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# 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, this State's horticultural and agricultural  
11 industries face a serious threat from the introduction of the  
12 plant diseases citrus greening (or huanglongbing) (*Candidatus*  
13 *Liberibacter asiaticus*), citrus canker (*Xanthomonas axonopodis*),  
14 citrus black spot (*Phyllosticta citricarpa*), and fruit flies  
15 (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 this 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 infested with a high impact pest and prevent  
15 the sale of infested merchandise. In cases of high impact  
16 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 this  
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 is devastating ranch lands  
8 on Hawaii island since its detection in 2016, to its list of  
9 pests for control and eradication, which was last updated in  
10 2008.

11 The purpose of this Act is to:

- 12 (1) Facilitate the control and eradication of invasive  
13 species and pests; and  
14 (2) Assist the department of agriculture in carrying out  
15 its responsibilities.

16 PART II

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

19 "**§141-2 Rules.** Subject to chapter 91, the department of  
20 agriculture shall adopt, amend, and repeal rules not  
21 inconsistent with law, for and concerning:



- 1 (1) The introduction, transportation, and propagation of  
2 trees, shrubs, herbs, and other plants;
- 3 (2) The quarantine, inspection, fumigation, disinfection,  
4 destruction, or exclusion, either upon introduction  
5 into the State, or at any time or place within the  
6 State, of any [~~nursery stock,~~] nursery stock, tree,  
7 shrub, herb, vine, cut-flower, cutting, graft, scion,  
8 bud, seed, leaf, root, or rhizome; any nut, fruit, or  
9 vegetable; any grain, cereal, or legume in the natural  
10 or raw state; any moss, hay, straw, dry-grass, or  
11 other forage; any unmanufactured log, limb, or timber;  
12 or any other plant growth or plant product unprocessed  
13 or in the raw state; any sand, soil, or earth; any  
14 live bird, reptile, insect, or other animal, in any  
15 stage of development, that is in addition to the  
16 so-called domestic animals, which are provided for in  
17 section 142-2; and any box, barrel, crate, or other  
18 containers in which the articles, substances, or  
19 objects have been transported or contained, and any  
20 packing material used in connection therewith, or any  
21 other pest host material that is or may be diseased or



1 infested with insects or likely to assist in the  
2 transmission or dissemination of any insect or plant  
3 disease injurious, harmful, or detrimental, or likely  
4 to become injurious, harmful, or detrimental to the  
5 agricultural or horticultural industries or the  
6 forests of the State, or the public health and  
7 welfare, or that is or may be in itself injurious,  
8 harmful, or detrimental to the same; provided that  
9 included therein may be rules governing the  
10 transportation of any of the articles, substances, or  
11 objects enumerated above in this section between  
12 different localities on any one of the islands within  
13 the State;

- 14 (3) The prohibition of importation into the State, from  
15 any or all foreign countries or from other parts of  
16 the United States, or the shipment from one island  
17 within the State to another island therein, or the  
18 transportation from one part or locality of any island  
19 to another part or locality of the same island, of any  
20 [~~specifie~~] article, substance, or object or class of  
21 articles, substances, or objects [~~, among these~~



1 ~~enumerated above in this section,~~] that is diseased or  
2 infested with insects or likely to assist in the  
3 transmission or dissemination of any insect or plant  
4 disease injurious, harmful, or detrimental or likely  
5 to be injurious, harmful, or detrimental to the  
6 agricultural or horticultural industries, or the  
7 forests of the State, or that is or may be in itself  
8 injurious, harmful, or detrimental to the same;

9 (4) The preparation by cargo carriers of manifests of  
10 cargo transported into the State or between islands of  
11 the State and the submission of the manifests to the  
12 department;

13 (5) The establishment, maintenance, and enforcement of  
14 compliance agreements with federal or state  
15 departments of agriculture authorizing agriculture  
16 inspectors from the state of origin in the case of  
17 imports to the State, or state agricultural inspectors  
18 in the case of state exports, to monitor the growing  
19 and packing of plant commodities and any treatment  
20 procedures to ensure compliance with quarantine laws,  
21 and further authorizing the assessment of fees for



1           conducting inspections required under the compliance  
2           agreement; ~~and]~~

3           (6) The manner in which agricultural product promotion and  
4           research activities may be undertaken, after  
5           coordinating with the agribusiness development  
6           corporation~~[-]~~; and

7           (7) The protection of members of the public and property.

8           All rules adopted under this section shall have the force  
9           and effect of law."

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

12           "**§141-3 Designation of pests; control or eradication of**  
13           **pests; emergency power.** (a) The department of agriculture  
14           shall ~~designate~~]:

15           (1) Designate the coqui frog (Eleutherodactylus coqui),  
16           the coconut rhinoceros beetle (Oryctes rhinoceros),  
17           the little fire ant (Wasmannia auropunctata), and the  
18           two-lined spittlebug (Prosapia bicincta) as [a pest.  
19           ~~All other pest designations shall be established by~~  
20           ~~rule, including] pests for control or eradication;~~



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

4       (3) Establish, by rule, the criteria and procedures for  
5       the designation of pests for control or  
6       eradication[-]; provided that criteria shall be  
7       written with the understanding that:

8       (A) Pests designated for control or eradication shall  
9       be:

10       (i) High-risk pests upon which statewide or  
11       local control is necessary to prevent  
12       serious impacts to native species and the  
13       environment; or

14       (ii) Injurious, deleterious, or likely to become  
15       injurious or deleterious to the public  
16       health and welfare, private property, or the  
17       agricultural, horticultural, aquacultural,  
18       or livestock industries of the State; and

19       (B) Not every invasive species poses a risk that  
20       warrants designation of the species as a pest for  
21       control or eradication.



1 (b) The department of agriculture [~~shall~~], so far as  
2 reasonably practicable, shall assist, free of cost to  
3 [~~individuals,~~] persons, in the control or eradication of  
4 insects, mites, diseases, noxious weeds, or other pests or any  
5 other taxa injurious to the environment or vegetation of value;  
6 and in the investigation, suppression, and eradication of  
7 contagious, infectious, and communicable diseases among domestic  
8 animals; and shall in like manner distribute to points where  
9 needed, beneficial insects, or pathogens and other antidotes for  
10 the control of insects, mites, diseases, or other pests or any  
11 other taxa injurious to the environment or vegetation of value,  
12 and for the control or eradication of vegetation of a noxious  
13 character.

