

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2537, RELATING TO INVASIVE SPECIES.

BEFORE THE:

HOUSE COMMITTEE ON AGRICULTURE AND FOOD SYSTEMS

DATE: Monday, February 12, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 312 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Travis T. Moon or Bryan C. Yee, Deputy Attorneys General

Chair Gates and Members of the Committee:

The Department of the Attorney General respectfully submits comments regarding this bill.

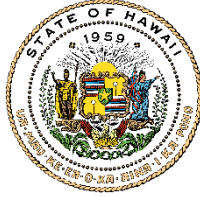
This bill proposes to amend chapter 150A, Hawaii Revised Statutes (HRS), by adding a new section that imposes a fine of up to \$10,000 on any person who knowingly sells invasive plants or plants containing invasive species.

The sale of invasive plants is prohibited pursuant to section 150A-6.1(d), HRS. The transportation of plants containing invasive species is prohibited pursuant to section 150A-8, HRS. Thus, this bill is not necessary because section 150A-14, HRS, currently penalizes violations of chapter 150A, HRS, by imposing a fine of up to \$10,000, or higher up to \$200,000 for some violations.

Thank you for the opportunity to comment on this bill.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K.P. KANAKA'OLE
FIRST DEPUTY
DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
AGRICULTURE & FOOD SYSTEMS

Monday, February 12, 2024
2:00 PM

State Capitol, Conference Room 312 and Via Videoconference

In consideration of
HOUSE BILL 2537
RELATING TO INVASIVE SPECIES

House Bill 2537 imposes a penalty for knowingly selling invasive plants or plants containing invasive species. **The Department of Land and Natural Resources (Department) supports this measure and provides the following comments.**

The Department applauds the efforts of the introducers of this measure to address the introduction and spread of pests and pest plants in the State. Current State regulations restrict the introduction of less than one percent of the world's plant biota through the list of designated noxious weeds, which has not been updated in more than 30 years. *See Section 4-6-68 Hawai'i Administrative Rules, List of Plant Species Designated as Noxious Weeds for Eradication or Control Purposes by the Hawaii Department of Agriculture, June 18, 1992.* Chapter 150A, Hawai'i Revised Statutes (HRS), not include a definition of "invasive species" or use that term.

The Department recommends that the proposed amendment reflect language in the existing Chapter 150A, HRS, by using the term "pest," which is defined in Chapter 150A-2, HRS, instead of "invasive species" and referring to "noxious weeds" and "restricted plants" instead of "invasive plants" and make conforming changes for style and clarity. Additionally, we suggest the Committee consider moving the penalty proposed in this bill to the existing penalty section in Chapter 150A, HRS. The resulting amendment would read as follows:

Section 1. Section 150A-14, Hawaii Revised Statutes, is amended by adding at the end the following new subsection:

“(h) Any person who knowingly sells a plant designated by the department as a restricted plant or a noxious weed, or a plant that is infested or infected with a pest shall be fined not more than \$10,000 for each separate offense.”

Mahalo for the opportunity to provide testimony in support of this measure.

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
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 12, 2024
2:00 PM
CONFERENCE ROOM 312 & VIDEOCONFERENCE

HOUSE BILL NO. 2537
RELATING TO INVASIVE SPECIES

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

Thank you for the opportunity to provide testimony on House Bill No. 2537 relating to invasive species. This bill imposes a penalty for knowingly selling invasive plants or plants containing invasive species.

The Department recognizes the threats pests and invasive species pose and offers comments on this bill.

The Department notes that Hawaii Revised Statutes (HRS) 150A-14 already contains a penalty section, with maximum fines for first time offenses equaling \$10,000, with maximum fines for subsequent violations occurring within 5 years of the initial one, being up to \$25,000.

Regarding knowingly selling invasive plants, currently there is no definition of "invasive plants", however, Hawaii Administrative Rules (HAR) Chapter 4-68, contains a list of noxious weeds, which the Department believes equal the definition of "invasive



plants.” Additionally, HRS 150A-6.1 already prohibits the selling, or offering for sale, of noxious weeds.

