
A BILL FOR AN ACT

RELATING TO BIOSECURITY.

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

1 PART I

2 SECTION 1. The purpose of this Act is to improve Hawaii's
3 biosecurity.

4 PART II

5 SECTION 2. The purpose of this part is to:

6 (1) Rename the department of agriculture as the department
7 of agriculture and biosecurity, and the board of
8 agriculture as the board of agriculture and
9 biosecurity; and

10 (2) Clarify the composition of the board of agriculture.

11 SECTION 3. Section 26-16, Hawaii Revised Statutes, is
12 amended by amending its title and subsection (a) to read as
13 follows:

14 "**§26-16 Department of agriculture~~[-]~~ and biosecurity.** (a)

15 The department of agriculture and biosecurity shall be headed by
16 an executive board to be known as the board of agriculture~~[-]~~
17 and biosecurity. The board shall consist of ten members:



- 1 (1) One who shall be a resident of the county of Hawaii;
2 (2) One who shall be a resident of the county of Maui;
3 (3) One who shall be a resident of the county of Kauai;
4 (4) Four at large; and
5 (5) The chairperson of the board of land and natural
6 resources; the director of business, economic
7 development, and tourism; and the dean of the
8 University of Hawaii college of tropical agriculture
9 and human [~~resources,~~] resilience, or their designated
10 representatives, who shall serve as ex officio[+], [+]
11 voting members.

12 The majority of the members of the board described in
13 paragraphs (1) through (4) shall be from the agricultural
14 community [~~or~~], the agricultural support sector[-], the invasive
15 species response community, or the environmental conservation
16 community with demonstrated biosecurity expertise, with at least
17 one member from each of these categories. The appointment,
18 tenure, and removal of the members and the filling of vacancies
19 on the board shall be as provided in section 26-34. The
20 governor shall appoint a chairperson of the board from the
21 members."



1 SECTION 4. Section 141-42, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) An individual or entity licensed to produce hemp
4 pursuant to subsection (a) may transport hemp within the State
5 to a facility authorized by law to process hemp or to another
6 licensed producer's grow area; provided that the transportation
7 has been reported to the department of agriculture[-] and
8 biosecurity. The department of agriculture and biosecurity may
9 require movement reports that include copies of the United
10 States Department of Agriculture test results for the hemp to be
11 transported and may deny authorization if the hemp is found to
12 not comply with any law or regulation."

13 SECTION 5. Section 142-18, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§142-18 Disposal of tuberculous animals.** The owner of
16 all cattle reacting to the tuberculin test shall, subject to
17 section 142-16, cause them to be segregated immediately and,
18 within a reasonable time thereafter, to be delivered for
19 slaughter at such time and place as may be designated by the
20 department of agriculture[-] and biosecurity. The slaughter
21 shall be under the direct supervision of the department and in



1 accordance with the meat inspection regulations of the United
2 States Department of Agriculture."

3 SECTION 6. Section 142-21, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§142-21 Cooperation with federal authorities.** The
6 department of agriculture and biosecurity may cooperate with the
7 United States Department of Agriculture in its efforts to
8 eradicate bovine tuberculosis or any other transmissible disease
9 of animals, and may make appraisals of condemned animals and
10 report on the salvage derived from the sale of the animals in
11 conformity with the regulations of the United States Department
12 of Agriculture."

13 SECTION 7. Section 147-52, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§147-52 Grades, standards and classifications; changes.**
16 The standards for grading and classifying food products that
17 have been or may be hereafter adopted, prescribed, or announced
18 by the United States Department of Agriculture or by or under
19 authority of the Congress of the United States are hereby
20 declared to be the official standards for grading and
21 classifying such food products for the State; provided that the



1 department of agriculture and biosecurity may establish and
2 prescribe other and different, or additional, standards for
3 grading and classifying any such products, to the extent
4 permitted by the laws of the United States, which standards, so
5 established and prescribed by the department, shall be the
6 official standards for grading and classifying any such food
7 products for the State. The department may also establish and
8 prescribe official standards for grading and classifying any or
9 all food products for which no standards have been adopted,
10 prescribed, or announced by the United States Department of
11 Agriculture or by or under authority of the Congress. The
12 department may change any standards established and prescribed
13 by it hereunder from time to time."

14 SECTION 8. Section 147-53, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§147-53 Department; grades, standards and**
17 **classifications; factors.** In establishing any grades,
18 standards, or classifications for any food product, the
19 department of agriculture[7] and biosecurity, in addition to
20 such factors as may be specified in any other law, shall take
21 into account and base the grades, standards, or classifications



1 upon such of the following factors as shall be applicable to the
2 product involved: degree of maturity; size, measured by
3 dimensions or weight; degree of freshness, as determined by
4 physical examination or chemical test or analysis; moisture
5 content; uniformity; color; firmness; tenderness; defects;
6 injury; damage; diseases; appearance; mixture of varieties;
7 decay; conformation; soundness; varietal characteristics or
8 type; number of specimens per pound; nature of pack; presence of
9 dirt or other foreign material; condition as to temperature and
10 extent to which the product is hot or heating or is in a sour
11 condition; extent to which product is satisfactory for human or
12 other consumption or use; extent to which the product has been
13 affected by handling or treatment; extent to which the product
14 has a commercially objectionable flavor or odor; and other
15 factors indicative of class, quality, or condition, and of the
16 value or suitability of the product involved for the commercial
17 or other use to be made thereof. In addition the department
18 shall take into account any grades, standards, or
19 classifications for such product established by the United
20 States Department of Agriculture and also applicable federal
21 grades and standard laws."



1 SECTION 9. Section 147-57, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§147-57 Department, rules and regulations, contracts,
4 cooperation, fees. The department of agriculture[7] and
5 biosecurity, in addition to powers granted by this part or any
6 other law, shall have all powers necessary or convenient to
7 carry out and effectuate this part, including the following:

8 (1) To prescribe rules and regulations, not inconsistent
9 with this part, respecting: the standards for grading
10 and classifying, and the grades, standards, and
11 classification for, food products; the inspection,
12 grading, and classification of food products; the
13 determination and certification of the grade,
14 classification, quality, and condition of food
15 products and such other pertinent facts as the
16 department may deem advisable; the licensing of
17 inspectors, graders, and samplers and the duties of
18 such inspectors, graders, and samplers; methods of
19 test, analysis, and examination in determining the
20 grade, classification, quality, and condition of food
21 products; the official word or words, figure, or



- 1 letter to indicate official grade or standards of
2 quality or condition of food products; the design,
3 form, and use of official labels and statements for
4 use on packages or containers of products inspected,
5 graded, classified, and certified under this part; and
6 continuous factory inspection, grading,
7 classification, and certification of food products;
- 8 (2) To contract with the United States Department of
9 Agriculture for the services of an inspector or
10 inspectors employed by the department and the
11 establishment of a cooperative inspection service with
12 the United States government;
- 13 (3) To cooperate with the United States or any department
14 thereof, in accomplishing the matters or things
15 provided for herein; and
- 16 (4) To fix, assess, and collect, or cause to be collected,
17 fees for inspecting or classifying food products, such
18 fees to be on a uniform basis in an amount reasonably
19 necessary to cover, as nearly as may be, the cost of
20 the inspection and the administration of this part;
21 provided that the department may adjust the fees to be



1 collected hereunder to meet the expenses necessary to
2 carry out the provisions hereof and may prescribe a
3 different scale of fees for different localities; and
4 provided further that the department may prescribe a
5 reasonable charge for traveling expenses and services.
6 Charges for continuous factory inspection and grading
7 may be fixed, assessed, and collected on such contract
8 basis as will reimburse the State for the salary and
9 all expenses of the factory inspector or grader, to
10 which shall be added an appropriate percentage of
11 charges assessed to cover, as nearly as practicable,
12 administrative overhead expense."

13 SECTION 10. Section 147-74, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§147-74 Grading standards and regulations.** Subject to
16 chapter 91, the department of agriculture and biosecurity may
17 make rules with respect to:

- 18 (1) Sale and transportation for sale of eggs for human
19 consumption;
- 20 (2) Specific grades or standards of quality, condition and
21 size or weight classes which shall conform when



1 practical to those established by the United States
2 Department of Agriculture as local conditions will
3 permit;

4 (3) Inspection and classification;

5 (4) Assessment and collection of fees for requested
6 certification as to grade, standard of quality,
7 condition, and size or weight classes;

8 (5) Labeling of containers of imported and locally
9 produced eggs and marking of individual imported eggs
10 as to origin;

11 (6) Seller's invoice for sale of eggs;

12 (7) Records of imported shell eggs of foreign origin;

13 (8) Methods of determining egg quality, which shall not
14 include recandling or any other method applied to eggs
15 in interstate commerce which is discriminatory or
16 impairs that commerce in any way or requires a cost
17 increase of eggs in interstate commerce; and

18 (9) Enforcement of this part and of the rules adopted
19 under this part."