14 (c) Notwithstanding subsection (a), if the department  
15 finds the incipient infestation of a pest that [~~has an adverse~~  
16 ~~effect on the environment or that~~] is injurious or deleterious  
17 or that is likely to become injurious or deleterious to native  
18 species, the environment, public health and welfare, private  
19 property, or the agricultural, horticultural, aquacultural, or  
20 livestock industries of the State without immediate action, it  
21 may proceed without prior notice or upon a minimum of forty-



1 eight hours notice and hearing to adopt an emergency rule for  
2 the eradication of the pest [~~to~~], or incipient infestation,  
3 regardless of whether the pest is currently designated as a pest  
4 for control or eradication. The emergency rule shall be  
5 effective for a period of not longer than one hundred eighty  
6 days without renewal."

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

9 "**§141-3.5 Control or eradication programs.** (a) The  
10 department of agriculture shall develop and implement a detailed  
11 control or eradication program for [~~any pest~~] each taxa  
12 designated [~~is~~] as a pest for control or eradication pursuant to  
13 section 141-3, using the best available technology in a manner  
14 consistent with state and federal law. Each program shall  
15 include actions to prevent the introduction or spread of the  
16 pest, including the quarantine of appropriate material within  
17 the infested area, treatment to control or eradicate the pest,  
18 and outreach to the affected communities.

19 (b) If the department does not develop and implement a  
20 detailed control or eradication program for a taxa designated as  
21 a pest for control or eradication pursuant to section 141-3 on



1 an island where the pest is, or is likely to be, a threat to  
2 public health and welfare, or private property, and is therefore  
3 a public nuisance, the applicable county or invasive species  
4 committee, or the Hawaii ant lab, may develop or implement a  
5 program for the pest on that island or the impacted area of that  
6 island.

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

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

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

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

19 (e) For the purposes of this section, "invasive species  
20 committee" means one of the island-based, voluntary partnerships  
21 under the university of Hawaii's Pacific cooperative studies



1 unit staffed by employees of the research corporation of the  
2 university of Hawaii that work to prevent, control, or eliminate  
3 invasive species. "Invasive species committee" includes the Big  
4 Island invasive species committee, the Kauai invasive species  
5 committee, the Oahu invasive species committee, the Maui  
6 invasive species committee, and the Molokai invasive species  
7 committee."

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

10 **"§141-3.6 Entry of private property to control or**  
11 **eradicate any pests.** (a) The department of agriculture [~~or~~],  
12 applicable county, applicable invasive species committee as  
13 defined in section 141-3.5(e), or the Hawaii ant lab shall give  
14 at least five days notice to the landowner and the occupier of  
15 any private property of its intention to enter the property [~~for~~  
16 ~~the control or eradication of a pest.~~] to carry out a control or  
17 eradication program developed pursuant to section 141-3.5,  
18 including the quarantine of materials. Written notice sent to  
19 the landowner's last known address by certified mail, postage  
20 prepaid, return receipt requested, shall be deemed sufficient  
21 notice. If certified mail is impractical because the department



1 ~~[or]~~, county, invasive species committee, or Hawaii ant lab,  
2 despite diligent efforts, cannot determine land ownership or  
3 because of urgent need to initiate control or eradication  
4 measures, notice given once in a daily or weekly publication of  
5 general circulation, in the county where any action or proposed  
6 action will be taken, or notice made as otherwise provided by  
7 law, shall be deemed sufficient notice. The notice shall set  
8 forth all pertinent information on the ~~[pest]~~ control or  
9 eradication program and the procedures and methods to be used  
10 for control or eradication.

11 (b) After notice as required by subsection (a), any member  
12 of the department, employee of the county, employee of the  
13 invasive species committee, employee of the Hawaii ant lab, or  
14 any agent authorized by the department ~~[or]~~, county, or invasive  
15 species committee may enter at reasonable times any private  
16 property other than dwelling places to ~~[maintain a pest]~~ carry  
17 out a control or eradication program~~[r]~~ developed pursuant to  
18 section 141-3.5, being liable only for damage caused by acts  
19 beyond the scope of the person's authority, or the person's  
20 negligence, gross negligence, or intentional misconduct. If  
21 ~~[entry is refused,]~~ the landowner or occupier does not consent,



1 the department member, county employee, invasive species  
 2 committee employee, Hawaii ant lab employee, or any authorized  
 3 agent may apply to the district court in the circuit in which  
 4 the property is located for a warrant to enter on the premises  
 5 to effectuate the purposes of this chapter. The district court  
 6 may issue a warrant directing a [~~police~~] law enforcement officer  
 7 of the circuit to assist the department member, county employee,  
 8 invasive species committee employee, Hawaii ant lab employee, or  
 9 any authorized agent in gaining entry onto the premises during  
 10 regular working hours or at other reasonable times."

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

13 "~~§141-6 Appeal from [inspector's decision.]~~ certain  
 14 decisions. Any person who feels aggrieved at any decision of  
 15 the chairperson of the board of agriculture, the chairperson's  
 16 designee, or any inspector of the department of agriculture  
 17 shall have the right to appeal from the decision to the board of  
 18 agriculture. The board shall give a prompt hearing to the  
 19 appellant and the [~~inspector~~] chairperson of the board of  
 20 agriculture upon the appeal, and decide the question at issue,



1 which decision shall be subject to judicial review as provided  
2 in chapter 91."

3 PART III

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

7 "PART

8 PLANT NURSERY LICENSING PROGRAM

9 §150A-A Definitions. For the purposes of this part,  
10 unless the context requires otherwise:

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

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

19 "High-priority pest" means a pest, including a noxious  
20 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 including the appropriate invasive species committee  
6 for an island, attempts to contain, suppress, or  
7 reduce within the State or an area of the State; and
- 8 (4) Whose introduction causes or is likely to cause  
9 economic or environmental harm or harm to human  
10 health.

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

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

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

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

- 20 (1) The implementation at the location of any method of  
21 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) A person is not eligible for any certificate or  
19 service under part III of this chapter with respect to nursery  
20 stock unless the person holds a valid plant nursery license.



