooperative enforcement of pest quarantines.

5 Interstate shipments for entry into the State shall be subject
6 to the following:

7 (1) No regulated article shall enter the State if it is:

8 (A) Prohibited from interstate movement pursuant to a
9 quarantine issued by the United States Department
10 of Agriculture or a valid quarantine issued by a
11 state; or

12 (B) Required by the United States Department of
13 Agriculture to be certified to prevent the
14 movement of a pest and found to be infested with
15 the pest;

16 (2) The owner or carrier of regulated articles that are
17 reportedly originating in nonregulated areas of a
18 quarantined state shall provide proof of origin of the
19 regulated articles through an invoice, waybill, or
20 other shipping document; and



1 (3) If only a portion of a state is under a federal or
2 state quarantine, the entry of the shipment into the
3 State shall not be refused, nor shall a certificate be
4 required if the article originates from a nonregulated
5 area of the shipping state, unless the article is
6 found to be infested or prohibited."

7 SECTION 9. Chapter 150A, Hawaii Revised Statutes, is
8 amended by adding a new section to part III to be appropriately
9 designated and to read as follows:

10 "§150A- **Plant nursery license required.** No
11 certification or service related to nursery stock shall be
12 provided under this part to a person who is required to obtain a
13 plant nursery license pursuant to part for the nursery stock
14 unless the person has obtained the required plant nursery
15 license."

16 SECTION 10. Section 150A-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§150A-1[+] **Short title.** This chapter may be cited as
19 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law"."

20 SECTION 11. Section 150A-2, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By adding seven new definitions to be appropriately
2 inserted and to read:

3 "Compliance agreement" means a written agreement:

4 (1) Between the department and a person who carries out
5 commercial activities; and

6 (2) That includes any terms or conditions the chairperson
7 determines will slow or prevent the spread of a pest.

8 "Infested" means harboring a pest.

9 "Infested area" means an island or locality within the
10 State where a specific pest is known to be established.

11 "Nursery stock" means any plant for planting, propagation,
12 or ornamentation, including all plants, trees, shrubs, vines,
13 perennials, grafts, cuttings, and buds that may be sold for
14 propagation, whether cultivated or wild, and all viable parts of
15 these plants.

16 "Person" means any individual, firm, corporation,
17 association, partnership, or other entity, including a
18 governmental entity or nonprofit organization.

19 "Pest host material" means any plant, propagative plant
20 part, non-propagative plant part, soil, or any other matter or
21 object that is found to be transporting or harboring a pest.



1 "Restricted area" means an island or locality within the
2 State where a specific pest is not known to be established or
3 where an eradication or control project for a specified pest is
4 being conducted by the department or an entity recognized by the
5 chairperson."

6 2. By amending the definition of "pest" to read:

7 "Pest" means [any]:

8 (1) Any animal, insect, disease agent or other organism in
9 any stage of development that is detrimental or
10 potentially harmful to agriculture, or horticulture,
11 or animal or public health, or natural resources
12 including native biota or has an adverse effect on the
13 environment [as]; or

14 (2) Any taxa determined by the board[-] to be a pest."

15 SECTION 12. Section 150A-4.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There is established in the state treasury the pest
18 inspection, quarantine, and eradication fund, into which shall
19 be deposited:

20 (1) Legislative appropriations for biosecurity and
21 inspection, quarantine, and eradication services;



- 1 (2) Service fees, charges, and penalties collected under
- 2 section 150A-5.3;
- 3 ~~(3)~~ Fees and fines collected under the plant nursery
- 4 licensing program pursuant to part _____ ;
- 5 ~~[(+3)]~~ (4) Fees imposed for services pursuant to this
- 6 chapter or rules adopted under this chapter;
- 7 ~~[(+4)]~~ (5) Fines for violations of this chapter;
- 8 ~~[(+5)]~~ (6) Federal funds received for biosecurity, pest
- 9 inspection, control, management, quarantine, and
- 10 eradication programs;
- 11 ~~[(+6)]~~ (7) Grants and gifts;
- 12 ~~[(+7)]~~ (8) All interest earned or accrued on moneys
- 13 deposited in the fund; and
- 14 ~~[(+8)]~~ (9) Any other moneys made available to the fund."

15 SECTION 13. Section 150A-5, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§150A-5 Conditions of importation.** (a) The importation
 18 into the State of any material that is infested or infected with
 19 a pest or that is itself a pest is prohibited unless imported
 20 under an appropriate permit or compliance agreement.



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

15 (1) Notification of arrival. Any person who receives for
16 transport or brings or causes to be brought to the
17 State as freight, air freight, baggage, or otherwise,
18 for the purpose of debarkation or entry therein, or as
19 ship's stores, any of the foregoing articles, shall,
20 immediately upon the arrival thereof, notify the
21 department, in writing, of the arrival, giving the



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



- 1 (A) [~~A~~] Require a permit from the department in
- 2 advance of importation; [~~or~~]
- 3 (B) [~~A~~] Require a department letter of authorization
- 4 or registration in advance of importation[~~or~~]; or
- 5 (C) Be imported pursuant to a compliance agreement.