20 SECTION 11. Section 147-93, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§147-93 Cooperating with federal authority.** The
2 department of agriculture and biosecurity may enter into
3 cooperative agreements with the United States Department of
4 Agriculture for the purpose of grading beef, pork, mutton, and
5 lamb carcasses."

6 SECTION 12. Section 159-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**[+]§159-2[+]** **Findings and declaration of necessity.** It
9 is hereby declared that the meat industry is a paramount
10 agricultural industry of this State and the production and
11 marketing of meat is an enterprise that is of significant
12 importance to the economy of this State and to the health of the
13 consuming public. It is essential to the public health and
14 welfare of consumers that they be protected by assuring that
15 meat and meat products distributed to them are wholesome, not
16 adulterated, and properly marked, labeled, and packaged.
17 Unwholesome, adulterated, or misbranded meat or meat products
18 are injurious to the public health and welfare, destroy markets
19 for wholesome, unadulterated, and properly labeled and packaged
20 meat and meat products and result in sundry losses to livestock
21 producers and processors of meat and meat products, as well as



1 injury to consumers. The unwholesome, adulterated, mislabeled,
2 or deceptively packaged articles can be sold at lower prices and
3 compete unfairly with the wholesome, unadulterated, and properly
4 labeled and packaged articles, to the detriment of consumers and
5 the public generally. It is hereby found that regulation by the
6 department of agriculture and biosecurity and cooperation by
7 this State with the United States Department of Agriculture as
8 contemplated by this Hawaii Meat Inspection Act is appropriate
9 to protect the health and welfare of consumers and otherwise to
10 effectuate the purposes of this chapter.

11 Congress enacted the Meat Inspection Act in 1907 (Public
12 Law 59-242), as amended by the Wholesome Meat Act in 1967
13 (Public Law 90-201) which is now redesignated as the Federal
14 Meat Inspection Act. The Federal Meat Inspection Act is
15 intended to protect the consuming public from adulterated or
16 misbranded meat and meat products and to assist the states in
17 their efforts to accomplish this objective. The Federal Meat
18 Inspection Act authorizes the Secretary of Agriculture to
19 furnish financial and related assistance to states for the
20 administration of meat inspection programs which conform to
21 established federal standards up to fifty per cent of the



1 estimated total cost of the cooperative program. Presently, the
2 meat processing industry in this State is not subject to any
3 meat inspection law or rules and regulations that meet the
4 minimum federal requirement in this area. This State, in order
5 to qualify for the cooperative program, must demonstrate
6 "progressive action" by November 15, 1969; and, further, all
7 physical facilities must be upgraded in accordance with the
8 established federal standards by November 15, 1970. Failure to
9 comply with the federal standards prescribed by the Federal Meat
10 Inspection Act will result in federal control of the meat and
11 meat processing industries of the State. Accordingly, the State
12 deems it to be in the best interest of the public health and
13 welfare to take those steps as are necessary to qualify for
14 federal financial and related assistance for the administration
15 of a meat inspection program which conforms to federal standards
16 prescribed in the Federal Meat Inspection Act."

17 SECTION 13. Section 161-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§161-2 Findings and declaration of necessity.** It is
20 hereby declared that the poultry industry is a paramount
21 agricultural industry of this State and the production and



1 marketing of poultry is an enterprise that is of significant
2 importance to the economy of the State and to the health of the
3 consuming public. It is essential to the public health and
4 welfare of consumers that they be protected by assuring that
5 poultry or poultry products distributed to them are wholesome,
6 not adulterated, and properly marked, labeled, and packaged.
7 Unwholesome, adulterated, or misbranded poultry or poultry
8 products are injurious to the public health and welfare, destroy
9 markets for wholesome, not adulterated, and properly labeled and
10 packaged poultry or poultry products, and result in sundry
11 losses to poultry producers and processors of poultry as well as
12 injury to consumers. The unwholesome, adulterated, mislabeled,
13 or deceptively packaged articles can be sold at lower prices and
14 compete unfairly with the wholesome, not adulterated, and
15 properly labeled and packaged articles, to the detriment of
16 consumers and the public generally. It is hereby found that
17 regulation by the department of agriculture and biosecurity and
18 cooperation by this State with the United States Department of
19 Agriculture as contemplated by this chapter is appropriate to
20 protect the health and welfare of consumers and otherwise to
21 effectuate the purposes of this chapter.



1 The 90th Congress enacted Public Law 90-492, entitled "The
2 Wholesome Poultry Products Act", which is now redesignated as
3 the "Poultry Products Inspection Act". The Poultry Products
4 Inspection Act is intended to protect the consuming public from
5 adulterated or misbranded poultry or poultry products and to
6 assist the states in their efforts to accomplish this objective.
7 The Poultry Products Inspection Act authorizes the United States
8 Secretary of Agriculture to furnish financial and related
9 assistance to states for the administration of poultry
10 inspection programs which conform to established federal
11 standards up to fifty per cent of the estimated total cost of
12 the cooperative program. Hawaii's poultry industry is not
13 subject to poultry inspection law or rules and regulations that
14 meet the minimum federal requirement in this area. In order to
15 qualify for the cooperative program, the State must demonstrate
16 "progressive action" by July 18, 1970; and, further, all
17 physical facilities must be upgraded in accordance with the
18 established federal standards by July 18, 1971. Failure to
19 comply with the standards prescribed by the Poultry Products
20 Inspection Act will result in federal control of the poultry or
21 poultry processing industries of the State. Accordingly, the



1 State of Hawaii deems it to be in the interest of the State's
2 public health and welfare to take such steps as are necessary to
3 qualify for federal financial and related assistance for the
4 administration of a poultry inspection program which conforms to
5 federal standards prescribed in the Poultry Products Inspection
6 Act."

7 SECTION 14. Section 205-47, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Each county shall develop maps of potential lands to
10 be considered for designation as important agricultural lands in
11 consultation and cooperation with landowners[~~7~~]; the department
12 of agriculture[~~7~~] and biosecurity; agricultural interest groups,
13 including representatives from the Hawaii Farm Bureau Federation
14 and other agricultural organizations[~~7~~]; the United States
15 Department of Agriculture - Natural Resources Conservation
16 Service[~~7~~]; the office of planning and sustainable
17 development[~~7~~]; and other groups as necessary."

18 SECTION 15. Section 219-8, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§219-8 Participation in loans by the department.**



- 1 (1) The department of agriculture and biosecurity may
2 provide funds for a share, not to exceed ninety per
3 cent, of the principal amount of a loan made to a
4 qualified aquaculturist by a private lender who is
5 otherwise unable [~~otherwise~~] to lend the applicant
6 sufficient funds at reasonable rates where the
7 qualified farmer is unable to obtain sufficient funds
8 for the same purpose from the United States Department
9 of Agriculture;
- 10 (2) Participation loans under this section shall be
11 limited by the provisions of section 219-6 and the
12 department of [~~agriculture's~~] agriculture and
13 biosecurity's share shall not exceed the maximum
14 amounts specified therefor;
- 15 (3) Interest charged on the private lender's share of the
16 loan shall not be more than the sum of two per cent
17 above the lowest rate of interest charged by all state
18 or national banks authorized to accept or hold
19 deposits in the State on secured short term loans made
20 to borrowers who have the highest credit rating with
21 those banks;



- 1 (4) The private lender's share of the loan may be insured
2 by the department up to ninety per cent of the
3 principal balance of the loan, under section 219-7;
- 4 (5) When a participation loan has been approved by the
5 department, its share shall be paid to the
6 participating private lender for disbursement to the
7 borrower. The private lender shall collect all
8 payments from the borrower and otherwise service the
9 loan;
- 10 (6) Out of interest collected, the private lender may be
11 paid a service fee to be determined by the department
12 [~~which fee~~] that shall not exceed one per cent of the
13 unpaid principal balance of the loan; provided that
14 this fee shall not be added to any amount which the
15 borrower is obligated to pay;
- 16 (7) The participating private lender may take over a
17 larger percentage or the full principal balance of the
18 loan at any time that it has determined, to the
19 satisfaction of the department, that the borrower is
20 able to pay any increased interest charges resulting;
21 and



1 (8) Security for participation loans shall be limited by
2 section 219-5(a)(6). All collateral documents shall
3 be held by the private lender. Division of interest
4 in collateral received shall be in proportion to
5 participation by the department and the private
6 lender."