1 (d) The department may publish on the internet website  
2 maintained by the department and in other appropriate form a  
3 list of persons that hold a valid plant nursery license.

4 **§150A-C Full plant nursery licenses; requirements;**

5 **duration.** (a) Each person seeking a full plant nursery license  
6 or a renewal of a full plant nursery license shall submit to the  
7 department:

8 (1) An application; and

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

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

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

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

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

19 (4) Passes all authorized inspections;

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

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



1 (7) Implements standards of nursery cleanliness at the  
2 location; and

3 (8) Implements any best management practices required by  
4 the department for the location.

5 (c) A full plant nursery license:

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

7 (2) May be renewed for additional periods of one year per  
8 renewal.

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

13 (b) The fee required by subsection (a) shall be determined  
14 based on:

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

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

18 (3) Any other criteria the department determines is  
19 appropriate.

20 (c) No portion of the fee required by subsection (a) may  
21 be refunded to a person if the department denies an application



1 for a full plant nursery license or renewal or revokes the  
2 license pursuant to section 150A-G.

3 (d) All fees collected under this section shall be paid to  
4 the department and deposited into the pest inspection,  
5 quarantine, and eradication fund established pursuant to section  
6 150A-4.5.

7 **§150A-E Temporary plant nursery licenses; small seller**

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

- 11 (1) Applies for a temporary plant nursery license;
- 12 (2) Is a non-profit, charitable, educational, or religious  
13 organization;
- 14 (3) Demonstrates to the department's satisfaction that:
- 15 (A) The person will sell nursery stock for no more  
16 than days in a calendar year;
- 17 (B) The person does not sell any plant species  
18 designated by the department as a noxious weed or  
19 restricted plant;
- 20 (C) The person's total annual sales of nursery stock  
21 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 (5) 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 or impede  
6 an inspector conducting an inspection under this section or  
7 hinder the inspection by misrepresenting or concealing facts or  
8 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 a 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 a small seller plant nursery license for  
13 the affected nursery stock or location of the  
14 existence of the high-priority pest, low-priority  
15 pest, or other compliance issue and advise the person  
16 on acceptable mitigation methods; and

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

10          (g) The applicant or person affected by the department  
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 Revocation.** Subject to chapter 91 and the rules  
16 adopted by the board, the department may refuse to issue or  
17 renew a full plant nursery license, a temporary plant nursery  
18 license, or a small seller plant nursery license or may suspend  
19 or revoke a full plant nursery license, temporary plant nursery  
20 license, or a small seller plant nursery license for a location



1 if the department determines that the licensee or the applicant  
2 has:

3 (1) Willfully 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 a  
21 provision of this part or any rule adopted by the department



1 pursuant to this part shall be fined not more than \$        for  
2 each separate offense. Each date of violation shall constitute  
3 a separate offense. Any action taken to impose or collect the  
4 penalty provided for in this subsection shall be considered a  
5 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 one new section to be appropriately designated  
11 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 is not subject to  
12 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       SECTION 9. Chapter 150A, Hawaii Revised Statutes, is  
5 amended by adding a new section to part III to be appropriately  
6 designated and to read as follows:

7       "~~§150A-~~ **Plant nursery license required.** No  
8 certification or service related to nursery stock shall be  
9 provided under this part to a person who is required to obtain a  
10 plant nursery license pursuant to part       for the nursery stock  
11 unless the person has obtained the required plant nursery  
12 license."

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

15       "~~[+]§150A-1[+]~~ **Short title.** This chapter may be cited as  
16 the "Hawaii [~~Plant Quarantine~~] Invasive Species Law"."

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

19       1. By adding eight new definitions to be appropriately  
20 inserted and to read:

21       ""Compliance agreement" means a written agreement:



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

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

5       "Infested" means harboring a pest.

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

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

13      "Person" means any individual, firm, corporation,  
14      association, partnership, or other entity, including a  
15      governmental entity or nonprofit organization.

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

19      "Restricted area" means an island or locality within the  
20      State where a specific pest is not known to be established or  
21      where an eradication or control project for a specified pest is



1 being conducted by the department or an entity recognized by the  
2 chairperson."

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

4 ""Pest" means [~~any~~]:

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

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

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

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

17 (1) Legislative appropriations for biosecurity and  
18 inspection, quarantine, and eradication services;

19 (2) Service fees, charges, and penalties collected under  
20 section 150A-5.3;



1        (3) Fees and fines collected under the plant nursery  
2        licensing program pursuant to part        ;

3        [~~+3~~] (4) Fees imposed for services pursuant to this  
4        chapter or rules adopted under this chapter;

5        [~~+4~~] (5) Fines for violations of this chapter;

6        [~~+5~~] (6) Federal funds received for biosecurity, pest  
7        inspection, control, management, quarantine, and  
8        eradication programs;

9        [~~+6~~] (7) Grants and gifts;

10       [~~+7~~] (8) All interest earned or accrued on moneys  
11       deposited in the fund; and

12       [~~+8~~] (9) Any other moneys made available to the fund."

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

15       "**§150A-5 Conditions of importation.** (a) The importation  
16       into the State of any material that is infested or infected with  
17       a pest or that is itself a pest is prohibited unless imported  
18       under an appropriate permit or compliance agreement.

19       (b) The importation into the State of any of the following  
20       articles, viz., [~~nursery stock,~~] nursery stock, tree, shrub,  
21       herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf,



1 root, or rhizome; nut, fruit, or vegetable; grain, cereal, or  
2 legume in the natural or raw state; moss, hay, straw, dry-grass,  
3 or other forage; unmanufactured log, limb, or timber, or any  
4 other plant-growth or plant-product, unprocessed or in the raw  
5 state; soil; microorganisms; live bird, reptile, nematode,  
6 insect, or any other animal in any stage of development (that is  
7 in addition to the so-called domestic animal, the quarantine of  
8 which is provided for in chapter 142); box, vehicle, baggage, or  
9 any other container in which [~~such~~] the articles have been  
10 transported or any packing material used in connection therewith  
11 shall be made in the manner hereinafter set forth:

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



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

19 (A) [A] Require a permit from the department in  
20 advance of importation; [~~or~~]



