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# A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1           SECTION 1. The legislature finds that, according to the  
2 2020 United States Department of Agriculture's Summary of  
3 Horticulture and Nursery Products, Hawaii's nursery industry is  
4 worth more than \$81,000,000 in local and export sales. Invasive  
5 species, including the coconut rhinoceros beetle, little fire  
6 ant, and coqui frog, and viruses and pathogens that affect plant  
7 life, can hamper the productivity, profitability, and prospects  
8 of local plant nursery businesses.

9           The legislature further finds that the National Plant Board  
10 has recognized plant nurseries as major pathways for the  
11 introduction and spread of pests and diseases and has provided a  
12 model nursery law with draft language that is sensible for  
13 nurseries, regulatory officials, and the public. While most  
14 nurseries employ best management practices to protect their  
15 stock from pests, others do not. Consequently, the legislature  
16 finds that regulation is necessary to protect the many from the  
17 few.



1           The legislature further finds that a program requiring  
2 plant nurseries to register with the department of agriculture  
3 and prohibiting the sale of pest-infested plants and other items  
4 is a common sense approach to protect consumers, agricultural  
5 producers, the general public, and the environment.

6           The legislature notes that other states require that plant  
7 nurseries be regularly inspected and licensed or certified,  
8 including Alabama, which requires an annual inspection  
9 certificate for certain sellers of nursery stock. Maryland and  
10 Massachusetts also require that nurseries, or places where  
11 nursery stock is grown, be inspected and certified annually.  
12 These states require that certain fees be paid, based on the  
13 size of the nursery, to obtain the necessary credentials. Many  
14 other states, including Delaware, Kentucky, Michigan, New  
15 Hampshire, New Mexico, Ohio, Oregon, and Rhode Island, have  
16 similar programs.

17           The legislature also finds that the department of  
18 agriculture's existing nursery inspection program established in  
19 part III of chapter 150A, Hawaii Revised Statutes, relating to  
20 nursery stock export shipments, and the administrative rules to  
21 carry out that part, were last updated in 1981 and are limited



1 to the certifications required to export plants from Hawaii to  
2 other states. The existing requirements are therefore not a  
3 comprehensive program to protect consumers in Hawaii from  
4 inadvertently purchasing plants infested with pests.

5 Accordingly, the purpose of this Act is to establish a  
6 plant nursery registration program to prevent the spread of  
7 pests within the State.

8 SECTION 2. Chapter 150A, Hawaii Revised Statutes, is  
9 amended as follows:

10 1. By adding a new part to be appropriately designated and  
11 to read:

12 **"PART . PLANT NURSERY REGISTRATION PROGRAM**

13 **§150A-A Definitions.** As used in this part:

14 "Best management practices" means any process, action, or  
15 combinations thereof, that provides effective means of  
16 preventing, reducing, or addressing pest, insect, and plant  
17 disease issues.

18 "Nursery stock" means any plant for planting, propagation,  
19 or ornamentation, including plants used to produce cut flowers;  
20 cut foliage; fresh fruit and vegetables; plants; trees; shrubs;



1 vines; perennials; grafts; cuttings; and buds, whether  
2 cultivated or wild, and all viable parts of these plants.

3 "Sale" or "sell" means offering, exposing, or possessing  
4 for sale, exchange, barter, or trade.

5 **§150A-B Nursery registration.** (a) Any person directly  
6 engaged with the production or sale of nursery stock, including  
7 any person that sells, or produces for sale, nursery stock at  
8 pop-up sales, craft fairs, or fundraising events, or as part of  
9 a commercial landscaping business, shall register with the  
10 department using an online registration form developed by the  
11 department, which shall also be made available in paper form,  
12 before initiating business operations; provided that any person  
13 directly engaged in the production or sale of nursery stock  
14 before or on the effective date of this Act shall register with  
15 the department no later than one year from the effective date of  
16 this Act.

17 (b) A person shall renew their nursery registration each  
18 year.