7 SECTION 16. Section 460J-26, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§460J-26 Exemptions.** This chapter shall not apply to:

- 10 (1) Officials of the federal government on military
11 reservations;
- 12 (2) Personnel of the United States Department of
13 Agriculture, the state department of agriculture[~~7~~]
14 and biosecurity, or state department of land and
15 natural resources, or the United States Public Health
16 Service in the performance of their official duties;
- 17 (3) Other government employees who conduct research on
18 pesticides or pest control or who use pesticides in
19 the performance of their duties;
- 20 (4) Qualified scientific personnel specially exempted by
21 the board;



- 1 (5) Persons engaged in pest control for agricultural
- 2 purposes; or
- 3 (6) Engineers or architects licensed under chapter 464
- 4 who:
- 5 (A) Draft or prepare design documents that prescribe
- 6 anti-termite or anti-pest measures, including the
- 7 specification of termiticides, that are required
- 8 by the building code and other governmental
- 9 agencies;
- 10 (B) Conduct building condition or assessment surveys
- 11 to observe and evaluate the condition of the
- 12 building or structure, if the primary purpose of
- 13 these surveys is not to report on the
- 14 identification of infestations; or
- 15 (C) Prepare reports based on the results of the
- 16 surveys specified in subparagraph (B) that
- 17 identify the location, extent, and probable cause
- 18 of the pest damage (e.g., "termite damage");
- 19 provided that where a report concerns termite
- 20 damage, the particular type or species of termite
- 21 shall not be specified unless the report is



1 written in consultation with a licensed pest
2 control operator licensed in termite control or
3 other duly recognized expert in urban entomology,
4 such as an insect taxonomist or urban
5 entomologist with expertise in the identification
6 or control of termites; and provided further that
7 if a licensed pest control operator is not
8 consulted, the report shall include a
9 recommendation that a licensed pest control
10 operator be contracted for further assessment or
11 treatment."

12 SECTION 17. Sections 6E-61, 23-12, 26-4, 26-16, 46-67,
13 141-1, 141-3, 141-3.5, 141-3.6, 141-4, 141-5, 141-6, 141-7,
14 141-9, 141-12, 141-12.5, 141-13, 141-14, 141-15, 141-16, 141-17,
15 141-43, 141-51, 141-53, 141D-1, 141D-2, 142-1, 142-2, 142-3,
16 142-3.5, 142-4, 142-5, 142-6, 142-7, 142-8, 142-9, 142-12,
17 142-13, 142-16, 142-19, 142-20, 142-22, 142-23, 142-23.1,
18 142-23.5, 142-29, 142-31, 142-41, 142-43, 142-49, 142-92,
19 142-93, 142-98, 142-100, 142-101, 142-111, 143-2.2, 144-1,
20 145-1, 145-3, 145-7, 145-8, 145-9, 145-27, 145D-5, 146-22,
21 147-1, 147-21, 147-31, 147-32, 147-51, 147-54, 147-55, 147-56,



1 147-58, 147-59, 147-60, 147-73, 147-75, 147-76, 147-78, 147-80,
2 147-91, 147-92, 147-94, 147-95, 147-96, 147-97, 147-101,
3 147-102, 147-111, 147-116, 147-122, 148-1, 148-2, 148-61,
4 148-62, 148-63, 148-64, 148-66, 149A-2, 150-21, 150A-2,
5 150A-6.3, 150A-11.5, 152-1, 155-1, 155-2, 155-4, 155-5, 155-5.5,
6 155-5.6, 155-6, 155-6.5, 155-8, 155-9, 155-11, 155-12, 155-13,
7 155-14, 155-31, 155D-1, 157-1, 157-13, 159-3, 159-15, 161-3,
8 161-6, 163D-4, 166-2, 166-3, 166-11, 166E-1, 166E-2, 166E-3,
9 167-22, 167-23, 169-1, 171-2, 171-3, 171-37.5, 171-55.5, 171-59,
10 171-64.7, 171-112, 171-117, 173A-4, 173A-5, 174C-31, 187A-6.5,
11 194-2, 205-6, 205-44.5, 205-45, 205-45.5, 205-48, 205-49,
12 205-50, 205A-62, 206E-34, 219-2, 219-4, 219-7, 219-9,
13 235-110.93, 261-4.5, 266-21.5, 269-26.5, 342G-47, 421-6,
14 421-21.6, 460J-21, 460J-24.5, and 486-1, Hawaii Revised
15 Statutes, are amended by substituting the term "department of
16 agriculture and biosecurity", or similar term, wherever the term
17 "department of agriculture", or similar term, appears, except
18 within the term "United States Department of Agriculture", as
19 context requires.

20 SECTION 18. Sections 10-41, 26-16, 26-34, 84-17, 84-18,
21 128E-2, 141-6, 141-9, 141-12, 141-51, 141D-2, 142-3.5, 142-3.6,



1 142-23.1, 142-28.5, 142-29, 142-31, 144-10, 145-22, 145-27,
2 147-9, 147-24, 147-34, 147-58, 147-59, 147-60, 148-1, 149A-2,
3 149A-32.5, 150A-2, 155-3, 155-5.6, 155-6.5, 155-9, 155-13,
4 155-14, 155-33, 157-1, 157-14, 157-15, 157-18, 157-22, 157-23,
5 157-24, 157-25, 157-26, 157-27, 157-29, 157-41, 157-42, 159-3,
6 161-3, 163D-3, 166-2, 166-3, 166-4, 166-5, 166-6, 166-11,
7 166E-1, 166E-2, 166E-3, 167-1, 167-2, 167-3, 167-4, 167-5,
8 167-6, 167-7, 167-9, 167-11, 167-12, 167-13, 167-14, 167-15,
9 167-16, 167-17, 167-18, 167-19, 167-20, 167-21, 167-22, 168-1,
10 168-2, 168-3, 168-4, 168-5, 168-6, 168-7, 168-8, 169-3, 195-6,
11 205-44, 210D-5, 219-2, 219-3, 219-4, 220-1, 225P-3, 225P-4,
12 279A-4, 330C-3, 371-19, 460J-2, and 486-1, Hawaii Revised
13 Statutes, are amended by substituting the term "board of
14 agriculture and biosecurity", or similar term, wherever the term
15 "board of agriculture", or similar term, appears, as context
16 requires.

17 PART III

18 SECTION 19. The purpose of this part is to establish a new
19 deputy chairperson position within the department of
20 agriculture, to be known as the deputy chairperson for
21 biosecurity.



1 SECTION 20. Chapter 141, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§141- Deputy chairperson of biosecurity; established.**

5 (a) There is established within the department a deputy
6 chairperson for biosecurity. The deputy chairperson for
7 biosecurity shall oversee all of the department's biosecurity
8 initiatives, including programs under chapters 142 and 150A and
9 sections 141-5, 261-4.5, and 266-21.5.

10 (b) The deputy chairperson for biosecurity shall be a
11 deputy to the chairperson of the board of agriculture and
12 biosecurity and be appointed, without regard to chapter 76, by
13 the governor."

14 PART IV

15 SECTION 21. The purpose of this part is to authorize the
16 department of agriculture and biosecurity to exercise certain
17 emergency powers if a biosecurity emergency occurs.

18 SECTION 22. Chapter 150A, Hawaii Revised Statutes, is
19 amended by adding three new sections to part VI to be
20 appropriately designated and to read as follows:



1 "§150A- Biosecurity emergency response program
2 established. (a) The chairperson shall establish within the
3 department a biosecurity emergency response program to:
4 (1) Provide for the delivery of prompt services in the
5 event of an emergency due to a breach of the State's
6 biosecurity measures;
7 (2) Provide for critical incident stress debriefing for
8 biosecurity personnel;
9 (3) Provide for immediate delivery of services to respond
10 to a new organism introduced to the State;
11 (4) Coordinate the use of other public and private
12 resources or services for the immediate and long-term;
13 biosecurity needs of the State; and
14 (5) Advise state government and other personnel in the
15 planning of and responses to biosecurity events and
16 emergencies.
17 (b) The chairperson shall organize an emergency response
18 team, giving priority to state and county employees having
19 experience dealing with the containment and eradication of
20 organisms. The chairperson shall make a reasonable effort to
21 appoint at least one member from each island except Niihau. If



1 a qualified representative cannot be appointed from each island,
2 the chairperson, at a minimum, shall appoint one member from
3 each county. Each team appointed shall serve for a period of
4 four years; provided that the chairperson shall have the
5 flexibility of appointing additional special teams for shorter
6 or longer periods of time as the need arises. Members of a
7 biosecurity response team shall receive continuing professional
8 education and training on the provision of assistance to be
9 ready to provide services whenever a biosecurity event or
10 emergency occurs. The team members shall receive reimbursement
11 for actual expenses incurred for each day of service provided
12 under this section, including participation in training required
13 by the chairperson.

14 (c) The team shall be activated by the chairperson
15 whenever the chairperson finds that assistance is appropriate
16 following a biosecurity event or an emergency related to
17 biosecurity is declared by the governor under chapter 127A.

18 (d) The chairperson shall adopt rules under chapter 91 to
19 implement the emergency response program, including the
20 qualifications of and appointment process for biosecurity
21 emergency response team members.