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

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

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



1 comply with the directions and requirements
2 appearing [~~thereon.~~] on the declaration form.
3 All passengers, officers, and crew members,
4 whether or not they are bringing or causing to be
5 brought for entry into the State the articles
6 listed on the declaration form, shall complete
7 the declaration[~~r~~] form, except that one adult
8 member of a family may complete the declaration
9 form for other family members. Any person who
10 defaces the declaration form required under this
11 section, gives false information, fails to
12 declare restricted articles in the person's
13 possession or baggage, or fails to declare in
14 cargo manifests is in violation of this section;
15 (B) Completed declaration forms shall be collected by
16 the transportation company and be delivered,
17 immediately upon arrival, to the inspector at the
18 first airport or seaport of arrival. Failure to
19 distribute or collect declaration forms or to
20 immediately deliver completed declaration forms
21 is a violation of this section; and



- 1 (C) It shall be the responsibility of the officers
2 and crew of an aircraft or vessel originating in
3 the continental United States or its possessions
4 or from any other area not under the jurisdiction
5 of the appropriate federal agency to immediately
6 report all sightings of any plants and animals to
7 the plant quarantine branch. Failure to comply
8 with this requirement is a violation of this
9 section;
- 10 (3) Plant and animal declaration form. The form shall
11 include directions for declaring domestic and other
12 animals cited in chapter 142, in addition to the
13 articles enumerated in this chapter;
- 14 (4) Labels. Each container in which any of the
15 above-mentioned articles are imported into the State
16 shall be plainly and legibly marked, in a conspicuous
17 manner and place, with the name and address of the
18 shipper or owner forwarding or shipping the same, the
19 name or mark of the person to whom the same is
20 forwarded or shipped or the person's agent, the name
21 of the country, state, or territory and locality



1 therein where the product was grown or produced, and a
2 statement of the contents of the container. Upon
3 failure to comply with this paragraph, the importer or
4 carrier is in violation of this section;

5 (5) Authority to administratively inspect. [~~Whenever the~~
6 ~~inspector has good cause to believe that the~~
7 ~~provisions of this chapter are being violated, the]~~ An
8 inspector [~~may~~]:

9 (A) May conduct inspections of persons, baggage,
10 cargo, and any other articles destined for
11 movement between the islands of the State or
12 imported into the State from the continental
13 United States or any United States territory for
14 the purpose of determining whether an insect,
15 pest, disease, or regulated or restricted taxa is
16 present;

17 ~~[-(A) Enter]~~ (B) May enter and inspect any aircraft,
18 vessel, or other carrier at any time after its
19 arrival within the boundaries of the State,
20 whether offshore, at the pier, or at the airport,
21 and enter into or upon any pier, warehouse,



1 airport, or any other place in the State for the
2 purpose of [~~determining whether any of the~~
3 ~~articles or pests enumerated in this chapter or~~
4 ~~rules adopted thereto, is present;~~
5 ~~(B) Enter into or upon any pier, warehouse, airport,~~
6 ~~or any other place in the State where any of the~~
7 ~~above-mentioned articles are moved or stored, for~~
8 ~~the purpose of ascertaining, by inspection and~~
9 ~~examination, whether or not any of the articles~~
10 ~~is infested or infected with any pest or disease~~
11 ~~or contaminated with soil or contains prohibited~~
12 ~~plants or animals; and] conducting inspections
13 authorized by subparagraph (A);
14 (C) [~~Inspect any baggage or personal effects of~~
15 ~~disembarking passengers, officers, and crew~~
16 ~~members on aircraft or vessels arriving in the~~
17 ~~State to ascertain if they contain any of the~~
18 ~~articles or pests enumerated in this chapter.~~
19 ~~No] Shall inform passengers and crew members that
20 their baggage [~~or~~] and other personal effects [~~of~~
21 ~~the passengers or crew members]~~ shall not be~~~~



1 released until the baggage [~~or~~] and personal
2 effects have been passed [~~—Baggage or~~]; and
3 (D) Shall have the discretion to inspect baggage and
4 cargo [~~inspection shall be made at the discretion~~
5 ~~of the inspector,~~] on the pier, vessel, or
6 aircraft or in any quarantine or inspection
7 area [~~—~~
8 ~~Whenever the inspector has good cause to believe~~
9 ~~that the provisions of this chapter are being~~
10 ~~violated, the inspector may require that any box,~~
11 ~~package, suitcase, or any other container carried as~~
12 ~~ship's stores, cargo, or otherwise by any vessel or~~
13 ~~aircraft moving between the continental United States~~
14 ~~and Hawaii or between the Hawaiian Islands, be opened~~
15 ~~for inspection to determine whether any article or~~
16 ~~pest prohibited by this chapter or by rules adopted~~
17 ~~pursuant thereto is present. It is a violation of~~
18 ~~this section if any prohibited article or any pest or~~
19 ~~any plant, fruit, or vegetable infested with plant~~
20 ~~pests is found];~~



1 (6) Request for importation and inspection. In addition
2 to requirements of the appropriate United States
3 [~~customs~~] authorities concerning invoices or other
4 formalities incident to importations into the State,
5 the importer shall be required to file a written
6 statement with the department, signed by the importer
7 or the importer's agent, setting forth the importer's
8 desire to import certain of the above-mentioned
9 articles into the State and:

10 (A) Giving the following additional information:

11 (i) The kind (scientific name), quantity, and
12 description;

13 (ii) The locality where same were grown or
14 produced;

15 (iii) Certification that all animals to be
16 imported are the progeny of captive
17 populations [~~or~~], have been held in
18 captivity for a period of one year
19 immediately prior to importation, or have
20 been specifically approved for importation
21 by the board;



- 1 (iv) The port from which the same were last
- 2 shipped;
- 3 (v) The name of the shipper; and
- 4 (vi) The name of the consignee; and
- 5 (B) Containing:
 - 6 (i) A request that the department, by its duly
 - 7 authorized agent, examine the articles
 - 8 described;
 - 9 (ii) An agreement by the importer to be
 - 10 responsible for all costs, charges, or
 - 11 expenses; and
 - 12 (iii) A waiver of all claims for damages incident
 - 13 to the inspection or the fumigation,
 - 14 disinfection, quarantine, or destruction of
 - 15 the articles, or any of them, as hereinafter
 - 16 provided, if any treatment is deemed
 - 17 necessary.
- 18 Failure or refusal to file a statement, including
- 19 the agreement and waiver, is a violation of this
- 20 section and may, in the discretion of the department,



1 be sufficient cause for refusing to permit the entry
2 of the articles into the State;

