

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
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

APRIL 2, 2024

2:30 PM

CONFERENCE ROOM 308 & VIDEOCONFERENCE

SENATE BILL NO. 572, SD2, HD2
RELATING TO AGRICULTURE

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill No. 572, SD2, HD2 relating to agriculture. This bill authorizes and specifies conditions under which the Department of Agriculture (Department) 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; and broadens the objectives and general actions of the Biosecurity Program.

The Department appreciates the incorporation of suggestions provided in prior testimonies and supports this measure.

While HRS 91-3 contains provisions for emergency rulemaking, the Department believes that the ability to declare a biosecurity emergency, with the Governor's approval, is a substantial step in being able to acquire the necessary resources to



rapidly respond to new pest introductions while being mindful of the Department's limited resources.

Thank you for the opportunity to testify on this measure.

HAWAII HARBORS USERS GROUP

Testimony for SB 572, SD2, HD2, Relating to Agriculture

Before the House Committee on Finance

April 2, 2024

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Hawaii Harbors Users Group is respectfully **opposed** to SB 572, SD2, HD2, relating to agriculture.

This bill 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. It broadens the objectives and general actions of the Biosecurity Program.

Hawaii's economy, and virtually every aspect of life in our islands, is dependent upon our commercial harbors to ensure the continued flow of cargo. The vast majority of Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the state support dependable and efficient cargo transportation and handling to service our residents and businesses.

Our primary concern is that this bill's broad emergency declaration authority is overbroad and risks impeding harbors operations.

Thank you for considering our testimony.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
Tuesday, April 2, 2024 AT 2:30 P.M.

To The Honorable Representative Kyle T. Yamashita, Chair
The Honorable Representative Lisa Kitagawa, Vice Chair
Members of the Committee on Finance

SUPPORT SB572 SD2 HD2 RELATING TO AGRICULTURE

The Maui Chamber of Commerce **SUPPORTS SB572 SD2 HD2**.

The Chamber is aware that there are many pressing issues that need funding, but invasive species directly affects food production and natural resource conservation.

We note the powers authorized by this measure will allow the Department of Agriculture to more effectively prevent and mitigate the infestation and spread of pests in the State.

As a vulnerable island state, we must take measures to secure ports-of-entry and prevent the negative effects of invasive species on the environment. We support the investment in invasive species preventative measures, and efforts to implement requirements for importers and follow up with fines. This effort will help the economy and the health of the land in the long run, and curb added expenses for agricultural entities to address invasive species after they arrive and spread.

We do have concerns that the Department of Agriculture requested that the “*requirements of agricultural commodity importers be removed and incorporating some of those requirements into the Department of Agriculture’s public education requirements*” without any explanation. We agree that education regarding invasive pests is important. However, we strongly encourage this language be returned to the bill to encourage stricter controls:

“(6) Require agricultural commodity importers to:

_____ (A) Report to the department any pests that are known or suspected to be present in imported products;

_____ (B) Protect and contain all imported products to prevent an infestation of pests; and

_____ (C) Ensure that no product known or suspected to be infested by pests is offered for sale or exhibition.”

For these reasons we **support SB572 SD2 HD2** and respectfully request the deleted language be returned to the measure.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui’s unique community characteristics.

Testimony of Matson Navigation Company, Inc.
Opposition to SB572, SD2, HD2
Before the Committee on Finance
April 2, 2024

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Matson Navigation Company, Inc. (Matson) has significant concerns with SB572, SD2, HD2, especially with respect to the ability for the Department of Agriculture to declare a biosecurity emergency and take control of any goods, real property, or watercraft. Matson respectfully **opposes** this measure.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent of Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable, and efficient cargo transportation and handling to service our residents and businesses. The maritime industry is heavily regulated, including with respect to cargo vessels' discharges incidental to their normal operation, and should not be further burdened with unnecessary additional requirements on cargo operations. The federal government strictly regulates ocean cargo vessels, including through the Vessel Incidental Discharge Act of 2018 (VIDA). Matson strictly complies with environmental regulations, including for invasive species control.

The language on page 1 lines 9 to 11; page 1, lines 14 to 16; and page 2 lines 1 to 3 are overly broad as they allow a biosecurity emergency to be declared if there is the potential to cause economic or environmental loss from a pest or organism. There is no requirement that an organism be a pest as the language says: "pest **or** organism" (emphasis added). Further, there is no limit on how likely the potential to cause such loss should be before such an emergency can be declared.

Allowing the Governor to requisition and take control of any watercraft, or requisition and take control of the temporary use thereof can have significant adverse impacts on the flow of goods into our State. Requisitioning a vessel is a serious action that usually only occurs when the United States has declared a wartime emergency and needs the vessel to ensure military readiness. (*see* 46 U.S.C. section 56301). The *potential* to experience economic or environmental loss from an organism that is *not* required to be a pest does not appear to rise to the similar level of urgency as a wartime emergency.