19 (c) The department may exempt from the nursery  
20 registration requirement any person whose business consists only



1 of retail sales to the ultimate consumer; provided that the  
2 total sales of nursery stock does not exceed \$2,500 per year.

3 (d) A person shall register, pursuant to subsection (a),  
4 each location where the person produces, sells, or regularly  
5 stores or distributes nursery stock.

6 (e) The department shall publish on its website and other  
7 appropriate platforms a list of the locations that are  
8 registered pursuant to this section.

9 **§150A-C Certification.** Each person making a registration  
10 for a location pursuant to section 150A-B shall certify to the  
11 department that the person:

12 (1) Shall not sell at the location any plant taxa  
13 designated by the department as:

14 (A) A restricted plant in violation of the  
15 department's sale restriction on that taxa; or

16 (B) A noxious weed;

17 (2) Shall maintain the location, including nursery stock  
18 and all other materials, to be free from pests and  
19 document in a log book all dates on which any actions  
20 were taken to ensure that the location is free of  
21 pests, including a description of those actions;



1 (3) Shall report to the department any new occurrence of a  
2 pest;

3 (4) Shall not sell or distribute nursery stock that is  
4 infested or infected with a pest;

5 (5) Shall utilize best management practices to maintain  
6 control of pests;

7 (6) Shall report to the department any occurrence of a  
8 taxa, including a plant disease, that is not known to  
9 occur in the State;

10 (7) Shall implement any best management practices required  
11 by the department for the location; and

12 (8) Consents to, and agrees to cooperate with, inspections  
13 by the department during reasonable business hours to  
14 ensure that the person is in compliance with the  
15 certification required by this section.

16 **§150A-D Nursery registration fee.** (a) The department may  
17 charge a fee for registration under this part.

18 (b) Any fees collected under this section shall be paid to  
19 the department and deposited into the pest inspection,  
20 quarantine, and eradication fund established under section 150A-  
21 4.5.



1           **§150A-E Inspection; quarantine; remedial measures.** (a)

2 The department may administratively inspect, with or without  
3 notice during reasonable business hours, a location registered  
4 pursuant to section 150A-B, including all nursery stock and  
5 other materials at the location. The inspection of the location  
6 shall not include the inspection of dwellings or other  
7 structures at the location that are not associated with the  
8 nursery stock.

9           (b) The department may:

10           (1) Conduct inspections pursuant to subsection (a) in  
11 response to a complaint alleging the presence of pests  
12 or failure to maintain control of pests; and

13           (2) Prioritize and conduct more frequent inspections  
14 pursuant to subsection (a) based on its assessment of  
15 the location's history of compliance with this part  
16 and the location's potential for spreading pests.

17           (c) If the department, after an inspection authorized  
18 under this section or by any other means, finds that a pest is  
19 present in nursery stock or any other material at a location  
20 where nursery stock is present, that pests are not under control  
21 at the location, or that the person who has registered the



1 location pursuant to section 150A-B is otherwise not in  
2 compliance with a certification made under section 150A-C, the  
3 department may:

4 (1) Require the implementation of specific best management  
5 practices or other actions, including treatment;

6 (2) Issue a quarantine order for the affected nursery  
7 stock, other material, or location and, if  
8 appropriate, a treatment or destruction order for  
9 affected nursery stock or material; and

10 (3) Require the affected nursery stock or material to be  
11 mitigated by whatever means necessary, including  
12 destruction, confiscation, treatment, return shipment,  
13 or quarantine, at the expense of the person who  
14 registered the location, without any form of  
15 compensation from the department or State.

16 (d) If the department issues an order pursuant to  
17 subsection (c) for nursery stock, other material, or a location,  
18 the department shall provide, in writing, to the person who  
19 registered the location:



- 1 (1) Notice that the order has been issued, including a
- 2 description of the specific nursery stock, other
- 3 material, or a location that is covered by the order;
- 4 (2) A description of the specific reasons for the issuance
- 5 of the order and the actions required to comply with
- 6 the order; and
- 7 (3) Notice that the person who registered the location may
- 8 request a subsequent inspection to lift the order;
- 9 provided that, after the inspection, the department
- 10 may lift the order if the department determines that
- 11 the violation that caused the department to issue the
- 12 order has been corrected.