3 (7) Place of inspection. If, in the judgment of the
4 inspector, it is deemed necessary or advisable to move
5 any [~~of the above-mentioned articles, or any portion~~
6 ~~thereof,~~] article to a place more suitable for
7 inspection than the pier, airport, or any other place
8 where they are first received or discharged, the
9 inspector is authorized to do so. All costs and
10 expenses incident to the movement and transportation
11 of the articles to [~~such~~] another place shall be borne
12 by the importer or the importer's agent. If the
13 importer, importer's agent, or transportation company
14 requests inspection of sealed containers [~~of the~~
15 ~~above-mentioned articles~~] at locations other than
16 where the [~~articles~~] containers are first received or
17 discharged and the department determines that
18 inspection at [~~such~~] that place is appropriate, the
19 department may require payment of costs necessitated
20 by these inspections, including overtime costs;



1 (8) Disinfection or quarantine. If, upon inspection, any
2 article received or brought into the State for the
3 purpose of debarkation or entry therein or moved
4 between islands of the State is found to be infested
5 or infected or there is reasonable cause to presume
6 that it is infested or infected and the infestation or
7 infection can, in the judgment of the inspector, be
8 eradicated, a treatment shall be given [~~such~~] to the
9 article. The treatment shall be at the expense of the
10 owner or the owner's agent, and the treatment shall be
11 as prescribed by the department. The article shall be
12 held in quarantine at the expense of the owner or the
13 owner's agent at a satisfactory place approved by the
14 department for a sufficient length of time to
15 determine that eradication has been accomplished. If
16 the infestation or infection is of [~~such~~] a nature or
17 extent that it cannot be effectively and completely
18 eradicated, or if it is a potentially destructive pest
19 or it is not widespread in the State, or after
20 treatment it is determined that the infestation or
21 infection is not completely eradicated, or if the



1 owner or the owner's agent refuses to allow the
2 article to be treated or to be responsible for the
3 cost of treatment and quarantine, the article, or any
4 portion thereof, together with all packing and
5 containers, may, at the discretion of the inspector,
6 be destroyed or sent out of the State at the expense
7 of the owner or the owner's agent. [~~Such~~] The
8 destruction or exclusion shall not be made the basis
9 of a claim against the department or the inspector for
10 damage or loss incurred;

11 (9) Disposition. Upon completion of inspection, either at
12 the time of arrival or at any time thereafter should
13 any article be held for inspection, treatment, or
14 quarantine, the inspector shall affix to the article
15 or the container or to the delivery order in a
16 conspicuous place thereon, a tag, label, or stamp to
17 indicate that the article or container has been
18 inspected and passed. This action shall constitute a
19 permit to bring the article or container into the
20 State; and



1 (10) Ports of entry. None of the articles mentioned in
2 this section shall be allowed entry into the State
3 except through the airports and seaports in the State
4 designated and approved by the board.

5 (c) A person who violates this section or any rule adopted
6 pursuant to this section shall be fined no more than
7 \$ _____ for each separate offense. Any action taken to
8 impose or collect the penalty provided for in this subsection
9 shall be considered a civil action."

10 SECTION 14. Section 150A-5.5, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) In legal effect, articles landed for the purpose of
13 inspection or quarantine shall be construed to be still outside
14 the State seeking entry, and shall not, in whole or in part, be
15 considered suitable for entry into the State unless a tag,
16 label, or stamp has been affixed to the article, its container,
17 or its delivery order by the inspector as provided in
18 section [~~150A-5(9),~~] 150A-5(b)(9), except that articles
19 quarantined in the biocontrol containment facilities of the
20 department or of other government agencies engaged in joint



1 projects with the department may be released upon issuance of a
2 permit approved by the board."

3 SECTION 15. Section 150A-6.1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (b) to read:

6 "(b) The department shall designate, by rule, as
7 restricted plants, specific plants that may be detrimental or
8 potentially harmful to agriculture, horticulture, the
9 environment, or animal or public health, or that spread or may
10 be likely to spread an infestation or infection of an insect,
11 pest, or disease that is detrimental or potentially harmful to
12 agriculture, horticulture, the environment, or animal or public
13 health. In addition, plant species designated [~~by rule~~]
14 pursuant to chapter 152 as noxious weeds are designated as
15 restricted plants."

16 2. By amending subsections (d) and (e) to read:

17 "(d) Noxious weeds may be imported only for research, by
18 permit, and shall not be offered for sale [~~or~~], sold [~~in~~], or
19 transported within the State[-], except for the purposes of
20 appropriate disposal under a method approved by, or pursuant to
21 a permit issued by, the chairperson.



1 (e) No person shall import, offer for sale, or sell within
2 the State any plant or propagative portion of *Salvinia molesta*
3 [~~or~~], *Salvinia minima* [~~and~~], *Pistia stratiotes*[-], or *Falcataria*
4 *moluccana* (*Albizia*)."

5 SECTION 16. Section 150A-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§150A-8 Transporting in State.** [~~Flora and~~] (a) Without
8 regard to chapter 201M or the notice and public hearing
9 requirements of chapter 91, the department may specify flora,
10 fauna [~~specified by rules and regulations of the department~~],
11 pest host material, and any other article that shall not be
12 moved from one island to another island within the State or from
13 one locality to another [~~or~~] part or locality of the same island
14 except by a permit issued by the department[-], or pursuant to a
15 compliance agreement approved by the department.

16 (b) The transport, harboring, rearing, or breeding of any
17 pest is prohibited.

18 (c) The transportation of any pest host material that is
19 infested or infected with an insect, disease, or pest between
20 the islands of the State or from one part or locality of any
21 island to another part or locality of the same island is



1 prohibited unless the pest host material has been subjected to
2 an appropriate treatment, as approved by the chairperson.
3 Appropriate treatment may include pesticide or fumigation
4 treatment. The chairperson may, however, authorize the
5 transportation of an untreated infested or infected pest host
6 material to an island or location where the pest is known to be
7 established.

8 (d) Notwithstanding subsections (a), (b), and (c), pests
9 or plants, plant parts, soil, or pest host material infested or
10 infected with a pest may be transported without inspection
11 between islands or between parts or localities of the same
12 island:

13 (1) For diagnostics, research, testing, or educational
14 purposes by the department; or

15 (2) Pursuant to a permit approved by the chairperson and
16 issued to an institution approved by the board, a
17 government agency, or a university for research,
18 testing, or educational purposes at a site inspected
19 and approved by the chairperson before the transport
20 occurs.



