S.B. NO. 572 S.D. 2 H.D. 2

C.D. 1

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

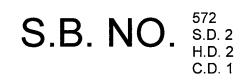
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECT	ION 1. Chapter 150A, Hawaii Revised Statutes, is
2	amended b	y adding a new section to part VI to be appropriately
3	designate	d and to read as follows:
4	" <u>§15</u>	OA- 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

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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 hundr	ed calendar days after its declaration, unless the
6	declarati	on is extended by the department with the approval of
7	the gover	nor.
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, re	al property, or watercraft required for the purposes of
17	this sect	ion, or requisition and take control of the temporary
18	use there	of; provided that:
19	(1)	This subsection shall not apply to any vessel that:
20		(A) Has anti-fouling hull coating; and

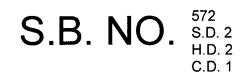
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1		(B) Does not discharge ballast water, uses freshwater
2		for ballasting, or is equipped with ultraviolet
3		filtration systems for ballast water;
4	(2)	The requisition shall be made by serving notice upon
5		any person found in occupation of the 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 en	titled thereto, shall be paid a sum, determined by the



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1	governor	to be fair and just compensation for the property or		
2	use, with	in twenty days after the property has been		
3	requisiti	oned and taken, or in monthly or lesser installments if		
4	the prope	rty is taken for temporary use.		
5	<u>If a</u>	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, t	he person shall be paid seventy-five per cent of that		
8	sum and m	ay sue the State for an additional sum that, when added		
9	to the su	m already received by the person, the person may		
10	consider fair and just compensation for the property or use, in			
11	the manne	r provided by chapter 661 for actions against the		
12	State; pr	ovided 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	<u>If t</u>	he owner of property, or other person entitled to
8	compensat	ion for the requisitioning of property or use thereof,
9	<u>is under</u>	a disability, or has died, and no conservator or
10	personal	representative has been appointed, the State, acting
11	through t	he attorney general, may apply for the appointment of a
12	conservat	or or for the appointment of a personal representative.
13	<u>(f)</u>	The governor shall appoint a board of three
14	disintere	sted certified appraisers with whom may be filed any
15	<u>claim for</u>	damages arising out of any failure to return private
16	property,	the temporary use of which was requisitioned, or which
17	was lease	d, or any claim for damages arising out of the
18	condition	in which the private property is returned. No claim
19	may be fi	led for deterioration of property resulting from
20	ordinary	wear and tear and not for any deterioration or damage,
21	except an	y that is shown to have resulted from the taking or use



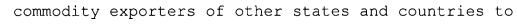
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1	of the property; provided that any claim shall be filed within
2	thirty days after the return of the property or after the
3	governor proclaims that all private property has been returned
4	to the owners, whichever is earlier. The decision of the
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."

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1	SECTION 2. Section 150A-52, Hawaii Revised Statutes, is
2	amended to read as follows:
3	"[{]§150A-52[]] 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

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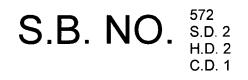
1		prohibited or restricted organisms without a permit
2		that have entered the State;
3	(4)	Collaborate with relevant government agencies,
4		agricultural commodity importers, and other persons to
5		examine and develop joint integrated systems to better
6		implement the biosecurity program;
7	(5)	Improve 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

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1		(C) Protecting imported products to prevent pest
2		infestation.
3	<u>(b)</u>	For purposes of the biosecurity program, the
4	departmen	t 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		<u>150A-</u> .
15	[(b)] <u>(c)</u> The department shall establish parameters and
16	construct	ion requirements for biosecurity facilities that
17	provide f	or and ensure the safety of agricultural and food
18	commoditi	es 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."

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- 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)

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