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

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

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

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



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

13 (B) Completed declaration forms shall be collected by  
14 the transportation company and be delivered,  
15 immediately upon arrival, to the inspector at the  
16 first airport or seaport of arrival. Failure to  
17 distribute or collect declaration forms or to  
18 immediately deliver completed declaration forms  
19 is a violation of this section; and

20 (C) It shall be the responsibility of the officers  
21 and crew of an aircraft or vessel originating in



1           the continental United States or its possessions  
2           or from any other area not under the jurisdiction  
3           of the appropriate federal agency to immediately  
4           report all sightings of any plants and animals to  
5           the plant quarantine branch. Failure to comply  
6           with this requirement is a violation of this  
7           section;

8           (3) Plant and animal declaration form. The form shall  
9           include directions for declaring domestic and other  
10          animals cited in chapter 142, in addition to the  
11          articles enumerated in this chapter;

12          (4) Labels. Each container in which any of the  
13          above-mentioned articles are imported into the State  
14          shall be plainly and legibly marked, in a conspicuous  
15          manner and place, with the name and address of the  
16          shipper or owner forwarding or shipping the same, the  
17          name or mark of the person to whom the same is  
18          forwarded or shipped or the person's agent, the name  
19          of the country, state, or territory and locality  
20          therein where the product was grown or produced, and a  
21          statement of the contents of the container. Upon



1 failure to comply with this paragraph, the importer or  
2 carrier is in violation of this section;

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

7 (A) May conduct inspections of person, baggage,  
8 cargo, and any other articles destined for  
9 movement between the islands of the State or  
10 imported into the State from the continental  
11 United States, Guam, Puerto Rico, or the United  
12 States Virgin Islands for the purpose of  
13 determining whether an insect, pest, disease, or  
14 regulated or restricted taxa is present;

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



1 ~~articles or pests enumerated in this chapter or~~  
2 ~~rules adopted thereto, is present;~~

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

12 (C) ~~[Inspect any baggage or personal effects of~~  
13 ~~disembarking passengers, officers, and crew~~  
14 ~~members on aircraft or vessels arriving in the~~  
15 ~~State to ascertain if they contain any of the~~  
16 ~~articles or pests enumerated in this chapter.~~  
17 ~~Nø] Shall inform passengers and crew members that~~  
18 ~~their baggage [øx] and other personal effects [øf~~  
19 ~~the passengers or crew members] shall not be~~  
20 ~~released until the baggage [øx] and personal~~  
21 ~~effects have been passed[. ~~Baggage or~~]; and~~



1           (D) Shall have the discretion to inspect baggage and  
2           cargo [~~inspection shall be made at the discretion~~  
3           ~~of the inspector,~~] on the pier, vessel, or  
4           aircraft or in any quarantine or inspection  
5           area[~~-~~

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

19          (6) Request for importation and inspection. In addition  
20          to requirements of the appropriate United States  
21          [~~customs~~] authorities concerning invoices or other



1 formalities incident to importations into the State,  
2 the importer shall be required to file a written  
3 statement with the department, signed by the importer  
4 or the importer's agent, setting forth the importer's  
5 desire to import certain of the above-mentioned  
6 articles into the State and:

7 (A) Giving the following additional information:

8 (i) The kind (scientific name), quantity, and  
9 description;

10 (ii) The locality where same were grown or  
11 produced;

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

19 (iv) The port from which the same were last  
20 shipped;

21 (v) The name of the shipper; and



- 1 (vi) The name of the consignee; and
- 2 (B) Containing:
- 3 (i) A request that the department, by its duly
- 4 authorized agent, examine the articles
- 5 described;
- 6 (ii) An agreement by the importer to be
- 7 responsible for all costs, charges, or
- 8 expenses; and
- 9 (iii) A waiver of all claims for damages incident
- 10 to the inspection or the fumigation,
- 11 disinfection, quarantine, or destruction of
- 12 the articles, or any of them, as hereinafter
- 13 provided, if any treatment is deemed
- 14 necessary.
- 15 Failure or refusal to file a statement, including
- 16 the agreement and waiver, is a violation of this
- 17 section and may, in the discretion of the department,
- 18 be sufficient cause for refusing to permit the entry
- 19 of the articles into the State;
- 20 (7) Place of inspection. If, in the judgment of the
- 21 inspector, it is deemed necessary or advisable to move



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

- 17 (8) Disinfection or quarantine. If, upon inspection, any  
18 article received or brought into the State for the  
19 purpose of debarkation or entry therein or moved  
20 between islands of the State is found to be infested  
21 or infected or there is reasonable cause to presume



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



1 be destroyed or sent out of the State at the expense  
2 of the owner or the owner's agent. [~~Such~~] The  
3 destruction or exclusion shall not be made the basis  
4 of a claim against the department or the inspector for  
5 damage or loss incurred;

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

16 (10) Ports of entry. None of the articles mentioned in  
17 this section shall be allowed entry into the State  
18 except through the airports and seaports in the State  
19 designated and approved by the board.

20 (c) A person who violates this section or any rule adopted  
21 pursuant to this section shall be fined not more than



1 § \_\_\_\_\_ for each separate offense. Any action taken to  
2 impose or collect the penalty provided for in this subsection  
3 shall be considered a civil action."

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

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

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

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

20 "(b) The department shall designate, by rule, as  
21 restricted plants, specific plants that may be detrimental or



1 potentially harmful to agriculture, horticulture, the  
 2 environment, or animal or public health, or that spread or may  
 3 be likely to spread an infestation or infection of an insect,  
 4 pest, or disease that is detrimental or potentially harmful to  
 5 agriculture, horticulture, the environment, or animal or public  
 6 health. In addition, plant species designated [~~by rule~~]  
 7 pursuant to chapter 152 as noxious weeds are designated as  
 8 restricted plants."

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

10 "(d) Noxious weeds may be imported only for research, by  
 11 permit, and shall not be offered for sale [~~or~~], sold [~~in~~], or  
 12 transported within the State[-], except for the purposes of  
 13 appropriate disposal under permit or methods approved by the  
 14 chairperson.

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

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



1           "**§150A-8 Transporting in State.** [~~Flora and~~] (a) Without  
2 regard to chapter 201M or the notice and public hearing  
3 requirements of chapter 91, the department may specify flora,  
4 fauna [~~specified by rules and regulations of the department~~],  
5 pest host material, and any other article that shall not be  
6 moved from one island to another island within the State or from  
7 one locality to another [~~on~~] part or locality of the same island  
8 except by a permit issued by the department[~~o~~], or pursuant to a  
9 compliance agreement approved by the department.