1 (e) The chairperson may prohibit the movement of any pest
2 host material that is offered for sale, for barter, or by
3 donation or otherwise to be given away to the public if the
4 chairperson determines that the pest host material is infested
5 or infected with an insect, disease, or pest. The chairperson
6 may compel treatment or destruction of the material as set out
7 in this section. If the material was or is stored in an area
8 that is infested or infected with an insect, disease, or pest,
9 the chairperson may require appropriate treatment of the area
10 prior to authorizing the movement of the material.

11 (f) An item subject to the prohibition in subsection (e)
12 shall be:

13 (1) Subjected to a treatment to eradicate the insect,
14 disease, or pest, as approved and supervised by the
15 chairperson;

16 (2) Destroyed using a method approved and supervised by
17 the chairperson;

18 (3) Transported only pursuant to a permit issued by the
19 chairperson; or

20 (4) Subject to any other disposition approved by the
21 chairperson, including the transportation of untreated



1 infested or infected pest host material or an insect,
2 disease, or pest to an island or location where the
3 target insect, disease, or pest is known to be
4 established.

5 (g) The State shall not be responsible for any economic
6 loss or damages related to any actions by the department
7 pursuant to this section, including the treatment, quarantine,
8 or destruction of any item.

9 (h) Any person who knowingly sells a plant designated by
10 the department as a restricted plant or a noxious weed, or a
11 plant that is infested or infected with a pest, shall be fined
12 no more than \$ _____ for each separate offense. Any action
13 taken to impose or collect that penalty shall be considered a
14 civil action."

15 SECTION 17. Section 150A-14, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§150A-14 Penalty.** (a) Any person who violates any
18 provision of this chapter other than sections 150A-5, 150A-6(3),
19 and 150A-6(4) or who violates any rule adopted under this
20 chapter other than those rules involving an animal that is
21 prohibited or a plant, animal, or microorganism that is



1 restricted, without a permit, shall be guilty of a misdemeanor
2 and fined [~~not~~] no less than \$100. The provisions of section
3 706-640 notwithstanding, the maximum fine shall be \$10,000. For
4 a second offense committed within five years of a prior offense,
5 the person or organization shall be fined [~~not~~] no less than
6 \$500 and [~~not~~] no more than \$25,000.

7 [~~(b) Any person who violates section 150A-5 shall be~~
8 ~~guilty of a petty misdemeanor and fined not less than \$50 and~~
9 ~~not more than \$5,000. For a second offense committed within~~
10 ~~five years of a prior offense, the person may be fined not less~~
11 ~~than \$250 and not more than \$15,000.~~

12 (e)] (b) Any person who:

13 (1) Violates section 150A-6(3) or 150A-6(4), or owns or
14 intentionally transports, possesses, harbors,
15 transfers, or causes the importation of any snake or
16 other prohibited animal seized under section 150A-
17 7(b), or whose violation involves an animal that is
18 prohibited or a plant, animal, or microorganism that
19 is restricted, without a permit, shall be guilty of a
20 misdemeanor and subject to a fine of [~~not~~] no less
21 than \$5,000 [~~but not~~] and no more than \$20,000;



1 (2) Intentionally transports, harbors, or imports with the
2 intent to propagate, sell, or release any animal that
3 is prohibited or any plant, animal, or microorganism
4 that is restricted, without a permit, shall be guilty
5 of a class C felony and subject to a fine of [~~not~~] no
6 less than \$50,000 [~~, but not~~] and no more than
7 \$200,000; or

8 (3) Intentionally imports, possesses, harbors, transfers,
9 or transports, including through interisland or
10 intrainland movement, with the intent to propagate,
11 sell, or release, any pest designated by statute or
12 rule, unless otherwise allowed by law, shall be guilty
13 of a class C felony and subject to a fine of [~~not~~] no
14 less than \$50,000 [~~, but not~~] and no more than
15 \$200,000.

16 [~~(d)~~] (c) Whenever a court sentences a person or
17 organization pursuant to subsection (a) or [~~(e)~~] (b) for an
18 offense which has resulted in the escape or establishment of any
19 pest and caused the department to initiate a program to capture,
20 control, or eradicate that pest, the court shall also require
21 that the person or organization pay to the state general fund an



1 amount of money to be determined in the discretion of the court
2 upon advice of the department, based upon the cost of the
3 development and implementation of the program.

4 ~~[(e)]~~ (d) The department may, at its discretion, refuse
5 entry, confiscate, or destroy any prohibited articles or
6 restricted articles that are brought into the State without a
7 permit issued by the department, or order the return of any
8 plant, fruit, vegetable, or any other article infested with
9 pests to its place of origin or otherwise dispose of it or such
10 part thereof as may be necessary to comply with this chapter.
11 Any expense or loss in connection therewith shall be borne by
12 the owner or the owner's agent.

13 ~~[(f)]~~ (e) Any person or organization that voluntarily
14 surrenders any prohibited animal or any restricted plant,
15 animal, or microorganism without a permit issued by the
16 department, prior to the initiation of any seizure action by the
17 department, shall be exempt from the penalties of this section.

18 ~~[(g)]~~ (f) For purposes of this section, "intent to
19 propagate" shall be presumed when the person in question is
20 found to possess, transport, harbor, or import:



- 1 (1) Any two or more animal specimens of the opposite sex
- 2 that are prohibited or restricted, without a permit,
- 3 or are a pest designated by statute or rule;
- 4 (2) Any three or more animal specimens of either sex that
- 5 are prohibited or restricted, without a permit, or are
- 6 a pest designated by statute or rule;
- 7 (3) Any plant or microorganism having the inherent
- 8 capability to reproduce and that is restricted,
- 9 without a permit; or
- 10 (4) Any specimen that is in the process of reproduction."