1 §150A- Volunteer emergency disaster response personnel.

2 (a) All volunteer emergency biosecurity disaster response
3 personnel, while engaged in the emergency response to a
4 biosecurity event or condition, including participation during
5 periods of biosecurity training, shall be deemed state employees
6 or county employees, as the case may be, and shall have those
7 same powers, duties, rights, and privileges in the performance
8 of their duties as prescribed by or under the authority of the
9 governor or a county.

10 (b) In the case of injury or death arising out of and in
11 the performance of duty under this section, including duty
12 performed during periods of training, all volunteer emergency
13 biosecurity disaster response personnel and their dependents
14 shall be entitled to all of the benefits provided in chapter
15 386, including medical services and supplies. In the case of
16 injury or death, no public official shall be excluded from
17 coverage of chapter 386. Benefits shall be based on average
18 weekly wages under section 386-51, or based on earnings from the
19 usual employment of the person, or based on earnings at the rate
20 of \$20 a week, whichever is most favorable to the claimant.
21 Nothing in this section shall adversely affect the right of any



1 person to receive any benefits or compensation under any act of
2 Congress.

3 (c) Except in cases of wilful misconduct, the State, any
4 county, or any volunteer emergency biosecurity disaster response
5 personnel engaged in the emergency response to a mass
6 biosecurity event or condition under this section (including
7 volunteers whose services are accepted by any authorized
8 person), shall not be liable for the death of or injury to any
9 person, or for damage to property, as a result of any act or
10 omission in the course of rendering professional biosecurity
11 care under a mass biosecurity event or condition. No act or
12 omission shall be imputed to the owner of any vehicle by reason
13 of ownership thereof; provided that nothing in this section
14 shall preclude recovery by any person for injury or damage
15 sustained from the operation of any vehicle that may be insured
16 under section 41D-8 to the extent of the insurance. Unless
17 specifically provided, insurance under section 41D-8 shall not
18 include coverage of risk during an emergency period.

19 **§150A- Rapid response quarantine authority.** The
20 chairperson is authorized to quarantine any area that is known
21 or reasonably suspected to be infested with a newly detected



1 invasive species or pest, a new population of an invasive
2 species or pest, an invasive species or pest that is being
3 actively controlled in the State, or a prohibited or restricted
4 organism, to prevent the movement of materials to or from the
5 location."

6 PART V

7 SECTION 23. The legislature finds that New Zealand's use
8 of transitional facilities has increased the country's
9 biosecurity while improving the efficiency of importing goods.
10 In New Zealand, most imported goods subject to inspection are
11 transported away from the airport or seaport to one of six
12 thousand five hundred privately-run secure transitional
13 facilities. At the transitional facility, a private individual
14 licensed by the government inspects the goods for disease,
15 infection, infestation, and other matters of concern.

16 The legislature further finds that New Zealand's process
17 allows for a more efficient flow of goods entering the country
18 by reducing delays or stoppages at the ports of entry while also
19 ensuring that all relevant goods are properly inspected before
20 delivery to their destination.



1 The purpose of this part is to enhance Hawaii's biosecurity
2 measures by authorizing the establishment of similar
3 transitional facilities in the State along with licenses for
4 private individuals to inspect the imported goods.

5 SECTION 24. Chapter 150A, Hawaii Revised Statutes, is
6 amended by adding five new sections to part II to be
7 appropriately designated and to read as follows:

8 "**§150A-A Transitional facilities; uses.** (a) Upon order
9 by the department, items at a pier, airport, or other place
10 where the items are first received shall be transported to a
11 transitional facility suitable for the items. Absent an order
12 from the department, any person who receives for transport or
13 brings or causes to be brought to the State under section
14 150A-5(1) may transport their own items at a pier, airport, or
15 other place where they are first received to a transitional
16 facility after notifying the department in the same manner
17 prescribed by section 150A-5(1).

18 (b) Items transported pursuant to subsection (a) shall be
19 transported in a manner that they will not spread or be likely
20 to spread any infestation or infection of insects or diseases
21 that may be present.



1 (c) All costs and expenses incident to the use of a
2 transitional facility shall be borne by the importer or the
3 importer's agent.

4 (d) No items shall be transported out of a transitional
5 facility unless:

6 (1) Authorized by the department; or

7 (2) Certified by a biosecurity inspector that the items
8 are free of diseases, infections, infestations, and
9 other items that the department deems relevant.

10 **§150A-B Transitional facilities; established.** The
11 department shall establish standards for transitional
12 facilities, including standards for the construction,
13 maintenance, and operation of transitional facilities. The
14 department may establish standards for transitional facilities
15 pursuant to the types of items stored by those facilities, and
16 corresponding classes of licensure.

17 **§150A-C Transitional facility license.** (a) No person
18 shall operate a transitional facility without a transitional
19 facility license.

20 (b) A person may apply to the department for a
21 transitional facility license. The application shall be made



1 under oath on forms provided by the department and shall contain
2 information as prescribed by the department, including the
3 following:

4 (1) The name, business address, telephone number, social
5 security number and, where applicable, the federal tax
6 identification number of the applicant;

7 (2) The proposed location of the transitional facility;
8 and

9 (3) The type of items the transitional facility will hold.

10 (c) The department shall adopt rules under chapter 91 that
11 establish standards for transitional facilities, including:

12 (1) Standards for construction, maintenance, security, and
13 operation; and

14 (2) Periodic and random inspections.

15 (d) The department may suspend or revoke a transitional
16 facility license if the transitional facility does not satisfy
17 the standards established by the department under
18 subsection (c).

19 **§150A-D Biosecurity inspector; license.** (a) The
20 department of commerce and consumer affairs shall license



1 biosecurity inspectors and offer training to individuals seeking
2 a biosecurity inspector license.

3 (b) The training shall include:

4 (1) The identification of diseases, infections,
5 infestations, and other subjects that the department
6 of commerce and consumer affairs deems relevant; and

7 (2) Procedures following the identification of a disease,
8 infection, infestation, or other subject that the
9 department of commerce and consumer affairs deems
10 relevant.

11 (c) Upon completion of the training, passage of an
12 examination established by the department of commerce and
13 consumer affairs, and satisfaction of other requirements
14 established by the department of commerce and consumer affairs,
15 the department of commerce and consumer affairs shall issue a
16 biosecurity inspector license to the individual. The
17 biosecurity inspector license shall be valid for one year, shall
18 identify the specific transitional facility where the
19 biosecurity inspector is authorized to conduct inspections, and
20 may be renewed under requirements established by the department
21 of commerce and consumer affairs.



1 (d) The department of commerce and consumer affairs may
2 require each biosecurity inspector to complete additional
3 training as needed, including any emergency training in the
4 interests of biosecurity.

5 (e) The department of commerce and consumer affairs may
6 revoke or suspend any biosecurity inspector license for good
7 cause.

8 (f) A biosecurity inspector may be employed by the owner
9 of a transitional facility.

10 (g) The department of commerce and consumer affairs may
11 charge reasonable fees for the training, examination, licensure,
12 and licensure renewal under this section.

13 (h) The department of commerce and consumer affairs shall
14 adopt rules under chapter 91 for purposes of this section.

15 **§150A-E Biosecurity inspector; powers.** (a) Subject to
16 rules adopted by the department of commerce and consumer affairs
17 under chapter 91, a licensed biosecurity inspector may certify
18 items located in a transitional facility as free of diseases,
19 infections, infestations, and other items that the department of
20 agriculture and biosecurity deems relevant.



1 (b) Unless authorized by the department of commerce and
2 consumer affairs, a licensed biosecurity inspector shall not
3 certify any items located outside a transitional facility where
4 the licensed biosecurity inspector is authorized to conduct
5 inspections."

6 SECTION 25. Section 150A-2, Hawaii Revised Statutes, is
7 amended by adding two new definitions to be appropriately
8 inserted and to read as follows:

9 "Biosecurity inspector" means an individual with a valid
10 biosecurity inspector license issued under section 150A-D.

11 "Transitional facility" means a facility with a valid
12 transitional facility license issued under section 150A-C."