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

12           (c) The transportation of any pest host material that is  
13 infested or infected with an insect, disease, or pest between  
14 the islands of the State or from one part or locality of any  
15 island to another part or locality of the same island is  
16 prohibited unless the pest host material has been subjected to  
17 an appropriate treatment, as approved by the chairperson.  
18 Appropriate treatment may include pesticide or fumigation  
19 treatment. The chairperson may, however, authorize the  
20 transportation of an untreated infested or infected pest host



1 material to an island or location where the pest is known to be  
2 established.

3 (d) Notwithstanding subsections (a), (b), and (c), pests  
4 or plants, plant parts, soil, or pest host material infested or  
5 infected with a pest may be transported without inspection  
6 between islands or between parts or localities of the same  
7 island:

8 (1) For diagnostics, research, testing, or educational  
9 purposes by the department; or

10 (2) Pursuant to a permit approved by the chairperson and  
11 issued to an institution approved by the board, a  
12 government agency, or a university for research,  
13 testing, or educational purposes at a site inspected  
14 and approved by the chairperson before the transport  
15 occurs.

16 (e) The chairperson may prohibit the movement of any pest  
17 host material that is offered for sale, for barter, or by  
18 donation or otherwise to be given away to the public if the  
19 chairperson determines that the pest host material is infested  
20 or infected with an insect, disease, or pest. The chairperson  
21 may compel treatment or destruction of the material as set out



1 in this section. If the material was or is stored in an area  
2 that is infested or infected with an insect, disease, or pest,  
3 the chairperson may require appropriate treatment of the area  
4 prior to authorizing the movement of the material.

5 (f) An item subject to the prohibition in subsection (e)  
6 shall be:

7 (1) Subjected to a treatment to eradicate the insect,  
8 disease, or pest, as approved and supervised by the  
9 chairperson;

10 (2) Destroyed using a method approved and supervised by  
11 the chairperson;

12 (3) Transported only pursuant to a permit issued by the  
13 chairperson; or

14 (4) Subject to any other disposition approved by the  
15 chairperson, including the transportation of untreated  
16 infested or infected pest host material or an insect,  
17 disease, or pest to an island or location where the  
18 target insect, disease, or pest is known to be  
19 established.

20 (g) The State shall not be responsible for any economic  
21 loss or damages related to any actions by the department



1 pursuant to this section, including the treatment, quarantine,  
2 or destruction of any item."

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

5 "**§150A-14 Penalty.** (a) Any person who violates any  
6 provision of this chapter other than sections 150A-5, 150A-6(3),  
7 and 150A-6(4) or who violates any rule adopted under this  
8 chapter other than those rules involving an animal that is  
9 prohibited or a plant, animal, or microorganism that is  
10 restricted, without a permit, shall be guilty of a misdemeanor  
11 and fined not less than \$100. The provisions of section 706-640  
12 notwithstanding, the maximum fine shall be \$10,000. For a  
13 second offense committed within five years of a prior offense,  
14 the person or organization shall be fined not less than \$500 and  
15 not more than \$25,000.

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

21 ~~(e)]~~ (b) Any person who:



- 1 (1) Violates section 150A-6(3) or 150A-6(4), or owns or  
2 intentionally transports, possesses, harbors,  
3 transfers, or causes the importation of any snake or  
4 other prohibited animal seized under section 150A-  
5 7(b), or whose violation involves an animal that is  
6 prohibited or a plant, animal, or microorganism that  
7 is restricted, without a permit, shall be guilty of a  
8 misdemeanor and subject to a fine of not less than  
9 \$5,000, but not more than \$20,000;
- 10 (2) Intentionally transports, harbors, or imports with the  
11 intent to propagate, sell, or release any animal that  
12 is prohibited or any plant, animal, or microorganism  
13 that is restricted, without a permit, shall be guilty  
14 of a class C felony and subject to a fine of not less  
15 than \$50,000, but not more than \$200,000; or
- 16 (3) Intentionally imports, possesses, harbors, transfers,  
17 or transports, including through interisland or  
18 intransland movement, with the intent to propagate,  
19 sell, or release, any pest designated by statute or  
20 rule, unless otherwise allowed by law, shall be guilty



1 of a class C felony and subject to a fine of not less  
2 than \$50,000, but not more than \$200,000.

3 ~~[(d)]~~ (c) Whenever a court sentences a person or  
4 organization pursuant to subsection (a) or ~~[(e)]~~ (b) for an  
5 offense which has resulted in the escape or establishment of any  
6 pest and caused the department to initiate a program to capture,  
7 control, or eradicate that pest, the court shall also require  
8 that the person or organization pay to the state general fund an  
9 amount of money to be determined in the discretion of the court  
10 upon advice of the department, based upon the cost of the  
11 development and implementation of the program.

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



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

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

9        (1) Any two or more animal specimens of the opposite sex  
10            that are prohibited or restricted, without a permit,  
11            or are a pest designated by statute or rule;

12        (2) Any three or more animal specimens of either sex that  
13            are prohibited or restricted, without a permit, or are  
14            a pest designated by statute or rule;

15        (3) Any plant or microorganism having the inherent  
16            capability to reproduce and that is restricted,  
17            without a permit; or

18        (4) Any specimen that is in the process of reproduction."