11 SECTION 18. Section 150A-53, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§150A-53 General actions to achieve objectives.** (a) To
14 achieve the objectives of the biosecurity program, the
15 department shall plan for and, within available legislative
16 appropriations or through funding from other sources, implement
17 the following:

- 18 (1) Work with government agencies and agricultural
- 19 commodity exporters of other states and countries to
- 20 establish pre-entry inspection programs under which



1 inbound cargo into the State is inspected at the ports
2 of departure or other points outside the State;
3 (2) Establish, operate, or participate in operating
4 port-of-entry facilities where multiple government
5 agencies may inspect, quarantine, fumigate, disinfect,
6 destroy, or exclude as appropriate, articles that may
7 harbor pests or exclude articles that are prohibited
8 or restricted without a permit, with the goals of:
9 (A) Performing inspections in an efficient,
10 effective, and expeditious manner for the
11 government agencies involved and for cargo
12 owners, carriers, and importers; and
13 (B) Providing for the proper and safe storage and
14 handling of cargo, especially agricultural and
15 food commodities, awaiting inspection;
16 (3) Develop, implement, and coordinate post-entry measures
17 to eradicate, control, reduce, and suppress pests and,
18 as appropriate, eradicate or seize and dispose of
19 prohibited or restricted organisms without a permit
20 that have entered the State;



- 1 (4) Collaborate with relevant government agencies,
2 agricultural commodity importers, and other persons to
3 examine and develop joint integrated systems to better
4 implement the biosecurity program;
- 5 (5) Improve cargo inspection capabilities and methods,
6 including enhancement of the content and submission
7 requirements for cargo manifests and agricultural
8 commodity ownership and movement certificates;
- 9 (6) Promote the production of agricultural commodities in
10 the State to reduce cargo shipments of imported
11 commodities into the State; and
- 12 (7) Provide public education on the negative effects of
13 pests and prohibited or restricted organisms without a
14 permit, to the environment and economy of the State.
- 15 (b) The department shall establish parameters and
16 construction requirements for biosecurity facilities that
17 provide for and ensure the safety of agricultural and food
18 commodities consumed by Hawaii residents, including cold storage
19 facilities established by private-public partnerships to
20 preserve the quality and ensure the safety of the commodities
21 arriving at the State's airports and harbors.



1 (b) The board shall accept applications in any form,
2 including electronic applications, as permitted by the
3 chairperson.

4 (c) The chairperson:

5 (1) Shall review each application;

6 (2) May seek additional information from the applicant;

7 (3) May conduct additional research related to an
8 application, including research of literature reviews,
9 surveys, discussions with other states, and field
10 investigations;

11 (4) May submit to the advisory committee on plants and
12 animals established under section 150A-10, and any
13 subcommittee of that committee, an application for
14 review for the purposes of assisting the board in
15 considering the application;

16 (5) Shall consider all oral and written comments submitted
17 under section 152-C and may incorporate those comments
18 in the chairperson's review of the application; and

19 (6) Shall make a recommendation to the board regarding
20 each application.



1 (d) The board shall vote on each change to a noxious weed
2 designation requested in an application at the subsequent
3 meeting timely held after the period for public notification and
4 input described in section 152-C.

5 (e) Upon approval by the board of a change to a noxious
6 weed designation, the order to make that change to the noxious
7 weed designation shall take effect ten days after the department
8 posts public notice of the order in a daily or weekly
9 publication of statewide circulation or in separate daily or
10 weekly publications whose combined circulation is statewide and
11 on the department's publicly available website.

12 (f) Nothing in this section shall be construed to prevent
13 the department or board from considering an action related to a
14 noxious weed on an expedited or emergency basis at any time.

15 **§152-B Applications.** (a) Any person or the department
16 may submit an application seeking a change to noxious weed
17 designations.

18 (b) An application shall be submitted for the board's
19 consideration at a meeting as described in section 152-A(a).

20 (c) Each application shall include:



- 1 (1) The name, address, and contact information of the
- 2 applicant;
- 3 (2) A description of the applicant's requested change to
- 4 the noxious weed designation;
- 5 (3) Evidence that the board may use to determine if the
- 6 requested change will be made; and
- 7 (4) Any other information the chairperson may reasonably
- 8 require, as specified on a form provided by the
- 9 chairperson.
- 10 (d) An application to designate a new taxon as a noxious
- 11 weed shall include:
- 12 (1) The taxon's:
- 13 (A) Scientific name and author;
- 14 (B) Common synonyms;
- 15 (C) Botanical classification; and
- 16 (D) Common names;
- 17 (2) The class of noxious weed requested for the taxon;
- 18 (3) A description of the geographic area in the State that
- 19 is free or reasonably free of the taxon;
- 20 (4) Information describing how the taxon can directly or
- 21 indirectly injure or cause damage to crops, including



1 nursery stock or plant products; livestock; poultry;
2 or other interests of agriculture, irrigation,
3 navigation, the natural resources of the State, the
4 public health, or the environment; and

5 (5) A list of references to support the information
6 provided in the application.

7 (e) An application to remove the noxious weed designation
8 for a plant taxon shall include evidence that the plant:

9 (1) Cannot directly or indirectly injure or cause damage
10 to crops, including nursery stock or plant products;
11 livestock; poultry; or other interests of agriculture,
12 irrigation, navigation, the natural resources of the
13 State, the public health, or the environment; or

14 (2) Is eligible for special consideration for crops under
15 section 152-F.

16 (f) An application to change the class of a noxious weed
17 designation shall include evidence that the noxious weed meets
18 the description of the proposed class as established in
19 section 152-4.

