
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) 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 further that if any person entitled
6 to compensation for the property is unable to be
7 served, the governor shall publish a notice of the
8 requisition at the earliest practicable date; and

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

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

20 If any person is unwilling to accept the sum determined by
21 the governor as full and complete compensation for the property



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

- 7 (1) Any suit under this section shall be instituted within
8 two years after the requisition in the case of the
9 taking of real property in fee simple, or within one
10 year after the requisition in all other cases, subject
11 to sections 657-13 to 657-15, which are hereby made
12 applicable to the suit;
- 13 (2) No more than six months shall be allowed for the
14 bringing of a suit after the appointment of a
15 conservator of a person under disability, or the
16 removal of the disability, or after the appointment of
17 personal representatives; and
- 18 (3) Recovery shall be confined to the fair market value of
19 the property or its fair rental value, as the case may
20 be, without any allowance for prospective profits, or
21 punitive or other damages.



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

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



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

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

17 "[+]§150A-52[+] **Objectives of biosecurity program.** The
18 objectives of the biosecurity program shall be to:

19 (1) Establish a multi-dimensional system to survey for and
20 prevent the entry into the State and interisland



1 movement of pests and prohibited or restricted
2 organisms without a permit; and
3 (2) Respond effectively to eradicate, control, reduce, and
4 suppress incipient pest populations and established
5 pests and seize and dispose of prohibited or
6 restricted organisms without a permit."

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

9 "**§150A-53 General actions to achieve objectives.** (a) To
10 achieve the objectives of the biosecurity program, the
11 department shall plan for and, within available legislative
12 appropriations or through funding from other sources, implement
13 the following:

14 (1) Work with government agencies and agricultural
15 commodity exporters of other states and countries to
16 establish pre-entry inspection programs under which
17 inbound cargo into the State is inspected at the ports
18 of departure or other points outside the State;
19 (2) Establish, operate, or participate in operating
20 port-of-entry facilities where multiple government
21 agencies may inspect, quarantine, fumigate, disinfect,



1 destroy, or exclude as appropriate, articles that may
2 harbor pests or prohibited or restricted organisms or
3 exclude articles that are prohibited or restricted
4 without a permit, with the goals of:

5 (A) Performing inspections in an efficient,
6 effective, and expeditious manner for the
7 government agencies involved and for cargo
8 owners, carriers, and importers; and

9 (B) Providing for the proper and safe storage and
10 handling of cargo, especially agricultural and
11 food commodities, awaiting inspection;

12 (3) Develop, implement, and coordinate post-entry measures
13 to eradicate, control, reduce, and suppress pests and,
14 as appropriate, eradicate or seize and dispose of
15 prohibited or restricted organisms without a permit
16 that have entered the State;

17 (4) Collaborate with relevant government agencies,
18 agricultural commodity importers, and other persons to
19 examine and develop joint integrated systems to better
20 implement the biosecurity program;



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

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

8 (7) Provide public education on ~~the~~:

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

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

15 (C) Protecting imported products to prevent pest
16 infestation.

17 (b) For purposes of the biosecurity program, the
18 department may:

19 (1) Subpoena any necessary documentation from agricultural
20 commodity importers relating to a known or suspected



1 infestation of a pest or prohibited or restricted
2 organism;

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

7 (3) Declare a biosecurity emergency pursuant to section
8 150A-_____.

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

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 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. (HD2)

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