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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 over any goods,  
16       real property, or watercraft required for the purposes of this  
17       section, or requisition and take over the temporary use thereof;  
18       provided that:

19       (1) The requisition shall be made by serving notice upon  
20       any person found in occupation of the premises or  
21       having the property in the person's custody,



1 possession, or control, and a like notice shall also  
2 be served upon any person who has filed with the  
3 governor, or with a person the governor designates for  
4 the purpose, a request for notice with respect to the  
5 property; provided that if any person entitled to  
6 compensation for the property is unable to be served  
7 in the aforesaid manner, the governor shall publish a  
8 notice of the requisition at the earliest practicable  
9 date; and

10 (2) A requisition shall terminate automatically one  
11 hundred days after the declaration of a biosecurity  
12 emergency, or by a separate proclamation of the  
13 governor, whichever occurs first.

14 (e) If the governor requisitions and takes over any  
15 property or the temporary use thereof, the owner, or other  
16 person entitled thereto, shall be paid a sum, determined by the  
17 governor to be fair and just compensation for the property or  
18 use, within twenty days after the property has been  
19 requisitioned and taken, or in monthly or lesser installments if  
20 the property is taken for temporary use.



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

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

15       (2) No more than six months shall be allowed for the  
16 bringing of a suit after the appointment of a  
17 conservator of a person under disability, or the  
18 removal of the disability, or after the appointment of  
19 personal representatives; and

20       (3) Recovery shall be confined to the fair market value of  
21 the property or its fair rental value, as the case may



1           be, without any allowance for prospective profits, or  
2           punitive or other damages.

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

9           (f) The governor shall appoint a board of three  
10           disinterested certified appraisers with whom may be filed any  
11           claim for damages arising out of any failure to return private  
12           property, the temporary use of which was requisitioned, or which  
13           was leased, or any claim for damages arising out of the  
14           condition in which the private property is returned. No claim  
15           may be filed for deterioration of property resulting from  
16           ordinary wear and tear and not for any deterioration or damage,  
17           except any that is shown to have resulted from the taking or use  
18           of the property; provided that any claim shall be filed within  
19           thirty days after the return of the property or after the  
20           governor proclaims that all private property has been returned  
21           to the owners, whichever is earlier. The decision of the



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

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

20 "[+]§150A-52[+] Objectives of biosecurity program. The  
21 objectives of the biosecurity program shall be to:



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

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

11           "**§150A-53 General actions to achieve objectives.** (a) To  
12          achieve the objectives of the biosecurity program, the  
13          department shall plan for and, within available legislative  
14          appropriations or through funding from other sources, implement  
15          the following:

- 16           (1) Work with government agencies and agricultural  
17           commodity exporters of other states and countries to  
18           establish pre-entry inspection programs under which  
19           inbound cargo into the State is inspected at the ports  
20           of departure or other points outside the State;



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



1           examine and develop joint integrated systems to better  
2           implement the biosecurity program;

3           (5) Improve cargo inspection capabilities and methods,  
4           including enhancement of the content and submission  
5           requirements for cargo manifests and agricultural  
6           commodity ownership and movement certificates;

7           (6) Promote the production of agricultural commodities in  
8           the State to reduce cargo shipments of imported  
9           commodities into the State; and

10          (7) Provide public education on [the]:

11           (A) The negative effects of pests and prohibited or  
12           restricted organisms without a permit, to the  
13           environment and economy of the State[-];

14           (B) Reporting pests and prohibited or restricted  
15           organisms that are known or suspected to be  
16           present in imported products; and

17           (C) Protecting imported products to prevent pest  
18           infestation.

19          (b) For purposes of the biosecurity program, the  
20          department may:



1        (1) Subpoena any necessary documentation from agricultural  
2        commodity importers relating to a known or suspected  
3        infestation of a pest or prohibited or restricted  
4        organism;

5        (2) Quarantine any farm, facility, or business that is  
6        known to be infested with a pest or prohibited or  
7        restricted organism to prevent the movement of  
8        materials to or from the location; and

9        (3) Declare a biosecurity emergency pursuant to section  
10       150A- .

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

18       SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20       SECTION 5. This Act shall take effect on July 1, 3000.



**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. Effective 7/1/3000. (HD1)

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

