

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON
AGRICULTURE AND FOOD SYSTEMS

FEBRUARY 7, 2024
9:30 A.M.
CONFERENCE ROOM 415 AND VIDEOCONFERENCE

HOUSE BILL NO. 2136
RELATING TO AGRICULTURE

Chairperson Gates, Vice-Chair Kahaloa, and Members of the Committees:

Thank you for the opportunity to testify on House Bill 2136 relating to agriculture. The bill requires the Department of Agriculture to establish and implement a pesticide inspection program to increase compliance with the proper use of restricted use pesticides by agricultural producers. The Department offers comments on this bill.

The programs of the Plant Industry Division are designed to protect the agricultural industries and natural resources from the entry and spread of detrimental insects, diseases, noxious weeds, and other pests and to minimize the adverse effects of pesticides to human health and the environment. The Pesticides Branch is the regulatory authority and state lead agency granted primacy by the United States Environmental Protection Agency through a cooperative agreement to enforce the Federal Insecticide, Fungicide, and Rodenticide Act.

Through this delegated authority and the authority granted by HRS 149A, the Pesticides Branch implements an inspection and compliance program to regulate the



use, distribution, licensing, and certification of pesticides and pesticide applicators statewide. The Department currently has a fully functioning “pesticide inspection program” which inspects and regulates both restricted use and general use pesticides. The Branch is tasked with regulating not only agricultural producers but other users of pesticides such as the landscaping industry, ornamental and nursery industry, and pest control industries. The Department emphasizes that the Pesticides Branch must remain neutral regarding inspection processes and should inspect and regulate all users, no matter what their respective industries.

The Department does not currently have any authority or access to the gross income of all farmers, cooperative associations, or landowners to be able to determine what persons fall within the definition of “agricultural producer” and would be unable to enforce most if not all of this proposed measure.

In calendar year 2023, the Pesticides Branch completed 174 pesticide related inspections statewide, of those 174, 39 were agricultural related inspections. Of the 174 inspections 19 official notices were issued for violation of pesticides laws, although some cases are still pending official action due to capacity and staffing. Over 89% of inspections do not produce an official notice related to a violation of pesticide law indicating a good rate of compliance and a well-functioning education section within the Pesticides Branch.

From the date of prohibition on January 1, 2023, to present, the Pesticides Branch has not seen any (mis)applications of the now banned active ingredient Chlorpyrifos. The Commercial Pesticides Disposal Program has properly disposed of approximately 18 Chlorpyrifos containing products in two events and expects to receive more in upcoming events. Effective outreach campaigns and constant reminders from Pesticides Branch staff have essentially eliminated the application of products containing Chlorpyrifos.

Regarding Section 1(a)(3)(c), the Branch withholds all information related to ongoing inspections and cases based on the allowance provided under HRS 92F-13(3) “to avoid the frustration of a legitimate government function.” An inspector, inspection,

or other enforcement proceedings may be compromised if outside interference is initiated due to public knowledge of an ongoing inspection. Actions taken to influence the neutrality of the Branch are not tolerated and should not affect the official actions of the Branch. Once closed, all pesticide inspection results and actions are available through filing a Uniform Information Practices Act request.

Thank you for the opportunity to testify on this measure.

HB-2136

Submitted on: 2/5/2024 10:14:48 AM

Testimony for AGR on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Hawaii Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

Strong support for this bill's goal of compliance with laws for restricted use pesticides and chlorpyrifos and public notice of inspection results!

Please pass this bill!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)

HB-2136

Submitted on: 2/5/2024 3:15:36 PM

Testimony for AGR on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Colehour Bondera	Kanalani Ohana Farm	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members:

Please accept this as support for HB2136.

As a long-time certified organic farmer on Hawaii island, who raised both of our children on our farm, this is an important basic for protection which must be in place.

Hawaii can and should protect our whole environment and all of the residents and visitors, and a pesticide inspection program helps take responsibility in that regard.

As a Board member of Beyond Pesticides, it is good to remember that this is based on a national and international efforts to protect farmers, farm-workers, families and all affected neighbors and the whole eco-system when pesticides are used.

THank you for your attention and support fot this legislation.