Regarding the sale of plants with invasive species, currently there is no definition of “invasive plants”, however the term “pest” pursuant to HRS 150A-2 “means any animal, insect, disease agent or other organism in any stage of development that is detrimental or potentially harmful to agriculture, or horticulture, or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board” and is what is used for regulatory action. The Department is currently in the final phases of administrative rulemaking, with a public hearing regarding changes to HAR 4-72 occurring on January 30, 2024, which include specific provisions that enable the prohibition of movement of commodities, not just plants, that are infested. Violating the HAR also results in the same penalty previously mentioned pursuant to HRS 150A-14.

As the intent of this bill is already covered, and can incur penalties beyond what this bill proposes, the Department believes that these changes are not necessary.

Thank you for the opportunity to testify on this measure.



House of Representatives
Committee On Agriculture and Food Systems
Monday, February 12, 2024
2:00 PM Conference Room 312
State Capitol

Testimony in Support of HB 2537

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

The Coordinating Group on Alien Pest Species (CGAPS) **supports HB2537**, *Relating to Invasive Species*, which establishes a penalty for knowingly selling invasive plants or plants infested with invasive species.

Unfortunately, it has become clear that there are a few “bad actor” businesses in the State that are selling nursery plants they know to be infested with little fire ants (LFA) or other high-priority pests. The Hawai’i Department of Agriculture (HDOA) does not interpret its current authorities to allow it to prevent these sales. The result is that unsuspecting consumers are inadvertently spreading invasive pests to their homes and communities. We support this effort to impose a penalty on these “bad actors”.

The terms “invasive species” and “invasive plants” are not defined or used in chapter 150A Hawai’i Revised Statutes (HRS). Therefore, we suggest using the term “pest” which is defined in section 150A-2 HRS and the terms “noxious weed” and “restricted plant” to be consistent with the current language in chapter 150A HRS. We also propose making modifications to conform to these changes and respectfully suggest the Committee consider placing the amendment made by HB2537 into section 150A-14 HRS, the existing penalties section in chapter 150A HRS.

As modified by our suggestions, section 1 of HB2537 would read as follows:

Section 1. Section 150A-14, Hawaii Revised Statutes, is amended by adding at the end the following new subsection:

“(h) Any person who knowingly sells a plant designated by the department as a restricted plant or a noxious weed, or a plant that is infested or infected with a pest shall be fined not more than \$10,000 for each separate offense.”

Mahalo for the opportunity to support HB2537 and for consideration of our testimony.

Aloha,

A handwritten signature in blue ink, appearing to read "C. Martin".

Christy Martin
CGAPS Program Manager

A handwritten signature in blue ink, appearing to read "P.S. Easley".

Stephanie Easley
CGAPS Legal Fellow



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

February 12, 2024 2:00 PM Conference Room 312

In SUPPORT of:

HB2104: RELATING TO THE HAWAII INVASIVE SPECIES COUNCIL

HB2131: RELATING TO THE TWO-LINED SPITTLEBUG

HB2132: RELATING TO INVASIVE SPECIES

HB2133: RELATING TO INVASIVE SPECIES

HB2139: RELATING TO INVASIVE SPECIES

HB2537: RELATING TO INVASIVE SPECIES

HB2644: RELATING TO LITTLE FIRE ANTS

HB2672: RELATING TO LITTLE FIRE ANTS

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

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai'i **SUPPORTS HB2104, HB2131, HB2132, HB2133, HB2139, HB2537, HB2644, and HB2672**, which will help to mitigate the ongoing and future impacts of invasive pests on our native ecosystems, cultural practices, food security, public health, economy, and the overall quality of life of present and future generations.

Hawai'i's history provides us with a host of lessons regarding the wide-ranging and potentially irreversible damage that invasive species can inflict on our islands and ways of life. Invasive plants and wildlife have overtaken entire watersheds, impacting not just native habitat but also reducing aquifer recharge, increasing our vulnerability to floods and wildfires, and smothering our nearshore reefs and waters with runoff. Parasites and other pests have impacted local food production and increased the use of toxic pesticides on farms and in home gardens, risking both public health as well as threatening stream and nearshore species critical to our aquatic ecosystems. Invasive animals have also extirpated native species, continue to threaten others with outright extinction, and continue to undermine public health by acting as vectors for zoonotic diseases. Most recently, the spread of invasive pests such as the little fire ant, coconut rhinoceros beetle, hala scale, two-lined spittlebug and others will require substantial and long-needed policies and investments over the long-term, to prevent additional and even greater impacts to our islands and our future generations.

