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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Chapter 150A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VI to be appropriately  
3 designated and to read as follows:

4           "§150A-       Biosecurity emergency. (a) The department,  
5 with the approval of the governor, may declare a biosecurity  
6 emergency if:

7           (1) There has been in the State an outbreak or occurrence  
8           of a pest or prohibited or restricted organism that  
9           has the potential to cause significant economic or  
10           environmental loss if the pest or organism becomes  
11           established in the State;

12           (2) There is established in one area of the State a pest  
13           or prohibited or restricted organism that has the  
14           potential to cause significant economic or  
15           environmental loss if the pest or organism becomes  
16           established in another area of the State; or



1       (3) A pest or prohibited or restricted organism is, or  
2       threatens to be, beyond the State's ability to  
3       control.

4       (b) A biosecurity emergency shall automatically terminate  
5       one hundred calendar days after its declaration, unless the  
6       declaration is extended by the department with the approval of  
7       the governor.

8       (c) For the purposes of a declared biosecurity emergency:

9       (1) The department shall be exempt from chapter 103D;

10      (2) Notwithstanding chapter 194 to the contrary, the  
11      Hawaii invasive species council shall report directly  
12      to the chairperson of the board of agriculture; and

13      (3) The governor may transfer moneys to the department  
14      from any account within the governor's control.

15      (d) The governor may requisition and take control of any  
16      goods, real property, or watercraft required for the purposes of  
17      this section, or requisition and take control of the temporary  
18      use thereof; provided that:

19      (1) This subsection shall not apply to any vessel that:

20      (A) Has anti-fouling hull coating; and



1           (B) Does not discharge ballast water, uses freshwater  
2                   for ballasting, or is equipped with ultraviolet  
3                   filtration systems for ballast water;

4           (2) The requisition shall be made by serving notice upon  
5                   any person found in occupation of the premises or  
6                   having the property in the person's custody,  
7                   possession, or control, and a like notice shall also  
8                   be served upon any person who has filed with the  
9                   governor, or with a person the governor designates for  
10                  the purpose, a request for notice with respect to the  
11                  property; provided further that if any person entitled  
12                  to compensation for the property is unable to be  
13                  served, the governor shall publish a notice of the  
14                  requisition at the earliest practicable date; and

15           (3) A requisition shall terminate automatically one  
16                   hundred calendar days after the declaration of a  
17                   biosecurity emergency, or by a separate proclamation  
18                   of the governor, whichever occurs first.

19           (e) If the governor requisitions and takes control of any  
20                   property or the temporary use thereof, the owner, or other  
21                   person entitled thereto, shall be paid a sum, determined by the



1 governor to be fair and just compensation for the property or  
2 use, within twenty days after the property has been  
3 requisitioned and taken, or in monthly or lesser installments if  
4 the property is taken for temporary use.

5 If any person is unwilling to accept the sum determined by  
6 the governor as full and complete compensation for the property  
7 or use, the person shall be paid seventy-five per cent of that  
8 sum and may sue the State for an additional sum that, when added  
9 to the sum already received by the person, the person may  
10 consider fair and just compensation for the property or use, in  
11 the manner provided by chapter 661 for actions against the  
12 State; provided that:

13 (1) Any suit under this section shall be instituted within  
14 two years after the requisition in the case of the  
15 taking of real property in fee simple, or within one  
16 year after the requisition in all other cases, subject  
17 to sections 657-13 to 657-15, which are hereby made  
18 applicable to the suit;

19 (2) No more than six months shall be allowed for the  
20 bringing of a suit after the appointment of a  
21 conservator of a person under disability, or the



1           removal of the disability, or after the appointment of  
2           personal representatives; and

3           (3) Recovery shall be confined to the fair market value of  
4           the property or its fair rental value, as the case may  
5           be, without any allowance for prospective profits, or  
6           punitive or other damages.

7           If the owner of property, or other person entitled to  
8           compensation for the requisitioning of property or use thereof,  
9           is under a disability, or has died, and no conservator or  
10          personal representative has been appointed, the State, acting  
11          through the attorney general, may apply for the appointment of a  
12          conservator or for the appointment of a personal representative.