Further, this measure encourages interference with interstate commerce as requisitioning a vessel carrying interstate commerce and seizure of such goods for a potential rather than actual economic or environmental loss raises issues of Dormant Commerce Clause of the United States Constitution. Finally, this measure usurps the United States Department of Transportation's authority to requisition vessels for just compensation. This measure's lack of language requiring just compensation for a requisitioned vessel also violates the United States Constitution's Takings Clause of the Fifth Amendment.

Matson respectfully requests that your Committee amend this measure to exempt commercial vessels regulated by the United States Coast Guard. Without these amendments, Matson must respectfully oppose this measure. Thank you for considering our testimony in opposition.



Written Testimony Only
April 2, 2024

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair
Committee on Finance

RE: Senate Bill 572 SD2, HD2 – RELATING TO AGRICULTURE
Hearing date: April 2, 2024, 2:30 p.m.

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

Thank you for the opportunity to submit testimony on behalf of Young Brothers, LLC (“YB”) offering respectful **OPPOSITION** for Senate Bill 572 SD2, HD2 – Relating to Agriculture.

YB is a common carrier by water, transporting property by tug and barge between the islands of O’ahu, Hawai’i, Kaua’i, Maui, Moloka’i, and Lāna’i. YB is currently the only water carrier authorized to transport property under Chapter 271G, Hawaii Revised Statutes (“HRS”) (i.e., the Hawaii Water Carrier Act), subject to the regulatory authority of the Public Utilities Commission of the State of Hawaii (“PUC”). Since 1900, customers across Hawaii have relied on YB’s frequent, regular, and universal sailings to serve as the bridge that connects all communities in this island-state.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii’s imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support safe, dependable, and efficient cargo transportation and handling to service our residents and businesses. The maritime industry is heavily regulated, including with respect to cargo vessels’ discharges incidental to their normal operation, and should not be further burdened with unnecessary additional requirements on cargo operations. The federal government strictly regulates ocean cargo vessels, including through the Vessel Incidental Discharge Act of 2018 (VIDA).

The language in this measure is overly broad as it would allow a biosecurity emergency to be declared if there is the “potential to cause significant economic or environmental loss” from a pest or organism in the State or if the pest or organism “threatens to be []beyond the State’s ability to control. There is no limit on how likely the potential to cause such loss should be before such an emergency can be declared.

Upon declaration of such an emergency, this measure would allow the Governor to requisition and take control of any watercraft, including the vessels YB uses to provide regulated water carrier services to the neighbor island communities of our state. Requisitioning a vessel is a serious action that usually only occurs when the United States has declared a wartime emergency and needs the vessel to ensure military readiness. (*see* 46 U.S.C. section 56301). The *potential* to experience economic or environmental loss from an organism does not appear to rise to the similar level of urgency as a wartime emergency.

For the reasons stated above, YB offers respectful **OPPOSITION** for this measure.

Thank you for your service to the State of Hawaii, and for the opportunity to testify offering comments on this measure.

Sincerely,

Kris Nakagawa
Vice President, External and Legal Affairs



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

April 2, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON SB 572, SD2, HD2
RELATING TO AGRICULTURE

Conference Room 308 & Videoconference
2:30 PM

Aloha Chair Yamashita, Vice-Chair Kitagawa, 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.

The Hawai'i Farm Bureau supports SB 572, SD2, HD2, which 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 and broadens the objectives and general actions of the Biosecurity Program.

Invasive species have become one of the most devastating problems impacting Hawai'i. Many invasive species are damaging Hawai'i's environment and economy. Agriculture has a vested interest in this matter. Agriculture suffers when invasive species are introduced. Every year, numerous new pests are introduced into the State, such as the coqui frog, coffee berry borer, macadamia felted coccid, little fire ant, coconut rhinoceros beetle, small hive beetle, and varroa mite, to name a few. Control measures take time to develop, leaving farmers and ranchers at risk. This is inconsistent with the State's goal of increasing self-sufficiency and sustainability.

Proper funding for HDOA is critical for protecting Hawai'i's environment and economy and the health and lifestyle of its people through the support of invasive species prevention, control, research, outreach, and planning. HDOA's Biosecurity Program is essential to fully execute a comprehensive strategy to address the increasing number of invasive species entering the State. HDOA needs to be provided the necessary resources to help prevent new invasive species from entering Hawai'i and to control and hopefully eradicate invasive species that are already established in Hawai'i so we don't ever have to declare a Biosecurity emergency.

Thank you for the opportunity to testify on this important matter.

SB-572-HD-2

Submitted on: 4/1/2024 8:39:52 AM

Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

ANYTHING FOR SAFETY IS A GOOD IDEA.

MAHALO!