13 SECTION 26. Section 150A-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **§150A-5 Conditions of importation.** The importation into
16 the State of any of the following articles, viz., nursery-stock,
17 tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud,
18 seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain,
19 cereal, or legume in the natural or raw state; moss, hay, straw,
20 dry-grass, or other forage; unmanufactured log, limb, or timber,
21 or any other plant-growth or plant-product, unprocessed or in



1 the raw state; soil; microorganisms; live bird, reptile,
2 nematode, insect, or any other animal in any stage of
3 development (that is in addition to the so-called domestic
4 animal, the quarantine of which is provided for in chapter 142);
5 box, vehicle, baggage, or any other container in which the
6 articles have been transported or any packing material used in
7 connection therewith shall be made in the manner hereinafter set
8 forth:

9 (1) Notification of arrival. Any person who receives for
10 transport or brings or causes to be brought to the
11 State as freight, air freight, baggage, or otherwise,
12 for the purpose of debarkation or entry therein, or as
13 ship's stores, any of the foregoing articles, shall,
14 immediately upon the arrival thereof, notify the
15 department, in writing, of the arrival, giving the
16 waybill number, container number, name and address of
17 the consignor, name and address of the consignee or
18 the consignee's agent in the State, marks, number of
19 packages, description of contents of each package,
20 port at which laden, and any other information that
21 may be necessary to locate or identify the same, and



1 shall hold the articles at the pier, airport, [~~or~~] any
2 other place where they are first received or
3 discharged, or a transitional facility, in a manner
4 that they will not spread or be likely to spread any
5 infestation or infection of insects or diseases that
6 may be present until inspection and examination can be
7 made by the inspector or a licensed biosecurity
8 inspector to determine whether [~~or not~~] any article,
9 or any portion thereof, is infested or infected with
10 or contains any pest. The department may adopt rules
11 to require identification of specific articles on
12 negotiable and non-negotiable warehouse receipts,
13 bills of lading, or other documents of title for
14 inspection of pests. In addition, the department
15 shall adopt rules to designate restricted articles
16 that shall require:
17 (A) A permit from the department in advance of
18 importation; or
19 (B) A department letter of authorization or
20 registration in advance of importation.



1 The restricted articles shall include but not be
2 limited to certain microorganisms or living insects.
3 Failure to obtain the permit, letter of authorization,
4 or registration in advance is a violation of this
5 section;

6 (2) Individual passengers, officers, and crew.

7 (A) It shall be the responsibility of the
8 transportation company to distribute, prior to
9 the debarkation of passengers and baggage, the
10 State of Hawaii [~~plant and animal declaration~~]
11 biosecurity form in paper or electronic form to
12 each passenger, officer, and crew member of any
13 aircraft or vessel originating in the continental
14 United States or its possessions or from any
15 other area not under the jurisdiction of the
16 appropriate federal agency in order that the
17 passenger, officer, or crew member can comply
18 with the directions and requirements appearing
19 thereon. All passengers, officers, and crew
20 members, whether or not they are bringing or
21 causing to be brought for entry into the State



1 the articles listed on the form, shall complete
2 the [~~declaration,~~] form, except that one adult
3 member of a family may complete the [~~declaration~~]
4 form for other family members. Any person who
5 defaces the [~~declaration~~] form required under
6 this section, gives false information, fails to
7 declare restricted articles in the person's
8 possession or baggage, or fails to declare in
9 cargo manifests is in violation of this section;

10 (B) Completed paper forms shall be collected by the
11 transportation company and be delivered,
12 immediately upon arrival, to the inspector at the
13 first airport or seaport of arrival. Completed
14 electronic forms shall be transmitted to the
15 inspector before passengers depart the first
16 airport or seaport of arrival. Failure to
17 distribute or collect paper [~~declaration~~] forms,
18 immediately deliver completed paper forms, or
19 transmit completed electronic forms before
20 passengers depart the first airport or seaport of
21 arrival is a violation of this section; and



- 1 (C) It shall be the responsibility of the officers
2 and crew of an aircraft or vessel originating in
3 the continental United States or its possessions
4 or from any other area not under the jurisdiction
5 of the appropriate federal agency to immediately
6 report all sightings of any plants and animals to
7 the plant quarantine branch. Failure to comply
8 with this requirement is a violation of this
9 section;
- 10 (3) [~~Plant and animal declaration~~] Biosecurity form. The
11 form shall include directions for declaring domestic
12 and other animals cited in chapter 142, in addition to
13 the articles enumerated in this chapter;
- 14 (4) Labels. Each container in which any of the
15 above-mentioned articles are imported into the State
16 shall be plainly and legibly marked, in a conspicuous
17 manner and place, with the name and address of the
18 shipper or owner forwarding or shipping the same, the
19 name or mark of the person to whom the same is
20 forwarded or shipped or the person's agent, the name
21 of the country, state, or territory and locality



1 therein where the product was grown or produced, and a
2 statement of the contents of the container. Upon
3 failure to comply with this paragraph, the importer or
4 carrier is in violation of this section;

5 (5) Authority to inspect. Whenever the inspector has good
6 cause to believe that the provisions of this chapter
7 are being violated, the inspector may:

8 (A) Enter and inspect any aircraft, vessel, or other
9 carrier at any time after its arrival within the
10 boundaries of the State, whether offshore, at the
11 pier, or at the airport, for the purpose of
12 determining whether any of the articles or pests
13 enumerated in this chapter or rules adopted
14 thereto, is present;

15 (B) Enter into or upon any pier, warehouse, airport,
16 or any other place in the State where any of the
17 above-mentioned articles are moved or stored, for
18 the purpose of ascertaining, by inspection and
19 examination, whether [~~or not~~] any of the articles
20 is infested or infected with any pest or disease



1 or contaminated with soil or contains prohibited
2 plants or animals; and
3 (C) Inspect any baggage or personal effects of
4 disembarking passengers, officers, and crew
5 members on aircraft or vessels arriving in the
6 State to ascertain if they contain any of the
7 articles or pests enumerated in this chapter. No
8 baggage or other personal effects of the
9 passengers or crew members shall be released
10 until the baggage or effects have been passed.

11 Baggage or cargo inspection shall be made at the
12 discretion of the inspector, on the pier, vessel, or
13 aircraft or in any quarantine or inspection area.

14 Whenever the inspector has good cause to believe
15 that the provisions of this chapter are being
16 violated, the inspector may require that any box,
17 package, suitcase, or any other container carried as
18 ship's stores, cargo, or otherwise by any vessel or
19 aircraft moving between the continental United States
20 and Hawaii or between the [~~Hawaiian Islands,~~] islands
21 of the State, be opened for inspection to determine



1 whether any article or pest prohibited by this chapter
2 or by rules adopted pursuant thereto is present. It
3 is a violation of this section if any prohibited
4 article or any pest or any plant, fruit, or vegetable
5 infested with plant pests is found;

6 (6) Request for importation and inspection. In addition
7 to requirements of the United States customs
8 authorities concerning invoices or other formalities
9 incident to importations into the State, the importer
10 shall be required to file a written statement with the
11 department, signed by the importer or the importer's
12 agent, setting forth the importer's desire to import
13 certain of the above-mentioned articles into the State
14 and:

15 (A) Giving the following additional information:

16 (i) The kind (scientific name), quantity, and
17 description;

18 (ii) The locality where same were grown or
19 produced;

20 (iii) Certification that all animals to be
21 imported are the progeny of captive



1 populations or have been held in captivity
2 for a period of one year immediately before
3 importation or have been specifically
4 approved for importation by the board;

5 (iv) The port from which the same were last
6 shipped;

7 (v) The name of the shipper; and

8 (vi) The name of the consignee; and

9 (B) Containing:

10 (i) A request that the department, by its duly
11 authorized agent, examine the articles
12 described;

13 (ii) An agreement by the importer to be
14 responsible for all costs, charges, or
15 expenses; and

16 (iii) A waiver of all claims for damages incident
17 to the inspection or the fumigation,
18 disinfection, quarantine, or destruction of
19 the articles, or any of them, as hereinafter
20 provided, if any treatment is deemed
21 necessary.



1 Failure or refusal to file a statement, including
2 the agreement and waiver, is a violation of this
3 section and may, in the discretion of the department,
4 be sufficient cause for refusing to permit the entry
5 of the articles into the State;

6 (7) Place of inspection. If, in the judgment of the
7 [~~inspector,~~] department, it is deemed necessary or
8 advisable to move any of the above-mentioned articles,
9 or any portion thereof, to a transitional facility or
10 another place more suitable for inspection than the
11 pier, airport, or any other place where they are first
12 received or discharged, the [~~inspector~~] department is
13 authorized to do so[-] or order the importer or
14 importer's agent to do so. All costs and expenses
15 incident to the movement and transportation of the
16 articles to any other place shall be borne by the
17 importer or the importer's agent. If the importer,
18 importer's agent, or transportation company requests
19 inspection of sealed containers of the above-mentioned
20 articles at locations other than where the articles
21 are first received or discharged or a transitional



1 facility and the department determines that inspection
2 at the other place is appropriate, the department may
3 require payment of costs necessitated by these
4 inspections, including overtime costs;

5 (8) Disinfection or quarantine. If, upon inspection, any
6 article received or brought into the State for the
7 purpose of debarkation or entry therein is found to be
8 infested or infected or there is reasonable cause to
9 presume that it is infested or infected and the
10 infestation or infection can, in the judgment of the
11 inspector, be eradicated, a treatment shall be given
12 [~~such~~] to the article. The treatment shall be at the
13 expense of the owner or the owner's agent, and the
14 treatment shall be as prescribed by the department.
15 The article shall be held in quarantine at the expense
16 of the owner or the owner's agent at a satisfactory
17 place approved by the department for a sufficient
18 length of time to determine that eradication has been
19 accomplished. If the infestation or infection is of
20 the nature or extent that it cannot be effectively and
21 completely eradicated, or if it is a potentially