13          (f) The governor shall appoint a board of three  
14          disinterested certified appraisers with whom may be filed any  
15          claim for damages arising out of any failure to return private  
16          property, the temporary use of which was requisitioned, or which  
17          was leased, or any claim for damages arising out of the  
18          condition in which the private property is returned. No claim  
19          may be filed for deterioration of property resulting from  
20          ordinary wear and tear and not for any deterioration or damage,  
21          except any that is shown to have resulted from the taking or use



1 of the property; provided that any claim shall be filed within  
2 thirty days after the return of the property or after the  
3 governor proclaims that all private property has been returned  
4 to the owners, whichever is earlier. The decision of the  
5 appraisers shall be final and binding upon the governor and the  
6 claimant. Either party may file a petition in the circuit court  
7 within sixty days after the rendering of a decision of the board  
8 of appraisers, praying for the decision of the court upon the  
9 claim. The petition, if filed by the State, shall be entitled  
10 in the name of the State by the attorney general and shall be  
11 heard and decided by the circuit court without the intervention  
12 of a jury. If filed by any other party, the petition shall be  
13 filed, heard, and decided in the manner provided for suits  
14 against the State. Appellate review may be had, subject to  
15 chapter 602, in the manner provided for civil appeals from the  
16 circuit courts. The court may order the joinder of other  
17 parties or may allow other parties to intervene. Any award that  
18 has become final shall be paid out of any funds available under  
19 this chapter and, if not sufficient, out of the general revenues  
20 of the State as appropriated."



1 SECTION 2. Section 150A-52, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**\$150A-52**[~~f~~] **Objectives of biosecurity program.** The  
4 objectives of the biosecurity program shall be to:

- 5 (1) Establish a multi-dimensional system to survey for and  
6 prevent the entry into the State and interisland  
7 movement of pests and prohibited or restricted  
8 organisms without a permit; and
- 9 (2) Respond effectively to eradicate, control, reduce, and  
10 suppress incipient pest populations and established  
11 pests and seize and dispose of prohibited or  
12 restricted organisms without a permit."

13 SECTION 3. Section 150A-53, Hawaii Revised Statutes, is  
14 amended to read as follows:

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

- 20 (1) Work with government agencies and agricultural  
21 commodity exporters of other states and countries to



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



- 1 prohibited or restricted organisms without a permit  
2 that have entered the State;
- 3 (4) Collaborate with relevant government agencies,  
4 agricultural commodity importers, and other persons to  
5 examine and develop joint integrated systems to better  
6 implement the biosecurity program;
- 7 (5) Improve cargo inspection capabilities and methods,  
8 including enhancement of the content and submission  
9 requirements for cargo manifests and agricultural  
10 commodity ownership and movement certificates;
- 11 (6) Promote the production of agricultural commodities in  
12 the State to reduce cargo shipments of imported  
13 commodities into the State; and
- 14 (7) Provide public education on [the]:
- 15 (A) The negative effects of pests and prohibited or  
16 restricted organisms without a permit, to the  
17 environment and economy of the State[-];
- 18 (B) Reporting pests and prohibited or restricted  
19 organisms that are known or suspected to be  
20 present in imported products; and



1            (C) Protecting imported products to prevent pest  
2                            infestation.

3            (b) For purposes of the biosecurity program, the  
4 department may:

5            (1) Subpoena any necessary documentation from agricultural  
6                            commodity importers relating to a known or suspected  
7                            infestation of a pest or prohibited or restricted  
8                            organism;

9            (2) Quarantine any farm, facility, or business that is  
10                           known to be infested with a pest or prohibited or  
11                           restricted organism to prevent the movement of  
12                           materials to or from the location; and

13           (3) Declare a biosecurity emergency pursuant to section  
14                           150A- .

15           ~~(b)~~ (c) The department shall establish parameters and  
16 construction requirements for biosecurity facilities that  
17 provide for and ensure the safety of agricultural and food  
18 commodities consumed by Hawaii residents, including cold storage  
19 facilities established by private-public partnerships to  
20 preserve the quality and ensure the safety of the commodities  
21 arriving at the State's airports and harbors."



1           SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3           SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

HDOA; Agriculture; Pests; Biosecurity Emergency

**Description:**

Authorizes and specifies conditions under which the Department of Agriculture may declare a biosecurity emergency, during which the Department and Governor may take certain actions to prevent the establishment or spread of pests and prohibited or restricted organisms. Broadens the objectives and general actions of the Biosecurity Program. (CD1)

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