13 (e) During the period that an order issued pursuant to  
14 subsection (c) is in effect for nursery stock, other material,  
15 or a location, no person shall sell, ship, transport, donate, or  
16 otherwise move, alter, or tamper with affected nursery stock or  
17 material at the location, unless required to comply with an  
18 order from, or under the direction of, the department.

19 **§150A-F Economic loss or damage.** The State shall not be  
20 liable for any economic loss or damages, including loss of  
21 income, related to any actions taken by the department pursuant



1 to this part or any rules adopted under this part. Actions  
2 include the issuance of treatment, quarantine, or destruction  
3 orders for any item.

4 **§150A-G Rules.** The department may adopt rules pursuant to  
5 chapter 91 to carry out the purposes of this part."

6 2. By adding a new section to part III to be appropriately  
7 designated and to read:

8 **"§150A- Nursery registration required. No certification  
9 or service related to nursery stock may be provided under this  
10 part to any person at a location unless that location is  
11 registered pursuant to part \_\_\_\_\_."**

12 SECTION 3. Section 150A-14, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§150A-14 Penalty.** (a) Any person who violates any  
15 provision of this chapter other than sections 150A-5, 150A-6(3),  
16 [~~and~~] 150A-6(4), and part \_\_\_\_\_, or who violates any rule  
17 adopted under this chapter other than those rules involving an  
18 animal that is prohibited or a plant, animal, or microorganism  
19 that is restricted, without a permit, and those rules adopted  
20 under part \_\_\_\_\_, shall be guilty of a misdemeanor and fined not  
21 less than \$100. The provisions of section 706-640



1 notwithstanding, the maximum fine shall be \$10,000. For a  
2 second offense committed within five years of a prior offense,  
3 the person or organization shall be fined not less than \$500 and  
4 not more than \$25,000.

5 (b) Any person who violates section 150A-5 shall be guilty  
6 of a petty misdemeanor and fined not less than \$50 and not more  
7 than \$5,000. For a second offense committed within five years  
8 of a prior offense, the person may be fined not less than \$250  
9 and not more than \$15,000.

10 (c) Any person who:

11 (1) Violates section 150A-6(3) or 150A-6(4), or owns or  
12 intentionally transports, possesses, harbors,  
13 transfers, or causes the importation of any snake or  
14 other prohibited animal seized under section 150A-  
15 7(b), or whose violation involves an animal that is  
16 prohibited or a plant, animal, or microorganism that  
17 is restricted, without a permit, shall be guilty of a  
18 misdemeanor and subject to a fine of not less than  
19 \$5,000 [~~7,000~~] and not more than \$20,000;

20 (2) Intentionally transports, harbors, or imports with the  
21 intent to propagate, sell, or release any animal that



1 is prohibited or any plant, animal, or microorganism  
 2 that is restricted, without a permit, shall be guilty  
 3 of a class C felony and subject to a fine of not less  
 4 than \$50,000 [~~7-but~~] and not more than \$200,000; or  
 5 (3) Intentionally imports, possesses, harbors, transfers,  
 6 or transports, including through interisland or  
 7 intransisland movement, with the intent to propagate,  
 8 sell, or release, any pest designated by statute or  
 9 rule, unless otherwise allowed by law, shall be guilty  
 10 of a class C felony and subject to a fine of not less  
 11 than \$50,000 [~~7-but~~] and not more than \$200,000.

12 (d) Any person who violates part \_\_\_\_\_ or any rule adopted  
 13 under part \_\_\_\_\_ shall be fined not more than \$ \_\_\_\_\_ for  
 14 each separate offense. Each date of violation shall constitute  
 15 a separate offense. Any action taken to impose or collect the  
 16 penalty provided for in this subsection shall be considered a  
 17 civil action. All fines collected pursuant to this subsection  
 18 shall be paid to the department and deposited into the pest  
 19 inspection, quarantine, and eradication fund established under  
 20 section 150A-4.5.