20 **§152-C Public notification and input for changes to**

21 **noxious weed designations.** (a) No later than fourteen days



1 after an application is submitted at a board meeting pursuant to
2 section 152-A, the chairperson shall issue a press release and
3 provide notice to the office of planning and sustainable
4 development for publication and to each person who has made a
5 timely written request to the department for notice of an
6 application. The press release and notices shall include:

7 (1) A statement summarizing each change to a noxious weed
8 designation requested in an application;

9 (2) A statement that a copy of the application will be
10 mailed to any interested person who requests a copy
11 upon payment in advance of costs for photocopying,
12 preparing, and mailing the copy and that a copy of the
13 application will be made available on the department's
14 publicly available website;

15 (3) A statement as to where to obtain a copy of the
16 application for inspection or for pickup after payment
17 in full for costs for photocopying and preparing; and

18 (4) A statement that the department is soliciting comments
19 regarding the requested change to a noxious weed
20 designation, which shall include the procedure for
21 submitting comments.



1 (b) During the three-month period after an application is
2 submitted at a board meeting, any interested person, educational
3 institution, or government entity may:

4 (1) Provide oral comments on the application at any
5 regularly scheduled meeting of the board; and

6 (2) Provide written comments on the application to the
7 board and the chairperson.

8 **§152-D Emergency designations.** (a) Notwithstanding any
9 other provision of this chapter or any other law to the
10 contrary:

11 (1) If the department finds an incipient infestation of a
12 plant taxon is directly or indirectly injuring or
13 causing damage to crops, including nursery stock or
14 plant products; livestock; poultry; or other interests
15 of agriculture, irrigation, navigation, the natural
16 resources of the State, the public health, or the
17 environment without immediate action, the department
18 may proceed without prior notice or upon a minimum of
19 forty-eight hours notice and hearing to adopt an
20 emergency rule for the eradication of that
21 infestation;



1 (2) An emergency rule described in paragraph (1) shall be
2 effective for a period no longer than one hundred
3 eighty days, without the possibility of renewal; and

4 (3) The department may establish, implement, and enforce
5 interim rules governing the transportation of noxious
6 weeds or taxa eligible for noxious weed designation
7 into or within the State, as provided in section 150A-
8 9.5.

9 (b) During the period that an emergency rule is in effect
10 pursuant to subsection (a), the chairperson shall make an
11 application for the board to order on an expedited basis the
12 designation of the taxon as a noxious weed.

13 **§152-E Publication of noxious weed designations.** The
14 chairperson shall make available to the public and publish on
15 the department's publicly available website the list of noxious
16 weed designations designated under this chapter. The list shall
17 include:

18 (1) Information on which noxious weeds are respectively
19 designated as class A, class B, and class C noxious
20 weeds; and



1 (2) The geographic area declared free or reasonably free
2 of each noxious weed.

3 §152-F Special consideration for crops. (a) The board
4 may defer designating a plant taxon as a noxious weed or
5 removing a noxious weed designation from a plant taxon if the
6 plant taxon:

7 (1) Is, or is intended to be, commercially cultivated in
8 the State as a crop; and

9 (2) Is, or will be, cultivated using practices that
10 prevent it from directly or indirectly injuring or
11 causing damage to crops, including nursery stock or
12 plant products; livestock; poultry; or other interests
13 of agriculture, irrigation, navigation, the natural
14 resources of the State, the public health, or the
15 environment.

16 (b) The board may require conditions, including a bond or
17 a compliance agreement, for the cultivation of a plant taxon for
18 which the board has deferred a designation or removed from
19 designation pursuant to subsection (a).

20 (c) The board shall designate as a noxious weed a plant
21 taxon that is cultivated as a crop for which the board deferred



1 a designation or removed from designation pursuant to subsection
2 (a) if the plant becomes invasive or is otherwise no longer as
3 described in subsection (a)(2).

4 **§152-G Noxious weed control or eradication programs.** (a)

5 The chairperson may develop and implement a program to control
6 or eradicate a specific noxious weed if the chairperson
7 determines that the control or eradication program is feasible
8 and practicable.

9 (b) Each control or eradication program developed under
10 subsection (a) shall:

- 11 (1) Use the best available technology and use the
- 12 technology in a manner consistent with federal and
- 13 state law;
- 14 (2) Specify the geographic area where the program will be
- 15 carried out, which may be a section of an island, an
- 16 island, a group of islands, or the entire State;
- 17 (3) Minimize collateral damage to crops, property, the
- 18 environment, and native species;
- 19 (4) Include a description of the specific methods to be
- 20 employed to control or eradicate the noxious weed;



- 1 (5) Include a description of the surveys and monitoring
2 that will be required before and after the specific
3 methods to control or eradicate are employed;
- 4 (6) Include an assessment of whether the department will
5 seek any quarantine related to the control or
6 eradication program; and
- 7 (7) Include an approximate time frame to carry out the
8 control or eradication program.
- 9 (c) If the department or any agent of the department needs
10 to enter onto private property to conduct detection and
11 delimitation surveys or otherwise carry out or maintain the
12 control or eradication program, but the landowner or land
13 occupier of the property refuses to grant entry to the
14 department or its agent, the department or agent may gain entry
15 pursuant to section 141-3.6 to the extent necessary to carry out
16 or maintain the control or eradication program, unless the
17 property is a dwelling place.
- 18 (d) The chairperson may seek the board's approval for a
19 control or eradication program developed under this section if
20 the chairperson believes that the board's approval is likely to
21 make the program more successful.



1 (e) This section shall not apply to efforts by the
2 department to control a noxious weed using only the release of a
3 biological control agent.

4 §152-H Noxious weed control on leased state lands. Any
5 person that leases state lands for livestock grazing or any
6 agricultural purpose shall agree in the lease agreement to
7 control any noxious weed on those lands to the extent required
8 by the department.

9 §152-I Penalties. (a) The department may establish,
10 impose, and collect administrative fines or bring legal action
11 to recover administrative costs of the department, payment for
12 damages, or costs to correct damages resulting from violations
13 of this chapter or any rule adopted under this chapter.

14 (b) The department, at its discretion, may refuse entry
15 into the State of, confiscate, or destroy any noxious weed or
16 article infested with a noxious weed that a person brings or
17 attempts to bring into the State or that is offered for sale,
18 sold, or transported in violation of this chapter, or, in the
19 case of importation, order the return of any noxious weed or any
20 article infested with a noxious weed to its place of origin or



1 otherwise dispose of it or a part thereof as may be necessary to
2 comply with this chapter.

