

SB-562-SD-1

Submitted on: 2/20/2025 7:27:43 PM

Testimony for CPN on 2/26/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Individual	Support	Written Testimony Only

Comments:

SUPPORT!

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

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



TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON WAYS AND MEANS AND COMMERCE
AND CONSUMER PROTECTION

WEDNESDAY FEBRUARY 26, 2025
10:00 AM
CONFERENCE ROOM 211 & VIDEOCONFERENCE

SENATE BILL NO. 562, SD1
RELATING TO INVASIVE SPECIES

Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 562, SD1 relating to invasive species. The bill establishes a Plant Nursery Registry Program to regulate the sale of nursery stock. Requires certain plant nurseries to register with the Department of Agriculture. The Department is supportive of this measure's intent as a means of assisting in managing the spread of pests and offers comments and suggested changes.

The Department is appreciative of the inclusion of the majority of its proposed changes to this measure, including additional specifics on the measure's overall intent. Should this measure move forward, the Department ultimately believes that specific requirements related to a Plant Nursery Registration Program, which this measure describes in great detail, such as the inspection frequency and quarantine measures such as those in the proposed 150A-E on page 7, should be enacted via Administrative Rules so those that are directly affected can participate in the rulemaking process. The Department notes that specific parts of this section, particularly those related to



quarantining of infested material and remedial measures, are already covered by HAR 4-72.

The Department appreciates clarifying the definition of “nursery stock”. However, it appears that cut flowers themselves appear to be omitted from the proposed definition. It would be inconsistent to have this measure include the plants that produce the cut flowers, but not the cut flowers themselves, especially when other non-propagative materials such as cut foliage and fruits and vegetables are now included.

The Department is appreciative of the inclusion of pop-up sales such as craft fairs or fundraising events. However, the transient nature of these types of events does not fit within the requirements outlined in HRS 150A-B and HRS 150A-C, which are geared towards locations that are continually producing or selling nursery stock as opposed to the sellers/distributors of nursery stock. The Department believes that a new section dedicated specifically to addressing these types of events should be added. This new section should clarify that a nursery which is already registered would not need to be subject to the requirements of this new section as they would already be subjected to the requirements of this part and instead of focusing on nursery locations, be focused on the sellers themselves and managing their best management practices as opposed to their location which they would not own.

On page 5, the Department has concerns about the proposed section HRS 150A-C as a mitigation measure as it relies purely on the registrant's attestation. The Department believes it should be conducting inspections on each location after a person applies for a registration and only subsequently listing them on the Department's website after the inspection is done and compliance can be determined. Additionally, as pest pressure is constant, semi-annual inspections are suggested to ensure compliance. By posting the registrations online without any inspection verifying the claims the registrant is attesting to, it could provide a false sense of security that any entity under this program is actively engaged in pest management practices as opposed to being registered purely under good faith. By inspecting prior to registering a location, the Department is able to determine if the registrant is even able to comply and the Department believes this is the best way to effectuate this measure. The inspections

would also have an added benefit of being able to directly answer site-specific questions that the Department could not get via a registration form and simultaneously enabling staff to continually assist with addressing pest-related issues. The Department notes that there are no resources allocated to this measure for staffing or operational activities and this measure covers the buying or selling of essentially any form of plant material. As the scope of coverage is very broad, the Department cannot reliably provide an estimated number of staff or resources that would be necessary to effectuate this measure.

On Page 9, beginning on line 4, proposed section HRS 150A-E enables inspection only during reasonable business hours. Coqui frogs are only active at night, but the Department doesn't foresee this issue impeding implementation should this measure pass. Additionally, the Department believes that it should be clarified that dwellings or other structures that are not associated with the nursery stock at the location. This is particularly important to clarify as it relates to smaller growers, especially those who use their residential property to grow nursery stock, or retailers, where only the sales areas should be covered.

On page 10, line 8, the creation of a new Part III relating to "Nursery registration required" is likely to have minimal impact to Plant Nursery registrants or assist in getting persons to register. First, the Department has no way of determining if a person is above the \$2,500 income threshold referenced in HRS 150A-B(c), so determining if the withholding of services is necessary will be difficult, if not impossible, particularly as it relates to smaller growers, or those that buy and resell plants intermittently. Additionally, if the person comes for inspection/certification services at a Department office or if the services are done at the port of entry or any other area besides the registered location, this provision would appear to not apply. Additionally, if inspections become required for registration, this section would seem to preclude the inspection itself because a person could not get the registration without the inspection. Should the inspections become required, the Department believes this section should be omitted because the Department would already know which persons were compliant.

Thank you for the opportunity to testify on this measure.



The Senate
Committee on Commerce and Consumer Protection
Committee on Ways and Means
Wednesday, February 26, 2025
10:00 AM Conference Room 211 & Videoconference
State Capitol

Testimony in Support of SB 562 SD1

Aloha Chairs Keohokalole and Dela Cruz, Vice Chairs Fukunaga and Moriwaki, and Members of the Committees,

The Coordinating Group on Alien Pest Species (CGAPS) is **in support of SB 562 SD1**, *Relating to Invasive Species*, which establishes a registration program for persons directly engaged with the production or sale of nursery stock.

The Committee on Agriculture and Environment (AEN) made many changes to SB 562 requested by the Hawaii Department of Agriculture (HDOA) in their testimony for the January 29, 2025, AEN hearing. Reading HDOA's testimony for that hearing, what shines through to us is HDOA's hope that the Legislature will not require any registration or regulation of plant nurseries beyond the existing requirements for plant nurseries that export out of State. Plant nurseries are a high-risk pathway for the movement of pests, as we have observed with the spread of little fire ants (LFA) and coqui frogs across the State. We believe the consumers who purchase plants in Hawaii deserve the same protection from pests that HDOA provides to out-of-state consumers under HDOA's plant export inspection program.