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

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

19          ~~[(f)]~~ (g) Any person or organization that voluntarily  
20 surrenders any prohibited animal or any restricted plant,  
21 animal, or microorganism without a permit issued by the



1 department, [~~prior to~~] before the initiation of any seizure  
2 action by the department, shall be exempt from the penalties of  
3 this section.

4 [~~(g)~~] (h) For purposes of this section, "intent to  
5 propagate" shall be presumed when the person in question is  
6 found to possess, transport, harbor, or import:

- 7 (1) Any two or more animal specimens of the opposite sex  
8 that are prohibited or restricted, without a permit,  
9 or are a pest designated by statute or rule;
- 10 (2) Any three or more animal specimens of either sex that  
11 are prohibited or restricted, without a permit, or are  
12 a pest designated by statute or rule;
- 13 (3) Any plant or microorganism having the inherent  
14 capability to reproduce and that is restricted,  
15 without a permit; or
- 16 (4) Any specimen that is in the process of reproduction."

17 SECTION 4. Section 150A-53, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§150A-53 General actions to achieve objectives.** (a) To  
20 achieve the objectives of the biosecurity program, the  
21 department shall plan for and, within available legislative



1 appropriations or through funding from other sources, implement  
2 the following:

- 3 (1) Work with government agencies and agricultural  
4 commodity exporters of other states and countries to  
5 establish pre-entry inspection programs under which  
6 inbound cargo into the State is inspected at the ports  
7 of departure or other points outside the State;
- 8 (2) Establish, operate, or participate in operating port-  
9 of-entry facilities where multiple government agencies  
10 may inspect, quarantine, fumigate, disinfect, destroy,  
11 or exclude as appropriate, articles that may harbor  
12 pests or exclude articles that are prohibited or  
13 restricted without a permit, with the goals of:
- 14 (A) Performing inspections in an efficient,  
15 effective, and expeditious manner for the  
16 government agencies involved and for cargo  
17 owners, carriers, and importers; and
- 18 (B) Providing for the proper and safe storage and  
19 handling of cargo, especially agricultural and  
20 food commodities, awaiting inspection;



- 1 (3) Develop, implement, and coordinate post-entry measures  
2 to eradicate, control, reduce, and suppress pests and,  
3 as appropriate, eradicate or seize and dispose of  
4 prohibited or restricted organisms without a permit  
5 that have entered the State;
- 6 (4) Collaborate with relevant government agencies,  
7 agricultural commodity importers, and other persons to  
8 examine and develop joint integrated systems to better  
9 implement the biosecurity program;
- 10 (5) Improve cargo inspection capabilities and methods,  
11 including enhancement of the content and submission  
12 requirements for cargo manifests and agricultural  
13 commodity ownership and movement certificates;
- 14 (6) Promote the production of agricultural commodities in  
15 the State to reduce cargo shipments of imported  
16 commodities into the State; and
- 17 (7) Provide public education on the negative effects of  
18 pests and prohibited or restricted organisms without a  
19 permit, to the environment and economy of the State.
- 20 (b) The department shall establish parameters and  
21 construction requirements for biosecurity facilities that



1 provide for and ensure the safety of agricultural and food  
2 commodities consumed by Hawaii residents, including cold storage  
3 facilities established by private-public partnerships to  
4 preserve the quality and ensure the safety of the commodities  
5 arriving at the State's airports and harbors.

6 (c) The plant nursery registration program established  
7 under part :

8 (1) Shall be considered to be a part of the biosecurity  
9 program; and

10 (2) May be administered by and enforced using the  
11 officials and funds available to the biosecurity  
12 program."

13 SECTION 5. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2025.

19



**Report Title:**

DOA; Invasive Species; Plant Nursery Registry Program; Pests;  
Taxa; Quarantine; Control and Eradication; Biosecurity

**Description:**

Establishes a Plant Nursery Registry Program to regulate the  
sale of nursery stock. Requires certain plant nurseries to  
register with the Department of Agriculture. (SD1)

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not legislation or evidence of legislative intent.*