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



1           "**§150A-53 General actions to achieve objectives.** (a) To  
2 achieve the objectives of the biosecurity program, the  
3 department shall plan for and, within available legislative  
4 appropriations or through funding from other sources, implement  
5 the following:

- 6           (1) Work with government agencies and agricultural  
7 commodity exporters of other states and countries to  
8 establish pre-entry inspection programs under which  
9 inbound cargo into the State is inspected at the ports  
10 of departure or other points outside the State;
- 11           (2) Establish, operate, or participate in operating  
12 port-of-entry facilities where multiple government  
13 agencies may inspect, quarantine, fumigate, disinfect,  
14 destroy, or exclude as appropriate, articles that may  
15 harbor pests or exclude articles that are prohibited  
16 or restricted without a permit, with the goals of:
- 17           (A) Performing inspections in an efficient,  
18 effective, and expeditious manner for the  
19 government agencies involved and for cargo  
20 owners, carriers, and importers; and



- 1 (B) Providing for the proper and safe storage and  
2 handling of cargo, especially agricultural and  
3 food commodities, awaiting inspection;
- 4 (3) Develop, implement, and coordinate post-entry measures  
5 to eradicate, control, reduce, and suppress pests and,  
6 as appropriate, eradicate or seize and dispose of  
7 prohibited or restricted organisms without a permit  
8 that have entered the State;
- 9 (4) Collaborate with relevant government agencies,  
10 agricultural commodity importers, and other persons to  
11 examine and develop joint integrated systems to better  
12 implement the biosecurity program;
- 13 (5) Improve cargo inspection capabilities and methods,  
14 including enhancement of the content and submission  
15 requirements for cargo manifests and agricultural  
16 commodity ownership and movement certificates;
- 17 (6) Promote the production of agricultural commodities in  
18 the State to reduce cargo shipments of imported  
19 commodities into the State; and



1 (7) Provide public education on the negative effects of  
2 pests and prohibited or restricted organisms without a  
3 permit, to the environment and economy of the State.

4 (b) The department shall establish parameters and  
5 construction requirements for biosecurity facilities that  
6 provide for and ensure the safety of agricultural and food  
7 commodities consumed by Hawaii residents, including cold storage  
8 facilities established by private-public partnerships to  
9 preserve the quality and ensure the safety of the commodities  
10 arriving at the State's airports and harbors.

11 (c) The plant nursery licensing program established under  
12 part :

13 (1) Shall be considered to be a part of the biosecurity  
14 program; and

15 (2) May be administered and enforced using the officials  
16 of and funds available to the biosecurity program."

17 PART IV

18 SECTION 19. Chapter 152, Hawaii Revised Statutes, is  
19 amended by adding nine new sections to be appropriately  
20 designated and to read as follows:



1           "§152-A Noxious weed designations; changes. (a) The  
2 board:

3           (1) At meetings held in May and November of each year,  
4           shall accept applications for noxious weed  
5           designations for consideration; and

6           (2) May accept applications at meetings held at other  
7           times of year;

8 provided that the public shall be given timely notice of the  
9 board's meetings and the board's acceptance of applications.

10           (b) The board shall accept applications in any form,  
11 including electronic applications, as permitted by the  
12 chairperson.

13           (c) The chairperson:

14           (1) Shall review each application;

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

16           (3) May conduct additional research related to an  
17 application, including research of literature reviews,  
18 surveys, discussions with other states, and field  
19 investigations;

20           (4) May submit to the advisory committee on plants and  
21 animals established under section 150A-10, and any



1           subcommittee of that committee, an application for  
2           review for the purposes of assisting the board in  
3           considering the application;

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

8           (6) Shall make a recommendation to the board regarding  
9           each application.

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

14          (e) Upon approval by the board of a change to a noxious  
15 weed designation, the order to make that change to the noxious  
16 weed designation shall take effect ten days after the department  
17 posts public notice of the order in a daily or weekly  
18 publication of statewide circulation or in separate daily or  
19 weekly publications whose combined circulation is statewide and  
20 on the publicly available internet website of the department.



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

5       **§152-B Applications.** (a) Any person or the department  
6 may submit an application seeking a change to the list of  
7 noxious weeds.

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

10       (c) Each application shall include:

11       (1) The name, address, and contact information of the  
12 applicant;

13       (2) A description of the applicant's requested change to  
14 the noxious weed designation;

15       (3) Evidence that the board may use to determine if the  
16 requested change will be made; and

17       (4) Any other information the chairperson may reasonably  
18 require, as specified on a form provided by the  
19 chairperson.

20       (d) An application to designate a new taxon as a noxious  
21 weed shall include:



- 1        (1) The taxon's:
- 2            (A) Scientific name and author;
- 3            (B) Common synonyms;
- 4            (C) Botanical classification; and
- 5            (D) Common names;
- 6        (2) The class of noxious weed requested for the taxon;
- 7        (3) A description of the geographic area in the State that
- 8            is free or reasonably free of the taxon;
- 9        (4) Information describing how the taxon can directly or
- 10           indirectly injure or cause damage to crops (including
- 11           nursery stock or plant products), livestock, poultry,
- 12           or other interests of agriculture, irrigation,
- 13           navigation, the natural resources of the State, the
- 14           public health, or the environment; and
- 15        (5) A list of references to support the information
- 16           provided in the application.
- 17        (e) An application to remove the designation of noxious weed
- 18 for a plant taxon shall include evidence that the plant:
- 19           (1) Cannot directly or indirectly injure or cause damage
- 20           to crops (including nursery stock or plant products),
- 21           livestock, poultry, or other interests of agriculture,



1 irrigation, navigation, the natural resources of the  
2 State, the public health, or the environment; or  
3 (2) Is eligible for special consideration for crops under  
4 section 152-F.

5 (f) An application to change the class designation of a  
6 noxious weed shall include evidence that the noxious weed meets  
7 the description of the proposed class as established in  
8 section 152-4.

9 **§152-C Public notification and input for changes to**  
10 **noxious weed designations.** (a) No later than fourteen days  
11 after an application is submitted at a board meeting pursuant to  
12 section 152-A(a), the chairperson shall issue a press release  
13 and provide notices to the office of planning and sustainable  
14 development for publication and to each person who has made a  
15 timely written request of the department for notice of an  
16 application. The press release and notices shall include:

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

19 (2) A statement that a copy of the application will be  
20 mailed to any interested person who requests a copy  
21 upon payment in advance of costs for photocopying,



1 preparing, and mailing the copy and that a copy of the  
2 application will be made available on the publicly  
3 available website of the department;

4 (3) A statement as to where to obtain a copy of the  
5 application for inspection, or for pickup after  
6 payment in full for costs for photocopying and  
7 preparing; and

8 (4) A statement that the department is soliciting comments  
9 regarding the requested change to a noxious weed  
10 designation, which shall include the procedure for  
11 submitting comments.

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

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

17 (2) Provide written comments on the application to the  
18 board and the chairperson.