Colehour Bondera

KANALANI OHANA FARM

colemel2@gmail.com



House Committee on Agriculture

Hawai'i Alliance for Progressive Action (HAPA) Supports: HB2136

Wednesday, February 7, 2024 9:30a.m. Conference Room 325

Aloha Chair Gates, Vice Chair Kahaloa and Members of the Committee,

HAPA supports the intent of HB2136, and submits the following suggested amendments.

HB2136 requires the Department of Agriculture (DOA) to establish and implement a pesticide inspection program to increase compliance with the proper use of Restricted Use Pesticides (RUPs) by agricultural producers, ensure the continued prohibition on the use of chlorpyrifos, and inform the public of the most recent pesticide inspection results for agricultural producers.

HAPA strongly supports the expansion of the pesticide inspection program and understands that the DOA does its best when enforcing the compliance of Hawai'i pesticide use law.

Given the serious need for improved reporting of RUP use data, we kindly ask that the committee make a motion to amend this measure to include improved reporting requirements for the use of RUPs. Specifically the following changes to reporting requirements are suggested:

- Consistency requirements in RUP reporting;
- Monthly reporting, rather than annual reporting;
- Amended requirements to include specific geospatial data information about specific application location, rather than reporting out use by TMK parcel; and
- Development of an online reporting tool for restricted use pesticides making the data available to the community.

One of the most important reasons these changes to reporting requirements are needed is because Hawai'i's current RUP reporting regime does not support public health assessment and is not meeting the need.

As such, comprehensive pesticide use data is essential to accurately assess risks and ensure that communities are protected from adverse impacts. The US regulatory system often acts after an overwhelming amount of harm has occurred and been

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.



proven through long-term studies. **The current reporting regime in Hawai'i does provide geographically specific enough data to conduct credible public health studies.**

As you know, pesticide exposure can cause significant harm to public health and the environment. RUPs have been deemed to have a high potential to cause harm to surrounding communities, farm workers, pollinators, the environment, and other crops.¹
2 3 4 5 6 7 8 9 10 11 12

HAPA was founded in response to community members living near large agrochemical fields asking for the right to know what pesticides are being used adjacent to their homes, schools, waterways and other sensitive areas. After over a decade-long effort to provide residents with clear information on what they may be exposed to, the implementation of Act 45 still has not provided communities with that information.

Publicly reported data on each RUP is summarized by island. Any resident who might have concerns about what is being used nearby has no way of gleaning more

¹ Shelton J et al. Neurodevelopmental Disorders and Prenatal Residential Proximity to Agricultural Pesticides: The CHARGE Study. *Environ Health Perspect.* 2014 122(10) 1103-1109. <http://ehp.niehs.nih.gov/1307044/>

² Shelton J and I Hertz-Picciotto. Neurodevelopmental Disorders and Agricultural Pesticide Exposures: Shelton and Hertz-Picciotto Respond. *Environ Health Perspect.* 2015. 123(4): A79–A80. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4384207/>

³ Eskenazi B et al. Organophosphate Pesticide Exposure and Neurodevelopment in Young Mexican-American Children. *Environ Health Perspect.* 2007. 115(5): 792–798. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1867968/>

⁴ Marks AR et al. Organophosphate pesticide exposure and attention in young Mexican-American children: the CHAMACOS Study. *Environ Health Perspect.* 2010. 18:1768–1774. <http://www.ncbi.nlm.nih.gov/pubmed/21126939>

⁵ Gonzalez-ALzaga B. A systematic review of neurodevelopmental effects of prenatal and postnatal organophosphate pesticide exposure. *Toxicol Lett.* 2014. 230(2):104-21 <http://www.ncbi.nlm.nih.gov/pubmed/24291036>

⁶ Roberts EM, et al. Maternal residence near agricultural pesticide applications and autism spectrum disorders among children in the California Central Valley. *Environ Health Perspect.* 2007. 115(10):1482-9. <http://www.ncbi.nlm.nih.gov/pubmed/17938740>

⁷ Deziel NC et al. A Review of Nonoccupational Pathways for Pesticide Exposure in Women Living in Agricultural Areas. *Environ Health Perspect.* 2015. 123 (6) 515-524. <http://ehp.niehs.nih.gov/1408273/>

⁸ Simcox NJ Pesticides in household dust and soil: exposure pathways for children of agricultural families. *Environ Health Perspect.* 1995. 103:1126–1134. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1519258/>

⁹ Waimea Community Dust Impacts, Preliminary Evaluation Report, Knox Hoversland Architects LTD. Jim A'Ana et al. v. Pioneer HiBred International, Inc. Feb 24, 2014.