3 (c) The State shall not be responsible for any economic
4 loss or damages related to any actions by the department
5 pursuant to this chapter, including the treatment, quarantine,
6 destruction, or return of any article."

7 SECTION 20. Section 152-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding five new definitions to be appropriately
10 inserted and to read:

11 "Agent of the department" means any person authorized to
12 act on behalf of the department.

13 "Application" means an application seeking a change to the
14 noxious weed designation.

15 "Board" means the board of agriculture.

16 "Chairperson" means the chairperson of the board of
17 agriculture.

18 "Noxious weed designation" means a designation on the list
19 of noxious weeds."

20 2. By amending the definition of "control noxious weed" to
21 read:



1 ""Control noxious weed" means to limit the spread of a
2 specific noxious weed, including quarantining material infested
3 with the noxious weed, and to reduce its density to a degree
4 where its injurious, harmful, or deleterious effect is reduced
5 to a tolerable level."

6 3. By amending the definition of "eradicate noxious weed"
7 to read:

8 ""Eradicate noxious weed" means to completely destroy and
9 eliminate existing plant growth, seeds, and vegetative
10 reproductive plant parts of a specific noxious weed from a given
11 locality. "Eradicate noxious weed" includes quarantining
12 material infested with the noxious weed."

13 4. By amending the definition of "noxious weed" to read:

14 ""Noxious weed" means any plant [~~species which is, or which~~
15 ~~may be likely to become, injurious, harmful, or deleterious to~~
16 ~~the agricultural, horticultural, aquacultural, or livestock~~
17 ~~industry of the State and to forest and recreational areas and~~
18 ~~conservation districts of the State, as determined and~~
19 ~~designated by the department from time to time.] or plant
20 product that can directly or indirectly injure or cause damage
21 to crops, including, nursery stock or plant products; livestock;~~



1 poultry; or other interests of agriculture, irrigation,
2 navigation, the natural resources of the State, the public
3 health, or the environment."

4 SECTION 21. Section 152-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§152-2 Rules.** Subject to chapter 91, the department may
7 [make] adopt rules [to effectuate] necessary for the purposes of
8 this chapter[~~, including but not limited to the following:~~

- 9 ~~(1) Establishment of criteria and procedures for the~~
10 ~~designation of plant species as noxious weeds for the~~
11 ~~purposes of this chapter;~~
12 ~~(2) Establishment of procedures and conditions for the~~
13 ~~initiation of cooperative agreements with landowners~~
14 ~~and land occupiers for the purpose of eradicating or~~
15 ~~controlling noxious weed infestations;~~
16 ~~(3) Control or eradication of noxious weeds when deemed~~
17 ~~economically feasible]."~~

18 SECTION 22. Section 152-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§152-3 Prohibited and permitted acts.** [~~It~~] (a) Except
21 as provided in subsection (b), it shall be unlawful to



1 ~~[introduce or to transport specific]~~ import into the State or
2 sell, offer for sale, or transport within the State noxious
3 weeds or their seeds or vegetative reproductive parts ~~[into any~~
4 ~~area designated pursuant to section 152-5 as free or reasonably~~
5 ~~free of those noxious weeds; provided that the introduction or~~
6 ~~transportation of those noxious weeds may be permitted for~~
7 ~~educational or research purposes when authorized by a permit~~
8 ~~issued by the department].~~

9 (b) The prohibition in subsection (a) shall not apply to:

- 10 (1) A plant part that is processed, not vegetatively
11 propagative, or otherwise not capable of reproducing
12 the plant;
- 13 (2) The movement of a properly prepared herbarium
14 specimen;
- 15 (3) The movement of plant material by authorized employees
16 of the department or an agent of the department acting
17 in the course of official duties;
- 18 (4) A noxious weed imported for research pursuant to a
19 permit issued by the chairperson; or
- 20 (5) A noxious weed transported for educational or research
21 purposes or for proper disposal of removed material



1 under methods approved by, or pursuant to a permit
2 issued by, the chairperson.

3 (c) The department may establish fees for permits issued
4 under this section."

5 SECTION 23. Section 152-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§152-4 Designation of noxious [weed-] weeds; classes of**
8 **noxious weeds.** (a) The [~~department~~] board may designate
9 certain plant [~~species~~] taxa as noxious weeds [~~following the~~
10 ~~criteria and procedures established under section 152-2(1).~~]
11 pursuant to this chapter and rules adopted pursuant to this
12 chapter.

13 (b) The department shall publish and make available on its
14 website a list of noxious weeds [to interested persons.]
15 designated pursuant to this chapter.

16 (c) A plant taxon shall be designated as a noxious weed if
17 the board determines that the plant could directly or indirectly
18 injure or cause damage to crops, including nursery stock or
19 plant products; livestock; poultry; or other interests of
20 agriculture, irrigation, navigation, the natural resources of
21 the State, the public health, or the environment.



1 (d) The board shall designate each noxious weed as a class
2 A, class B, or class C noxious weed; provided that in
3 determining the class to which a noxious weed should be
4 designated, the following standards shall apply:

5 (1) Class A noxious weeds:

6 (A) Are not known to occur or are of very limited
7 distribution in the State;

8 (B) Are a high priority for control or eradication if
9 an infestation was discovered in the State; and

10 (C) When detected, shall be subject to control or
11 eradication actions by the department or an agent
12 of the department, subject to the availability of
13 funds;

14 (2) Class B noxious weeds:

15 (A) Are known to occur in the State but are of
16 limited distribution on one or more islands;

17 (B) Are a high priority for control or eradication in
18 a given area; and

19 (C) Shall be managed on a priority basis, by the
20 department or an agent of the department, as
21 resources allow; and



1 (3) Class C noxious weeds are those noxious weeds that are
2 not class A or class B noxious weeds."