19 **§152-D Emergency designations.** (a) Notwithstanding any  
20 other provision of this chapter or any other law to the  
21 contrary:



- 1        (1) If the department finds an incipient infestation of a  
2        plant taxon is directly or indirectly injuring or  
3        causing damage to crops (including nursery stock or  
4        plant products), livestock, poultry, or other  
5        interests of agriculture, irrigation, navigation, the  
6        natural resources of the State, the public health, or  
7        the environment without immediate action, the  
8        department may proceed without prior notice or upon a  
9        minimum of forty-eight hours notice and hearing to  
10       adopt an emergency rule for the eradication of that  
11       infestation;
- 12       (2) An emergency rule described in paragraph (1) shall be  
13       effective for a period not longer than one hundred  
14       eighty days, without the possibility of renewal; and
- 15       (3) The department may establish, implement, and enforce  
16       interim rules governing the transportation of noxious  
17       weeds or taxa eligible to be designated as noxious  
18       weeds into or within the State, as provided in  
19       section 150A-9.5.
- 20       (b) During the period that an emergency rule is in effect  
21       pursuant to subsection (a), the chairperson shall make an



1 application for the board to order on an expedited basis the  
2 designation of the taxon as a noxious weed.

3 **§152-E Publication of noxious weed designations.** The  
4 chairperson shall make available to the public and publish on  
5 the publicly available website of the department the list of  
6 noxious weeds designated under this chapter. The list shall  
7 include:

8 (1) Information on which noxious weeds are respectively  
9 designated as class A, class B, and class C noxious  
10 weeds; and

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

13 **§152-F Special consideration for crops.** (a) The board  
14 may defer designating a plant taxon as a noxious weed or  
15 removing a noxious weed designation from a plant taxon if the  
16 plant taxon:

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

19 (2) Is, or will be, cultivated using practices that  
20 prevent it from directly or indirectly injuring or  
21 causing damage to crops (including nursery stock or



1 plant products), livestock, poultry, or other  
2 interests of agriculture, irrigation, navigation, the  
3 natural resources of the State, the public health, or  
4 the environment.

5 (b) The board may require conditions, including a bond or  
6 a compliance agreement, for the cultivation of a plant taxon for  
7 which the board has deferred a designation or removed from  
8 designation pursuant to subsection (a).

9 (c) The board shall designate as a noxious weed a plant  
10 taxon that is cultivated as a crop that for which the board  
11 deferred a designation or removed from designation pursuant to  
12 subsection (a) if the plant becomes invasive or is otherwise no  
13 longer as described in subsection (a)(2).

14 **§152-G Noxious weed control or eradication programs.** (a)  
15 The chairperson may develop and implement a program to control  
16 or eradicate a specific noxious weed if the chairperson  
17 determines that the control or eradication program is feasible  
18 and practicable.

19 (b) Each control or eradication program developed under  
20 subsection (a) shall:



- 1           (1) Use the best available technology and use the  
2                   technology in a manner consistent with state and  
3                   federal law;
- 4           (2) Specify the geographic area where the program will be  
5                   carried out, which may be a section of an island, an  
6                   island, a group of islands, or the entire State;
- 7           (3) Minimize collateral damage to crops, property, the  
8                   environment, and native species;
- 9           (4) Include a description of the specific methods to be  
10                  employed to control or eradicate the noxious weed;
- 11          (5) Include a description of the surveys and monitoring  
12                  that will be required before and after the specific  
13                  methods to control or eradicate are employed;
- 14          (6) Include an assessment of whether the department will  
15                  seek any quarantine related to the control or  
16                  eradication program; and
- 17          (7) Include an approximate time frame to carry out the  
18                  control or eradication program.
- 19          (c) If the department or any agent of the department needs  
20                  to enter onto private property to conduct detection and  
21                  delimitation surveys or otherwise carry out or maintain the



1 control or eradication program, but the owner or occupier of the  
2 property refuses to grant entry to the department or its agent,  
3 the department or agent may gain entry pursuant to  
4 section 141-3.6 to the extent necessary to carry out or maintain  
5 the control or eradication program, unless the property is a  
6 dwelling place.

7 (d) The chairperson may seek the board's approval for a  
8 control or eradication program developed under this section if  
9 the chairperson believes that the board's approval is likely to  
10 make the program more successful.

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

14 **§152-H Noxious weed control on leased state lands.** Any  
15 person that leases state lands for livestock grazing or any  
16 agricultural purpose shall agree in the lease agreement to  
17 control any noxious weed on those lands to the extent required  
18 by the department.

19 **§152-I Penalties.** (a) The department may establish,  
20 impose, and collect administrative fines or bring legal action  
21 to recover administrative costs of the department, payment for



1 damages, or costs to correct damages resulting from violations  
2 of this chapter or any rule adopted thereunder.

3 (b) The department, at its discretion, may refuse entry  
4 into the State of, confiscate, or destroy any noxious weed or  
5 article infested with a noxious weed that a person brings or  
6 attempts to bring into the State or that is offered for sale,  
7 sold, or transported in violation of this chapter, or, in the  
8 case of importation, order the return of any noxious weed or any  
9 article infested with a noxious weed to its place of origin or  
10 otherwise dispose of it or a part thereof as may be necessary to  
11 comply with this chapter.

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

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

18 1. By adding six new definitions to be appropriately  
19 inserted and to read:



1       "Agent of the department" means the applicable invasive  
2 species committee or any other person acting on behalf of the  
3 department.

4       "Application" means an application seeking a change to the  
5 list of noxious weeds.

6       "Board" means the board of agriculture.

7       "Chairperson" means the chairperson of the board of  
8 agriculture.

9       "Invasive species committee" shall have the same meaning as  
10 defined in section 141-3.5(e).

11       "Noxious weed designation" means a designation on the list  
12 of noxious weeds."

13       2. By amending the definition of "control noxious weed" to  
14 read:

15       "Control noxious weed" means to limit the spread of a  
16 specific noxious weed, including quarantining material infested  
17 with the noxious weed, and to reduce its density to a degree  
18 where its injurious, harmful, or deleterious effect is reduced  
19 to a tolerable level."

20       3. By amending the definition of "eradicate noxious weed"  
21 to read:



1           ""Eradicate noxious weed" means to completely destroy and  
2 eliminate existing plant growth, seeds, and vegetative  
3 reproductive plant parts of a specific noxious weed from a given  
4 locality. "Eradicate noxious weed" includes quarantining  
5 material infested with the noxious weed."