¹⁰ Stemp-Morlock G. Reproductive Health: Pesticides and Anencephaly *Environ Health Perspect.* 2007 Feb; 115(2): A78. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1817703/>

¹¹ Lacasaña M. Maternal and paternal occupational exposure to agricultural work and the risk of anencephaly. *Occup Environ Med.* 2006 Oct; 63(10): 649–656. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2078046/>

¹² Brender JD et al. Maternal Pesticide Exposure and Neural Tube Defects in Mexican Americans. *Annals of Epidemiology*, Dec 2009, 20(1):16-22 <http://europepmc.org/article/med/20006272>

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geographically specific information. This kind of reporting is essentially useless to someone who might be concerned about exposure to drift.

The reporting for RUP (Restricted Use Pesticide) use data in Hawai'i, has only recently started to become available, as of 2019. Because of poor reporting, it has taken considerable effort to make sense of the data, do the calculations, and format them into consistent metrics.

Currently, users are required to report the address, tax map key (tmk), and location of the application site but are not required to provide specific geospatial data that could provide comprehensive mapping of pesticide impacts. This poses difficulties to communities who live adjacent to large tracts of agricultural land. Because TMK sizes vary widely, application data in larger TMK's doesn't provide the level of specificity that communities need, or that can be used to conduct peer reviewed studies.

HAPA worked with our partners to convert the 2019 data into a consistent unit of measurement (pounds), as data is reported in gallons, pounds and ounces, to GIS map the amounts used per TMK, pounds per acre, frequency of application, and combinations of pesticides. We have begun to analyze hotspot areas such as Central O'ahu-North Shore O'ahu for areas of concern and share that data out with those local communities. A recent presentation in Whitmore Village documented by 'Ōlelo can be viewed at: <https://youtu.be/3gwVotl-Y1w>

According to the state sponsored Joint Fact Finding Group study, Pesticide Use by Large Agribusinesses on Kaua'i (2016)¹³, "more information is needed about the time and place of applications along with greater oversight to ensure compliance on all Islands.

California appears to lead the nation in studies of chronic health effects and/or associations with pesticide use. They are able to reach this level of scientific inquiry because they require careful reporting of pesticide applications that specify what was sprayed, where, when, and in what quantities."¹⁴ Improved reporting in Hawaii can provide policymakers and public health experts with important data with which to make evidence based decisions about pesticide use.

When Hawai'i became the first state to ban chlorpyrifos, many of the studies conducted in California's central valley provided long-term epidemiological research that proved

¹³ Pesticide Use By Large Agribusiness on Kaua'i: *Findings and Recommendations of the Joint Fact Finding Study Group*; <https://www.accord3.com/wp-content/uploads/2019/08/jff-kauai-final-report1.pdf>

¹⁴ A Guide to Pesticide Regulation in California: <https://www.cdpr.ca.gov/docs/pressrls/dprguide/chapter9.pdf>

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the neurological harm to fetuses and children. It was due to this research that state regulators and ultimately the EPA banned this dangerous neurotoxin, but only after decades of harm had already occurred. This type of study and research was only possible due to more geographically specific data. Applicators need to record this information to ensure they are properly treating target areas and following the label. It is not a matter of whether this data is available, but rather whether the state is willing to require that it be publicly reported.

Again while we support the existing pesticide inspections program and its expansion we humbly ask that you consider the amendments suggested here to include improved RUP reporting into this measure.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick
Executive Director



HAWAII CROP IMPROVEMENT ASSOCIATION

HB2136 – With Comments
Relating to Agriculture
House Committee on Agriculture and Food Systems

Date: Wednesday, February 7, 2024

Time: 9:30 AM

Place: Conference Room 325

Aloha Chair Gates, Vice Chair Kahaloa, and Members of the Committee:

The Hawaii Crop Improvement Association (HCIA) appreciates the opportunity to provide **comments on HB2136**, which requires the Department of Agriculture to establish and implement a pesticide inspection program to increase compliance with the proper use of restricted use pesticides by agricultural producers, ensure the continued prohibition on the use of chlorpyrifos, and inform the public of the most recent pesticide inspection results for agricultural producers.