1 destructive pest or it is not widespread in the State,
2 or after treatment it is determined that the
3 infestation or infection is not completely eradicated,
4 or if the owner or the owner's agent refuses to allow
5 the article to be treated or to be responsible for the
6 cost of treatment and quarantine, the article, or any
7 portion thereof, together with all packing and
8 containers, may, at the discretion of the inspector,
9 be destroyed or sent out of the State at the expense
10 of the owner or the owner's agent. The destruction or
11 exclusion shall not be made the basis of a claim
12 against the department or the inspector for damage or
13 loss incurred;

14 (9) Disposition. Upon completion of inspection, either at
15 the time of arrival or at any time thereafter should
16 any article be held for inspection, treatment, or
17 quarantine, the inspector shall affix to the article
18 or the container or to the delivery order in a
19 conspicuous place thereon, a tag, label, or stamp to
20 indicate that the article has been inspected and



1 passed. This action shall constitute a permit to
2 bring the article into the State; and
3 (10) Ports of entry. None of the articles mentioned in
4 this section shall be allowed entry into the State
5 except through the airports and seaports in the State
6 designated and approved by the board."

7 SECTION 27. Section 150A-8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§150A-8 Transporting in State.** (a) Flora [and], fauna,
10 and pest host material specified by rules and regulations of the
11 department shall not be moved from one island to another island
12 within the State or from one locality to another on the same
13 island except by a permit issued by the department.

14 (b) The movement between the islands of the State of the
15 following articles, viz., nursery-stock, tree, shrub, herb,
16 vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root,
17 or rhizome; nut, fruit, or vegetable; grain, cereal, or legume
18 in the natural or raw state; moss, hay, straw, dry-grass, or
19 other forage; unmanufactured log, limb, or timber, or any other
20 plant-growth or plant-product, unprocessed or in the raw state;
21 soil; microorganisms; live bird, reptile, nematode, insect, or



1 any other animal in any stage of development (that is in
2 addition to the so-called domestic animal, the quarantine of
3 which is provided for in chapter 142); box, vehicle, baggage, or
4 any other container in which the articles have been transported
5 or any packing material used in connection therewith shall be
6 made in the manner hereinafter set forth:

7 (1) Inspectional requirements. Any person who receives
8 for transport, or brings or causes movement between
9 the islands of the State, as freight, air freight,
10 baggage, as ship's stores, or otherwise, any of the
11 foregoing articles, shall ensure that the articles
12 have been inspected prior to movement between the
13 islands of the State and shall provide upon the
14 inspector's request, the waybill number, container
15 number, name and address of the consignor, name and
16 address of the consignee or the consignee's agent,
17 marks, number of packages, description of contents of
18 each package, and any other information that may be
19 necessary to inspect, locate, or identify the same.
20 If the articles are not inspected, the articles shall
21 be held in a manner that they will not spread or be



1 likely to spread any infestation or infection of
2 insects, diseases, or pests that may be present until
3 an inspection can be made by the inspector to
4 determine whether any article, or any portion thereof,
5 is infested or infected with insects or diseases, or
6 contains any pest. The department may adopt rules to
7 define inspection requirements of specific articles.
8 Failure to obtain certification that the articles have
9 met the inspection requirements prior to movement
10 between the islands of the State is a violation of
11 this section;

12 (2) Labels. Each container in which any of the
13 above-mentioned articles are transported between the
14 islands of the State shall be plainly and legibly
15 marked, in a conspicuous manner and place, with the
16 name and address of the shipper or owner forwarding or
17 shipping the same, the name or mark of the person to
18 whom the same is forwarded or shipped or the person's
19 agent, and a statement of the contents of the
20 container. Failure to comply with this paragraph is a
21 violation of this section;



1 (3) Authority to inspect. Whenever the inspector has good
2 cause to believe that the provisions of this chapter
3 are being violated, the inspector shall:

4 (A) Enter and inspect any aircraft, vessel, or other
5 carrier at any time whether offshore, at the
6 pier, or at the airport, for the purpose of
7 determining whether any of the articles or pests
8 enumerated in this chapter or rules adopted
9 thereto, is present;

10 (B) Enter into or upon any pier, warehouse, airport,
11 or any other place in the State where any of the
12 above-mentioned articles are moved or stored, for
13 the purpose of ascertaining, by inspection and
14 examination, whether or not any of the articles
15 is infested or infected with any pest or disease
16 or contaminated with soil or contains prohibited
17 plants or animals;

18 (C) Inspect any baggage or personal effects of
19 passengers, officers, and crew members on
20 aircraft or vessels moving between the islands of



1 the State to ascertain if they contain any of the
2 articles or pests enumerated in this chapter;

3 (D) Baggage or cargo inspection shall be made at the
4 discretion of the inspector, on the pier, vessel,
5 or aircraft or in any quarantine or inspection
6 area; and

7 (E) Whenever the inspector has good cause to believe
8 that the provisions of this chapter are being
9 violated, the inspector shall require that any
10 box, package, suitcase, or any other container
11 carried as ship's stores, cargo, or otherwise by
12 any vessel or aircraft moving between the islands
13 of the State, be opened for inspection to
14 determine whether any article or pest prohibited
15 by this chapter or by rules adopted pursuant
16 thereto is present. It is a violation of this
17 section if any prohibited article, pest, or any
18 article infested with an insect or disease is
19 found;

20 (4) Place of inspection. The inspector shall make a
21 determination whether it is necessary or advisable to



1 move any of the above-mentioned articles, or any
2 portion thereof, to a place more suitable for
3 inspection than the pier, airport, or any other place
4 where they are initially presented for inspection.

5 All costs and expenses incident to the movement and
6 transportation of the articles to such place shall be
7 borne by the consignee or the consignee's agent;

8 (5) Disinfection or quarantine. If, upon inspection, any
9 article intended for movement between the islands of
10 the State is found to be infested or infected with an
11 insect, disease, or pest, or there is reasonable cause
12 to presume that it is infested or infected and the
13 infestation or infection can, in the judgment of the
14 inspector, be eradicated, a treatment shall be given
15 such article prior to movement between the islands of
16 the State. The treatment shall be at the expense of
17 the owner or the owner's agent, and the treatment
18 shall be as prescribed by the department. The article
19 shall be quarantined at the expense of the owner or
20 the owner's agent at a satisfactory place approved by
21 the department for a sufficient length of time to



1 determine that eradication has been accomplished. If
2 the infestation or infection is of such nature or
3 extent that it cannot be effectively and completely
4 eradicated, or after treatment it is determined that
5 the infestation or infection is not completely
6 eradicated, or if the owner or the owner's agent
7 refuses to allow the article to be treated or to be
8 responsible for the cost of treatment and quarantine,
9 the shipment, article, or any portion thereof,
10 together with all packing and containers, shall not be
11 certified for movement between the islands of the
12 State. An article infested or infected with an
13 insect, disease, or pest that is not widespread in the
14 State shall be destroyed at the expense of the owner
15 or the owner's agent; provided that no treatment
16 exists that would eradicate the insect, disease, or
17 pest to the satisfaction of the department. Such
18 destruction shall not be made the basis of a claim
19 against the department or the inspector for damage or
20 loss incurred; and



1 (6) Disposition. Upon completion of inspection, the
2 inspector shall conspicuously affix to the article,
3 container, or to the delivery order or other similar
4 document, a tag, label, or stamp to indicate that the
5 article has been inspected and can be moved between
6 the islands of the State."

7 SECTION 28. Section 150A-14, Hawaii Revised Statutes, is
8 amended by amending subsections (b) through (g) to read as
9 follows:

10 "(b) Any person who violates section 150A-5 shall be
11 ~~[guilty of a petty misdemeanor and]~~ fined not less than ~~[\$50]~~
12 \$100 and not more than ~~[\$5,000.]~~ \$10,000. For a second
13 ~~[offense]~~ violation committed within five years of a prior
14 ~~[offense,]~~ violation, the person may be fined not less than
15 ~~[\$250]~~ \$500 and not more than ~~[\$15,000.]~~ \$25,000.