Accordingly, the Sierra Club strongly supports the much needed policies and investments contemplated in these measures. More financial support is critical for the Hawai'i Invasive Species Council to fulfill its biosecurity mission; funding for targeted campaigns to address the little fire ant and two-lined spittlebug are critical to preventing the ecological, cultural, agricultural, public health, and economic impacts of these pests; financial support for



businesses and organizations to engage in invasive species control and eradication will engage more of the community in the all-hands-on-deck fight to combat their spread; agricultural invasive species placards will encourage agricultural producers to proactively employ best management practices and other measures to prevent and address invasive species on agricultural lands; and quarantine requirements will help to fill a critical gap in our regulatory toolbox that has allowed the sale of infested plants and other communities – a gap that has likely contributed to the establishment of coconut rhinoceros beetle on O‘ahu, and the ongoing spread of little fire ants across the islands.

Much remains uncertain as we continue to reckon with the consequences of Hawai‘i’s longstanding failure to enact critical biosecurity protections. However, it is certain that much stronger action, including but not limited to the proposals in the aforementioned bills, will be necessary to mitigate or prevent the worst of these and other future impacts to our lives and that of our children and future generations.

Accordingly, the Sierra Club of Hawai‘i respectfully urges the Committee to **PASS** these measures. Mahalo nui for the opportunity to testify.



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February 12, 2024

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

TESTIMONY ON HB 2537
RELATING TO INVASIVE SPECIES

Conference Room 312 & Videoconference
2:00 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.

The Hawai'i Farm Bureau provides comment on HB 2537, which imposes a penalty for knowingly selling invasive plants or plants containing invasive species.

HFB recognizes the importance of preventing destructive invasive species from entering the State and how difficult it is to manage those that become established in our islands. We appreciate the difficult work of HDOA and its partners in preventing entry and their efforts to eradicate or control these detrimental animals, insects, weeds, diseases, and other pests.

As farmers and ranchers, we understand the need for updated policies and procedures to prevent the spread of these pest species. Our way of life and our livelihood is entirely dependent upon the ecological balance of our environment.

HFB has the following concerns.

- The bill indicates that it amends HRS Chapter 150A by adding a new section to be entitled "**Penalty; invasive species**". It appears that this new part is intended to be in addition to the current Chapter 150A-14 which already contains a penalty section.
- The terms "invasive species" and "invasive plants" are not defined or used in chapter 150A Hawai'i Revised Statutes (HRS).

Department funding and staffing have long been insufficient to adequately prevent the entry and establishment of dangerous and damaging invasive species. This bill will require extensive resources and personnel to educate the public and producers, assist

agricultural businesses with compliance, and conduct inspections and enforcement. Without significant funding, this measure will be impossible to implement.

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

HB-2537

Submitted on: 2/10/2024 11:00:56 AM

Testimony for AGR on 2/12/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

RELATING TO INVASIVE SPECIES.

Imposes a penalty for knowingly selling invasive plants or plants containing invasive species.

HB-2537

Submitted on: 2/10/2024 1:25:21 PM

Testimony for AGR on 2/12/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair, and members of the committee,

I stand in support of HB2537

This is a pretty simple bill and straight forward. There is no acceptable reason someone should be selling invasive plants or plants containing invasive species. I do think a possible amendment requiring the Department of Agriculture to publish on its website a list of invasive species and keep that list updated.

I applaud this bill and hope this passes. Mahalo for looking out for our fragile environment and ecosystems in Hawai'i.

Mahalo for your time and consideration.

Keoni Shizuma

HB-2537

Submitted on: 2/12/2024 12:42:53 PM

Testimony for AGR on 2/12/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

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

I support HB 2537 that imposes a penalty for knowingly selling invasive plants or plants containing invasive species.

Strict penalties are needed to help stop the spread. Hopefully it is not too late.