HCIA appreciates the intent behind this measure. We respectfully submit the comment that HB2136 should apply to any farmer and/or landowner and not only those who derive over 50% of their gross income from activities conducted in the state. Our understanding is this bill seeks to increase pesticide compliance and address the bad actors, so we believe that deleting the 50% gross income requirement would better accomplish that objective by applying the law to all instead of only a subset.

Mahalo for the opportunity to provide testimony on this measure.

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 7, 2024

HB 2136, RELATING TO AGRICULTURE

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 2136, relating to agriculture. Pursuant to the “Agriculture” section of the official Democratic Party of Hawai'i platform, the party supports “regulations that ensure the ethical and safe production and consumption of all agricultural products.”

In the debate about regulating local agriculture, there is one thing that everyone should agree to condemn: causing harm to other people. Unfortunately, Hawai'i's pesticide code allows chemical abuse to go unchecked. Today, the State Department of Agriculture must warn pesticide abusers before investigating potential legal violations. A farm that fails to take caution when using harmful chemicals, then, may suffer no consequences for its actions, since the warning gives owners time to hide evidence of their crimes. Even when caught, chemical lawbreakers face minimal criminal penalties and paltry fines for their reckless behavior.

In the islands, pesticide abuse poses major health risks. According to an investigation conducted by the *Cascadia Times*, pesticide application by four large agrichemical companies on Kaua'i—Syngenta, BASF Plant Science, DuPont Pioneer, and Dow AgroSciences—is ten times the national average. In their report, *Cascadia* found that a number of restricted use pesticides were overused, including chlorpyrifos, atrazine, and paraquat. A study published in the medical

journal *The Lancet Neurology*, in March of 2014, found that the neurotoxin chlorpyrifos led to developmental disabilities in children. Similarly, atrazine and paraquat are banned in the European Union. Atrazine is known to contaminate groundwater supplies, while paraquat has been linked to the onset of Parkinson's disease. Yet, both herbicides remain widely popular in the United States, where the Environmental Protection Agency prematurely declared with “reasonable certainty” that neither carry a significant risk of harm.

To protect against pesticide drift impacting sensitive educational areas and making children ill—as happened in 2007 at Kahuku High and Intermediate, in which a dozen students fell ill when a nearby sod farmer ignored windy weather while applying pesticides, and in 2008 in Waimea on Kaua'i, where dozens of students got sick after farmers applied pesticide on a nearby seed corn plot—it is incumbent upon lawmakers to prevent pesticide abuse, including harmful pesticide drift (a particularly acute concern for Hawai'i's schools, given our frequently gusting trade winds).

Accordingly, it is essential that we strengthen pesticide inspections, compliance, regulations, and consumer protections, particularly for pesticides like chlorpyrifos, glyphosate, and paraquat. Recent reports have found that **over 215,000 pounds of restricted use pesticides were released across central O'ahu and the North Shore in 2019**, according to the Hawai'i Alliance for Progressive Action. The research is clear: there is no excuse for failing to fully protect public health from the dangerous effects of chemical carcinogens.

In 2018, elected officials passed SB 3095, banning chlorpyrifos and establishing increased disclosure requirements for pesticide applications. It is imperative that political leaders stand up for safety again during this year's legislative session, especially given recent court rulings against agrochemical companies that have demonstrated the link between restricted use pesticides and terminal illness. If you wait, our children will breathe in the fallout for generations to come.

Mahalo nui loa,

Kris Coffield
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(808) 679-7454
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Abby Simmons
Co-Chair, Legislative Committee
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Food+ Policy Internship 2024

food@purplemaia.org

LATE

February 5, 2024

To: Chair Gates, Vice-Chair Kahaloa, and members of the House Committee of Agriculture and Food Systems.

Subject: **Support of House Bill 2136**

Aloha kākou,

I am writing today to express my strong support for House Bill 2136, which proposes the establishment of a Pesticide Inspection Program in the state of Hawaii. This measure is a critical step towards ensuring the responsible use of pesticides in agriculture, protecting public health, preserving the environment, and promoting transparency within the agricultural sector.