3 SECTION 24. Section 152-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§152-5 Designation of areas declared free or reasonably**
6 **free of noxious weeds.** (a) The [~~department~~] board may declare
7 the entire State, an island, or a section of an island as free
8 or reasonably free of a specific noxious weed. The department
9 shall take necessary measures to restrict the introduction and
10 establishment of specific noxious weeds in areas declared free
11 or reasonably free of those noxious weeds.

12 (b) A change to the geographic area declared free or
13 reasonably free of a specific noxious weed shall be made by
14 order of the board under the procedures for a change to a
15 noxious weed designation set out in this chapter."

16 SECTION 25. Section 152-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§152-6 Duties of the department; noxious weed control and**
19 **eradication.** (a) The department shall maintain a constant
20 vigilance for incipient infestations of specific noxious weeds
21 [~~on islands~~] in locations declared reasonably free from those



1 weeds, and shall use those procedures and methods to control or
2 eradicate the infestations of noxious weeds as are determined to
3 [be]:

4 (1) Be feasible and practicable[-]; and

5 (2) Minimize collateral damage to crops, property, the
6 environment, and native species.

7 (b) ~~[When the] The department [determines that an~~
8 ~~infestation of a certain noxious weed exists on an island~~
9 ~~declared reasonably free from the weed, the department shall~~
10 ~~immediately conduct investigations and surveys as are necessary~~
11 ~~to determine the feasibility and practicability of controlling~~
12 ~~or eradicating the infestation. The department may also conduct~~
13 ~~investigations and surveys to determine the feasibility and~~
14 ~~practicability of controlling widespread noxious weed~~
15 ~~infestations. The methods of control or eradication adopted by~~
16 ~~the department for any noxious weed infestation shall cause as~~
17 ~~little damage to crops and property as possible.] or an agent of~~
18 the department:

19 (1) Shall conduct detection and delimitation surveys of
20 noxious weeds, and to the extent necessary and



- 1 permitted by law, shall access private property in
2 areas declared reasonably free from those weeds;
3 (2) Shall determine the feasibility and practicability of
4 controlling or eradicating infestations; and
5 (3) May conduct control or eradication actions in any area
6 of the State, as determined appropriate by the
7 chairperson.

8 (c) Upon determining that control or eradication of an
9 infestation is practicable and feasible, the department shall
10 immediately serve notice, either oral or written, on both the
11 landowner [~~of the property~~] and the [~~occupant~~] land occupier of
12 the property [~~on~~] upon which the infestations exist. Written
13 notice sent to the landowner's address last known to the
14 department by certified mail, postage prepaid, return receipt
15 requested, shall be deemed sufficient notice. [~~In the event~~
16 ~~that~~] If certified mail is impractical because the department,
17 despite diligent efforts, cannot determine land ownership or
18 because of urgent need to initiate control or eradication
19 measures, notice given once in a daily or weekly publication of
20 general circulation, in the county where any action or proposed
21 action will be taken, or notice made as otherwise provided by



1 law, shall be deemed sufficient notice. The notice shall set
2 forth all pertinent information with respect to the infestation
3 and notify the landowner and the land [~~occupant~~] occupier of the
4 procedure and methods of control or eradication.

5 (d) [~~Upon the department's notification pursuant to~~
6 ~~subsection (c) above, the~~] The department or an agent of the
7 department may [~~enter into a cooperative agreement with the~~
8 ~~landowner and land occupier for the control or eradication of~~
9 ~~the noxious weed infestation. The procedures and conditions for~~
10 ~~executing the cooperative agreement shall be in accordance with~~
11 ~~rules adopted under section 152-2(2).~~] assist, free of cost, in
12 the control or eradication of noxious weeds, subject to the
13 availability of funds.

14 (e) [~~Upon the department's notification pursuant to~~
15 ~~subsection (c) above, the~~] The department may [~~entirely~~
16 ~~undertake the eradication or control project when it has been~~
17 ~~determined that the owner, occupier, or lessee of the land on~~
18 ~~which the noxious weed infestation is located will not benefit~~
19 ~~materially or financially by the control or eradication of the~~
20 ~~noxious weed; or when the noxious weed infestation is on~~
21 ~~state-owned land not leased or under control of private~~



1 ~~interest.]~~ work cooperatively with a landowner or land occupier
2 to provide chemicals, materials, equipment, personnel, and
3 services to the land owner or land occupier to assist with the
4 control or eradication of noxious weeds on private property.

5 (f) Assistance provided by the department to control or
6 eradicate noxious weeds in the State may include the appropriate
7 distribution and release of beneficial insects, pathogens, and
8 other biological control agents for the control or eradication
9 of noxious weeds."

10 SECTION 26. No later than two years after the effective
11 date of this Act, the department of agriculture shall adopt
12 rules and implement the plant nursery licensing program
13 established by section 7 of this Act. During those two years, a
14 person may sell nursery stock without a license issued pursuant
15 to that program.

16 PART V

17 SECTION 27. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 28. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 29. In codifying the new sections added by
7 sections 7 and 19 of this Act, the revisor of statutes shall
8 substitute appropriate section numbers for the letters used in
9 designating the new sections in this Act.

10 SECTION 30. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 31. This Act shall take effect on July 1, 3000.



Report Title:

DOA; Invasive Species; Pests; Taxa; Control and Eradication;
Quarantine; Plant Nursery Licensing; Noxious Weeds

Description:

Requires the Department of Agriculture to designate certain species as pests, and periodically update taxa designated as pests, for control or eradication and develop and implement a control or eradication program for each designated pest but, if the Department fails to do so, authorizes the applicable county to develop or implement the program. Establishes a plant nursery licensing program to regulate the sale of nursery stock. Prohibits the import of any material infested or infected with a pest or that is a pest unless imported under an appropriate permit or compliance agreement and amends the Department of Agriculture's authority to impose other limits on imports and transportation. Amends the method by which the Board of Agriculture makes and updates noxious weed designations and clarifies responsibilities for the control or eradication of noxious weeds. Effective 7/1/3000. (HD2)

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