16 (c) Any person who:

17 (1) Violates section 150A-6(3) or 150A-6(4), or owns or
18 intentionally transports, possesses, harbors,
19 transfers, or causes the importation of any snake or
20 other prohibited animal seized under section
21 150A-7(b), or whose violation involves an animal that



1 is prohibited [~~or~~], a plant[~~]~~ that is restricted, or
2 an animal[~~]~~ or microorganism that is restricted[~~]~~ or
3 unlisted, without a permit, shall be guilty of a
4 misdemeanor and subject to a fine of not less than
5 \$5,000, but not more than \$20,000;

6 (2) Intentionally transports, transfers, possesses,
7 harbors, or imports with the intent to propagate,
8 sell, or release any animal that is prohibited [~~or any~~
9 ~~plant, animal~~], a plant that is restricted, or an
10 animal or microorganism that is restricted[~~]~~ or
11 unlisted, without a permit, shall be guilty of a class
12 C felony and subject to a fine of not less than
13 \$50,000, but not more than \$200,000; or

14 (3) Intentionally imports, possesses, harbors, transfers,
15 or transports, including through interisland or
16 intransland movement, with the intent to propagate,
17 sell, or release, any pest designated by statute or
18 rule, unless otherwise allowed by law, shall be guilty
19 of a class C felony and subject to a fine of not less
20 than \$50,000, but not more than \$200,000.



1 (d) Whenever a court sentences a person or organization
2 pursuant to subsection (a) or (c) for an offense which has
3 resulted in the escape or establishment of any pest or animal or
4 microorganism that is restricted or unlisted and caused the
5 department to initiate a program to capture, control, or
6 eradicate that pest[7] or animal or microorganism that is
7 restricted or unlisted, the court shall also require that the
8 person or organization pay to the state general fund an amount
9 of money to be determined in the discretion of the court upon
10 advice of the department, based upon the cost of the development
11 and implementation of the program.

12 (e) The department shall refuse entry, confiscate, or
13 destroy any prohibited [~~articles or~~], restricted, or unlisted
14 articles that are brought into the State without a permit issued
15 by the department, or order the return of any plant, fruit,
16 vegetable, or any other article infested with insects, diseases,
17 or pests to its place of origin or otherwise dispose of it or
18 such part thereof as may be necessary to comply with this
19 chapter. Any expense or loss in connection therewith shall be
20 borne by the owner or the owner's agent.



1 (f) Any person or organization that voluntarily surrenders
2 any pest, prohibited animal, or any restricted plant, animal, or
3 microorganism without a permit issued by the department, prior
4 to the initiation of any seizure action by the department, shall
5 be exempt from the penalties of this section.

6 (g) For purposes of this section, "intent to propagate"
7 shall be presumed when the person in question is found to
8 possess, transfer, transport, harbor, or import:

9 (1) Any two or more animal specimens of the opposite sex
10 that are prohibited, unlisted, or restricted, without
11 a permit, or are a pest designated by statute or rule;

12 (2) Any three or more animal specimens of either sex that
13 are prohibited, unlisted, or restricted, without a
14 permit, or are a pest designated by statute or rule;

15 (3) Any plant that is restricted or microorganism that is
16 restricted or unlisted, having the inherent capability
17 to reproduce [~~and that is restricted~~], without a
18 permit; or

19 (4) Any specimen that is in the process of reproduction."

20 SECTION 29. Section 150A-54, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 response agreements with businesses and representatives of
2 businesses in the plant and animal industries of the State,
3 including businesses that grow, harvest, or produce animals and
4 plants or products from animals and plants.

5 (b) The agreements shall include:

6 (1) Readiness activities that:

7 (A) Prevent unwanted organisms from entering the
8 State; and

9 (B) Detect unwanted organisms; and

10 (2) Response activities that:

11 (A) Facilitate the immediate investigation of an
12 unwanted organism after detection, including
13 timely reporting;

14 (B) Minimize the impact of the unwanted organism on
15 natural and physical resources, human health, and
16 overseas market access for Hawaii products;

17 (C) Control the spread of an unwanted organism;

18 (D) Reduce the geographical distribution of an
19 unwanted organism; and

20 (E) Eradicate the unwanted organism.



1 (c) A violation of an applicable readiness plan shall be
2 subject to penalties under section 150A-14.

3 **§150A-G Invasive species dashboard; establishment;**
4 **requirements.** (a) No later than December 1, 2025, the
5 department shall establish an invasive species dashboard to
6 provide real-time data and information for treatment areas to
7 the public. The dashboard shall be updated regularly and be
8 hosted and managed by the department.

9 (b) The department of agriculture and biosecurity,
10 department of land and natural resources, and contracted parties
11 pursuant to section 150A-F shall regularly and timely post
12 treatment area information to the dashboard.

13 (c) Any state department, agency, political subdivision,
14 or contracted party pursuant to section 150A-F that does not
15 provide information for the invasive species dashboard in
16 compliance with this section shall not receive or expend public
17 funds. The deputy chairperson for biosecurity shall be
18 responsible for ensuring compliance with this section.

19 **§150A-H Pest management plans.** (a) Any person, including
20 any unit of state or local government, may submit to the board a



1 proposed pest management plan. The proposed pest management
2 plan shall include:

3 (1) The name of the person submitting the proposed pest
4 management plan;

5 (2) The organism proposed to be classified as a pest;
6 provided that a proposed pest management plan may
7 encompass a category of organisms proposed to be
8 classified as pests;

9 (3) A description of the organism's adverse effects;

10 (4) A description of the region of the proposed plan or
11 whether the proposed plan will be implemented
12 statewide;

13 (5) The reason for the proposed plan;

14 (6) Objectives of the proposed plan;

15 (7) The principal measures to achieve the objectives and
16 alternative measures, if any;

17 (8) An allocation of the costs, if applicable;

18 (9) Proposed funding; and

19 (10) Other information as required by the department.

20 (b) The board shall review the proposed plan, taking into
21 consideration:



- 1 (1) Whether the implementation of the proposed plan is
2 likely to eradicate or effectively manage the organism
3 proposed to be declared a pest;
- 4 (2) Whether the proposed plan is inconsistent with any
5 federal or state requirement, activity, or policy;
- 6 (3) Any harmful effects of denying the proposed pest
7 management plan;
- 8 (4) Whether the benefits of the proposed plan would
9 outweigh the costs; and
- 10 (5) Other considerations established by the department.
- 11 (c) At a public hearing, the board shall approve the
12 proposed plan, deny the proposed plan, or approve the proposed
13 plan with modifications.
- 14 (d) The department may negotiate with the person who
15 submitted the proposed plan or any other person before taking
16 action.
- 17 (e) The board shall publish each proposed plan it
18 approves, and any proposed plan that the board approves with
19 modifications. These shall be known as "approved plans".
- 20 (f) The department may enter into contracts to implement
21 approved plans."



1 PART VII

2 SECTION 32. The legislature finds that treating plant care
3 components, which includes any quantity of wood chips, compost,
4 or filter socks, reduces potential pests and increases the
5 State's overall biosecurity. Act 197, Session Laws of Hawaii
6 2024, (Act 197) requires the department of agriculture to
7 certify plant care component treatments performed within the
8 State. The purpose of this part is to expressly provide the
9 department of agriculture and biosecurity with the rulemaking
10 authority to adopt administrative rules and to assess
11 administrative penalties to fully effectuate Act 197.

12 SECTION 33. Section 141-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§141-2 Rules. Subject to chapter 91, the department of
15 agriculture and biosecurity shall adopt, amend, and repeal rules
16 not inconsistent with law, for and concerning:

17 (1) The introduction, transportation, and propagation of
18 trees, shrubs, herbs, and other plants;

19 (2) The quarantine, inspection, fumigation, disinfection,
20 destruction, or exclusion, either upon introduction
21 into the State, or at any time or place within the



1 State, of any nursery-stock, tree, shrub, herb, vine,
2 cut-flower, cutting, graft, scion, bud, seed, leaf,
3 root, or rhizome; any nut, fruit, or vegetable; any
4 grain, cereal, or legume in the natural or raw state;
5 any moss, hay, straw, dry-grass, or other forage; any
6 unmanufactured log, limb, or timber; or any other
7 plant growth or plant product unprocessed or in the
8 raw state; any sand, soil, or earth; any live bird,
9 reptile, insect, or other animal, in any stage of
10 development, that is in addition to the so-called
11 domestic animals, which are provided for in section
12 142-2; and any box, barrel, crate, or other containers
13 in which the articles, substances, or objects have
14 been transported or contained, and any packing
15 material used in connection therewith, that is or may
16 be diseased or infested with insects or likely to
17 assist in the transmission or dissemination of any
18 insect or plant disease injurious, harmful, or
19 detrimental, or likely to become injurious, harmful,
20 or detrimental to the agricultural or horticultural
21 industries or the forests of the State, or that is or



1 may be in itself injurious, harmful, or detrimental to
2 the same; provided that included therein may be rules
3 governing the transportation of any of the articles,
4 substances, or objects enumerated above in this
5 section between different localities on any one of the
6 islands within the State;