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

7           ""Noxious weed" means any plant [~~species which is, or which~~  
8 ~~may be likely to become, injurious, harmful, or deleterious to~~  
9 ~~the agricultural, horticultural, aquacultural, or livestock~~  
10 ~~industry of the State and to forest and recreational areas and~~  
11 ~~conservation districts of the State, as determined and~~  
12 ~~designated by the department from time to time.] or plant  
13 product that can directly or indirectly injure or cause damage  
14 to crops (including nursery stock or plant products), livestock,  
15 poultry, or other interests of agriculture, irrigation,  
16 navigation, the natural resources of the State, the public  
17 health, or the environment."~~

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



1           "**§152-2 Rules.** Subject to chapter 91, the department may  
2 [make] adopt rules [to effectuate] necessary for the purposes of  
3 this chapter[, ~~including but not limited to the following:~~

4           ~~(1) Establishment of criteria and procedures for the~~  
5           ~~designation of plant species as noxious weeds for the~~  
6           ~~purposes of this chapter;~~

7           ~~(2) Establishment of procedures and conditions for the~~  
8           ~~initiation of cooperative agreements with landowners~~  
9           ~~and land occupiers for the purpose of eradicating or~~  
10           ~~controlling noxious weed infestations;~~

11           ~~(3) Control or eradication of noxious weeds when deemed~~  
12           ~~economically feasible]."~~

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

15           "**§152-3 Prohibited and permitted acts.** [~~It~~] (a) Except  
16 as provided in subsection (b), it shall be unlawful to  
17 [introduce or to transport specific] import into the State or  
18 sell, offer for sale, or transport within the State noxious  
19 weeds or their seeds or vegetative reproductive parts [into any  
20 area designated pursuant to section 152-5 as free or reasonably  
21 free of those noxious weeds; provided that the introduction or



1 ~~transportation of those noxious weeds may be permitted for~~  
2 ~~educational or research purposes when authorized by a permit~~  
3 ~~issued by the department].~~

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

5 (1) A plant part that is processed, not vegetatively  
6 propagative, or otherwise not capable of reproducing  
7 the plant;

8 (2) The movement of a properly prepared herbarium  
9 specimen; or

10 (3) The movement of plant material by authorized employees  
11 of the department or an agent of the department acting  
12 in the course of official duties;

13 (4) Noxious weed imported for research pursuant to a  
14 permit issued by the chairperson; or

15 (5) Noxious weed transported for educational or research  
16 purposes or for proper disposal of removed material  
17 under methods approved by, or pursuant to a permit  
18 issued by, the chairperson.

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



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

3 "§152-4 Designation of noxious [weed.] weeds; classes of  
4 noxious weeds. (a) The [~~department~~] board may designate  
5 certain plant [~~species~~] taxa as noxious weeds [~~following the~~  
6 ~~criteria and procedures established under section 152-2(1).~~]  
7 pursuant to this chapter and rules adopted pursuant to this  
8 chapter.

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

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

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



- 1        (1) Class A noxious weeds:
- 2            (A) Are not known to occur or are of very limited
- 3            distribution in the State;
- 4            (B) Are a high priority for control or eradication if
- 5            an infestation was discovered in the State; and
- 6            (C) When detected, shall be subject to control or
- 7            eradication actions by the department or an agent
- 8            of the department, subject to the availability of
- 9            funds;
- 10        (2) Class B noxious weeds:
- 11            (A) Are known to occur in the State but are of
- 12            limited distribution on one or more islands;
- 13            (B) Are a high priority for control or eradication in
- 14            a given area; and
- 15            (C) Shall be managed on a priority basis, by the
- 16            department or an agent of the department, as
- 17            resources allow; and
- 18        (3) Class C noxious weeds are those noxious weeds that are
- 19        not a class A or class B noxious weeds."

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



1           "**§152-5 Designation of areas declared free or reasonably**  
2 **free of noxious weeds.** (a) The [~~department~~] board may declare  
3 the entire State, an island, or a section of an island as free  
4 or reasonably free of a specific noxious weed. The department  
5 shall take necessary measures to restrict the introduction and  
6 establishment of specific noxious weeds in areas declared free  
7 or reasonably free of those noxious weeds.

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

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

14           "**§152-6 Duties of the department; noxious weed control and**  
15 **eradication.** (a) The department shall maintain a constant  
16 vigilance for incipient infestations of specific noxious weeds  
17 [~~on islands~~] in locations declared reasonably free from those  
18 weeds, and shall use those procedures and methods to control or  
19 eradicate the infestations of noxious weeds as are determined to  
20 [be]:

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



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

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

15       (1) Shall conduct detection and delimitation surveys of  
16       noxious weeds, and to the extent necessary and  
17       permitted by law, shall access private property in  
18       areas declared reasonably free from those weeds;

19       (2) Shall determine the feasibility and practicability of  
20       controlling or eradicating infestations; and



1        (3) May conduct control or eradication actions in any area  
2                    of the State, as determined appropriate by the  
3                    chairperson.

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



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

10           (e) ~~[Upon the department's notification pursuant to~~  
11 ~~subsection (c) above, the]~~ The department may [entirely  
12 undertake the eradication or control project when it has been  
13 determined that the owner, occupier, or lessee of the land on  
14 which the noxious weed infestation is located will not benefit  
15 materially or financially by the control or eradication of the  
16 noxious weed; or when the noxious weed infestation is on  
17 state-owned land not leased or under control of private  
18 interest.] work cooperatively with a landowner or land occupier  
19 to provide chemicals, materials, equipment, personnel, and  
20 services to the land owner or land occupier to assist with the  
21 control or eradication of noxious weeds on private property.





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

5 SECTION 30. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 31. This Act shall take effect on April 14, 2112.



**Report Title:**

DOA; Invasive Species; Pests; Taxa; Environment; Quarantine

**Description:**

Facilitates the control and eradication of invasive species and pests. Establishes a plant nursery licensing program. Requires the Department of Agriculture to designate certain species as pests for control or eradication. Imposes certain limits on imports and transportation. Updates the method by which the Department's noxious weed list is updated. Takes effect 4/14/2112. (SD2)

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