House Bill 2136 could play an essential role in protecting public health, preserving the environment, continuing the prohibition of Chlorpyrifos, helping public awareness and transparency, and empowering local communities.

House Bill 2136 is a commendable and necessary step towards ensuring the responsible use of pesticides in Hawaii's agricultural sector. By prioritizing public health, environmental conservation, and transparency, this legislation sets the stage for a more sustainable and resilient future. I urge the [House/Senate] Agriculture Committee to support and pass this crucial measure, safeguarding the well-being of Hawaii's residents and preserving the beauty of its natural landscapes.

Mahalo for your time and attention on this important issue.

Sincerely

Kawika Kahiapo+ Hawaii Food+ Policy Team

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2024, the cohort of interns are undergrads and graduate students from throughout the UH System. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.



Food+ Policy Internship 2024

food@purplemaia.org

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LATE

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February 7, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

TESTIMONY ON HB 2136
RELATING TO AGRICULTURE

Conference Room 325 & Via Videoconference
9:30 PM

Aloha Chair Gates, Vice Chair Kahaloa and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

HFB values the careful regulation of pesticides and the work of HDOA to ensure that these products which protect public health, the environment, homes, crops, restaurants, etc., and are also used to combat destructive invasive species, are used safely. Although nearly everyone uses pesticides in some way, not everyone is educated about their proper use. HFB encourages more education and assistance regarding pesticide safety, especially for residential use, where there is a need.

This measure duplicates State laws already in place and in addition unfairly targets only farmers and ranchers by singling them out for increased inspections and public reporting. HFB questions why this is warranted. Both federal and state laws and regulations strictly regulate all facets of pesticide use, with stiff penalties for violations. Agricultural producers are keenly aware of this and work with HDOA to ensure that they comply with the rules.

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawai'i's agricultural community.

Officers

Kaipo Kekona
State President

Anabella Bruch
Vice-President

Maureen Datta
Secretary

Reba Lopez
Treasurer

Chapter Presidents

Clarence Baber
Kohala, Hawai'i

Odysseus Yacalis
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Puna, Hawai'i

Andrea Drayer
Ka'u, Hawai'i

Kona, Hawai'i

Fawn Helekahi-Burns
Hana, Maui

Mason Scharer
Haleakala, Maui

Kaiea Medeiros
Mauna Kahalawai,
Maui

Kaipo Kekona
Lahaina, Maui

Rufina Kaauwai
Molokai

Negus Manna
Lāna'i

India Clark
North Shore, O'ahu

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Natalie Urminska
Kauai



Aloha Chair Gates, Vice Chair Kahaloa, and Members of the House Agriculture & Food Systems Committee,

The Hawaii Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports HB2136.**

By ensuring compliance with the appropriate use of these pesticides, we can mitigate the risks associated with their usage and promote sustainable farming practices. This proposed program will not only serve to protect our environment but also ensure our long-term viability by preserving soil quality and the delicate balance of our agricultural ecosystems.

Chlorpyrifos is widely regarded as a pesticide with detrimental effects on human health and wildlife. By maintaining the prohibition on this hazardous substance, we prioritize the safety and well-being of our farmers, consumers, and our diverse ecosystems.

Lastly, we appreciate the provision in HB2136 that emphasizes the necessity of informing the public about pesticide inspection results for agricultural producers. Transparency is paramount in building trust between farmers and consumers, and this measure will empower the public to make informed choices about the products they consume. By ensuring this open flow of information, we can foster a stronger connection between farmers and consumers and work together towards a sustainable and healthy future for our agricultural community.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

HB-2136

Submitted on: 2/5/2024 4:38:12 PM

Testimony for AGR on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Having had cancer twice now I am extremely aware of environmental factors contributing to this and other health problems. Chemicals in our environment collect in everyone's blood and tissues. We need to mitigate chemicals in our food, water, air and homes. Please support this important bill. Mahalo for your time.

HB-2136

Submitted on: 2/7/2024 12:56:43 AM

Testimony for AGR on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Janet L Pappas	Individual	Support	Written Testimony Only

Comments:

Dear AGR Committee,

I strongly support HB2136. It is imperative that rules concerning the use of pesticides be followed to the letter of the law. These are dangerous chemicals and can endanger farm workers and their families. Please pass this common sense bill.

Mahalo,

Jan Pappas