7 (3) The prohibition of importation into the State, from
8 any or all foreign countries or from other parts of
9 the United States, or the shipment from one island
10 within the State to another island therein, or the
11 transportation from one part or locality of any island
12 to another part or locality of the same island, of any
13 specific article, substance, or object or class of
14 articles, substances, or objects, among those
15 enumerated above in this section, that is diseased or
16 infested with insects or likely to assist in the
17 transmission or dissemination of any insect or plant
18 disease injurious, harmful, or detrimental or likely
19 to be injurious, harmful, or detrimental to the
20 agricultural or horticultural industries, or the



- 1 forests of the State, or that is or may be in itself
2 injurious, harmful, or detrimental to the same;
- 3 (4) The preparation by cargo carriers of manifests of
4 cargo transported into the State or between islands of
5 the State and the submission of the manifests to the
6 department;
- 7 (5) The establishment, maintenance, and enforcement of
8 compliance agreements with federal or state
9 departments of agriculture authorizing agriculture
10 inspectors from the state of origin in the case of
11 imports to the State, or state agricultural inspectors
12 in the case of state exports, to monitor the growing
13 and packing of plant commodities and any treatment
14 procedures to ensure compliance with quarantine laws,
15 and further authorizing the assessment of fees for
16 conducting inspections required under the compliance
17 agreement; [~~and~~]
- 18 (6) The manner in which agricultural product promotion and
19 research activities may be undertaken, after
20 coordinating with the agribusiness development
21 corporation[~~-~~];



1 (7) The establishment, fee schedule, appropriate
2 treatments, certification requirements, restrictions,
3 and enforcement of or for a plant care component
4 program; and

5 (8) Any other purpose within this part.

6 All rules adopted under this section shall have the force
7 and effect of law."

8 SECTION 34. Section 141-18, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§141-18 Plant care components; fumigation; treatment;**
11 **certification; fees; restrictions.** (a) The department of
12 agriculture[+] and biosecurity:

13 (1) Shall certify plant care component treatments
14 performed within the State;

15 (2) May certify and permit entities to conduct plant care
16 component treatments before shipment; and

17 (3) Shall deposit any fees collected for certifications of
18 plant care component treatment pursuant to section
19 150A-21 into the pest inspection, quarantine, and
20 eradication fund established pursuant to section
21 150A-4.5.



1 (b) No person shall distribute within the State any plant
2 care component that originated outside the State, unless [~~the~~]:

3 (1) The plant care component was subject to a treatment
4 before entering the State; or

5 (2) The plant care component has been treated immediately
6 after [~~entering~~] arriving in the State, as certified
7 by the department of agriculture[~~-~~] and biosecurity.

8 (c) No person shall transport any plant care component:

9 (1) Between the islands of the State; or

10 (2) From a location within the State to a location outside
11 the State,

12 without prior certification from the department of agriculture
13 and biosecurity that the component has been treated pursuant to
14 this section; provided that the component shall be stored in a
15 manner to prohibit infestation post-treatment.

16 (d) Any person who violates any provision of this section
17 or rules adopted under this section may be assessed an
18 administrative penalty by the board of not more than \$10,000 for
19 each offense. No administrative penalty shall be assessed
20 unless the person charged has been given notice and an
21 opportunity for a hearing on the specific charge. The



1 administrative penalty and any proposed action contained in the
2 notice of finding of violation shall become a final order
3 unless, within twenty days of receipt of the notice, the person
4 or persons charged makes a written request for a hearing. In
5 determining the amount of penalty, the board shall consider the
6 appropriateness of the penalty to the size of the business of
7 the person charged, the effect on the person's ability to
8 continue business, and the gravity of the violation.

9 (e) In case of inability to collect the administrative
10 penalty or failure of any person to pay all or a portion of the
11 administrative penalty as the board may determine, the board
12 shall refer the matter to the attorney general, who shall
13 recover the amount by action in the appropriate court. For any
14 judicial proceeding to recover the administrative penalty
15 imposed, the attorney general need only show that notice was
16 given, a hearing was held or the time granted for requesting a
17 hearing has expired without such a request, the administrative
18 penalty was imposed, and that the penalty remains unpaid.

19 (f) When construing and enforcing provisions of this
20 section, the act, omission, or failure of any officer, agent, or
21 other person acting for or employed by any person shall in every



1 case be also deemed to be the act, omission, or failure of such
2 person as well as that of the person employed.

3 [~~d~~] (g) For the purposes of this section:

4 "Board" means board of agriculture and biosecurity.

5 "Filter sock" means a mesh tube that contains organic plant
6 material, which is used for erosion control.

7 "Person" means an individual, firm, corporation,
8 association, or partnership or any organized group of persons
9 whether incorporated or not.

10 "Plant care component" or "component" means any quantity of
11 wood chips~~[7]~~ or compost~~[7]~~ that is used in the propagation of
12 plants or in a filter [~~socks-~~] sock.

13 "Treat" or "treatment" means fumigation or heat treatment."

14 PART VIII

15 SECTION 35. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2025-2026 and
18 the same sum or so much thereof as may be necessary for fiscal
19 year 2026-2027 for the biosecurity requirements of this Act.

20 The sums appropriated shall be expended by the department
21 of agriculture and biosecurity for the purposes of this Act.



1 SECTION 36. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2025-2026 and
 4 the same sum or so much thereof as may be necessary for the
 5 fiscal year 2026-2027 for the implementation and performance of
 6 the plant care component program and for the establishment of
 7 full-time equivalent (FTE), permanent civil service
 8 plant quarantine inspector III positions and full-time
 9 equivalent (FTE), permanent civil service plant
 10 quarantine inspector IV positions within the department of
 11 agriculture and biosecurity, plant industry division, plant
 12 quarantine branch to effectuate this Act.

13 The sums appropriated shall be expended by the department
 14 of agriculture and biosecurity for the purposes of this Act.

15 SECTION 37. There is appropriated out of the general
 16 revenues of the State of Hawaii the sum of \$ or so
 17 much thereof as may be necessary for fiscal year 2025-2026 and
 18 the same sum or so much thereof as may be necessary for fiscal
 19 year 2026-2027 for the continuation of the programs in Act 231,
 20 Session Laws of Hawaii 2024, including forty-four full-time
 21 equivalent (44.0 FTE) positions.



1 The sums appropriated shall be expended by the department
2 of agriculture and biosecurity for the purposes of this Act.

3 SECTION 38. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2025-2026 and
6 the same sum or so much thereof as may be necessary for fiscal
7 year 2026-2027 to be allocated as follows:

8 (1) \$ for construction at the Halawa animal
9 quarantine station; and

10 (2) \$ for construction at the Halawa animal
11 industry facility.

12 The sums appropriated shall be expended by the department
13 of agriculture and biosecurity for the purposes of this Act.

14 PART IX

15 SECTION 39. In codifying the new sections added by
16 sections 24 and 31 of this Act, the revisor of statutes shall
17 substitute appropriate section numbers for the letters used in
18 designating the new sections in this Act.

19 SECTION 40. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 41. This Act shall take effect on January 1, 2050;
2 provided that:

3 (1) The amendments made to section 167-6, Hawaii Revised
4 Statutes, by section 18 of this Act shall not be
5 repealed when that section is repealed and reenacted
6 pursuant to Act 223, Session Laws of Hawaii 2014;

7 (2) Part II shall take effect upon its approval;

8 (3) Part III shall take effect on November 1, 2027;

9 (4) Part IV and sections 21, 22, 23, 24, 25, 29, and 31
10 shall take effect on January 1, 2027; and

11 (5) Part VIII and sections 27, 28, and 32 shall take
12 effect on July 1, 2025.



Report Title:

DOA; DCCA; Biosecurity Emergency Response Program; Quarantine; Transitional Facilities; Licensed Biosecurity Inspectors; Penalties; Readiness and Response Agreements; Invasive Species Dashboard; Pest Management Plans; Plant Care Component Program; Rules; Positions; Appropriations

Description:

Renames the Department of Agriculture to the Department of Agriculture and Biosecurity (Department) and the Board of Agriculture to the Board of Agriculture and Biosecurity. Establishes a Deputy Chairperson for Biosecurity. Requires the Department to establish a Biosecurity Emergency Response Program. Authorizes the Chairperson of the Board of Agriculture and Biosecurity to quarantine any area under certain circumstances. Authorizes the Department to establish transitional facilities. Requires the Department of Commerce and Consumer Affairs to license and train biosecurity inspectors to inspect imported plants and animals. Requires inspection of various items transported interisland. Increases penalties for illegally transporting plants, animals, and microorganisms. Requires the Department to establish government-industry agreements to detect and respond to unwanted organisms in the State. Require the Department to establish an invasive species dashboard by 12/1/2025. Authorizes pest management plans to address, contain, or eradicate pests. Authorizes the Department to adopt rules to establish and enforce the Plant Care Component Program. Authorizes the Department to assess administrative penalties for the enforcement of the Plant Care Component Program. Establishes positions. Appropriates funds. Effective 1/1/2050. (SD1)

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