SB 562 proposed that HDOA, with input from the regulated businesses and the public, develop short, island-specific lists of "high-priority pests" and "non-quarantine pests." However, SD1 reverts this to the existing process where the Board of Agriculture (BOA) determines which species are pests. We cannot find one instance of the BOA using that process to designate a species as a pest and there is no list of pests as determined by the BOA. There is a list of pests designated for control or eradication in chapter 69A, Hawaii Administrative Rules (HAR), that was last updated in 2008 and contains many agricultural pests and low-impact, widespread pests and omits many high-impact species. As written, SB 562 SD1 requires plant nurseries to report each new occurrence of a "pest" to HDOA, wasting business time and effort by requiring reporting of common pests like the widespread Chinese rose beetle, and even honey bees. To address this problem, we respectfully suggest the Committees consider re-inserting the

definitions and uses of the terms “high-priority pest” and “non-quarantine pest” as used in SB 562 and reinserting former section 150A-F “Nursery program designation of high-priority pests and non-quarantine pests” from SB 562.

Prior to SD1 amendments, the language in SB 562 was a first step for HDOA to get a handle on the spread of pests through the sale of nursery products. The program consisted of an online form and a self-certification, with HDOA authorized to do inspections as they have available resources. SB 562 does not propose a novel or onerous program. Instead, requiring persons directly engaged with the production or sale of nursery stock to register with HDOA, not sell items infested with high-impact pests, and use best management practices is sensible legislation that protects the industry and consumers while costing HDOA little.

AS Sb562 SD1 notes in section 1, many states have programs that require persons that grow, distribute, or sell nursery stock to be licensed or certified and regularly inspected. Many of these programs have extensive requirements. For example:

- (1) Alabama (Ala. Code § 2-25-6, requiring an annual inspection certificate for any seller of nursery stock with a fee between \$50 and \$230, based upon the previous year's volume of sales).
- (2) California (The California Department of Food and Agriculture has a nursery license program. According to their website, “Nursery stock is the highest risk pathway for the movement of plant pests worldwide. Maintaining a system of clean, healthy nursery stock is essential to the protection of California’s agriculture and environment.” <https://www.cdfa.ca.gov/plant/pe/nsc/nursery/>).
- (3) Delaware (Del Code tit. 3, §§ 1302, 1303, requiring a nursery license, an annual nursery inspection certificate, and authorizing unannounced inspections, as deemed necessary).
- (4) Kentucky (Ky. Rev. Stat. § 249.060, requiring each nursery or dealer in nursery stock to obtain an annual license for each location for a fee between \$25 and \$40 plus \$1.50 per acre).
- (5) Maryland (Md. Code, Agric. § 5-309, requiring a nursery inspection at least annually and a fee starting at \$10 up to a maximum of \$1000, based on nursery size, and an annual certification for a fee of \$100).
- (6) Massachusetts (Mass. Gen. Laws ch. 128, § 17, 801 CMR 4.02, requiring each nursery or place where nursery stock is grown to be inspected at least once annually and to obtain an annual certificate for a fee between \$30 and \$210).
- (7) Michigan (Mich. Comp. Laws §§ 286.206, 286.210, <https://www.michigan.gov/mdard/plant-pest/plant-health/nursery-licensing-and-inspection> requiring a person growing or desiring to sell nursery stock to have a license and certificate for each business location for a fee between \$40 and \$100 and annual inspection of each nursery in the state for hourly-based fees of \$74 per hour or acreage-based fees of \$67 for the first acre, and \$40 for each additional acre).

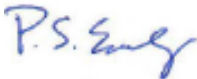
- (8) New Hampshire (N.H. Rev. Stat. §§ 433:29, 433:29-a, <https://www.agriculture.nh.gov/divisions/plant-industry/faq-nursery-plant-dealers.htm> requiring a license for each business location selling nursery stock for a fee of \$25 and authorizing inspections as determined necessary).
- (9) New Mexico (N.M. Stat. §§ 76-5-15, 76-5-16, 75-5-26 requiring every dealer or agent selling, importing, or storing nursery stock to obtain an annual license for a fee of not more than \$75 and an annual inspection certificate for a fee of not more than \$75 plus \$2 per acre).
- (10) Ohio (Ohio Rev. Code §§ 927.53, 9267.61, requiring annual inspection of nursery stock offered for sale and an annual license for a fee of \$125).
- (11) Rhode Island (R.I. Gen. Laws § 2-18.1-6, <https://dem.ri.gov/sites/g/files/xkgbur861/files/2024-01/nursfaq.pdf> requiring annual certification and inspection of all locations growing or selling nursery stock for a fee of \$50).
- (12) Tennessee (TCA §43-6-106; Tenn. Comp. R&Regs. 0080-06-01-.05 requiring greenhouse licenses, nursery licenses, plant dealer licenses, florist licenses, landscaper licenses, and other similar licenses for various fees up to \$250 and authorizing their Department of Agriculture to enter any property or location where plants are grown or kept for sale or distribution during normal business hours, as often as the department deems necessary for the prevention or mitigation of pests, pest plants, and diseases).

Mahalo for your consideration of our testimony on this bill.

Aloha,



Christy Martin
CGAPS Program Manager



Stephanie Easley
CGAPS Legal Fellow



Hawai'i Forest Industry Association
7192 Kalaniana'ole Hwy
Suite A-143A, #249
Honolulu, HI 96825
Phone: 808/933/9411
Email: hfia@hawaiiiforest.org

LATE

Date: 02/25/25

TO: CPN Chair Keohokalole , WAM Chair Dela Cruz and CPN, WAM Committee Members

FROM: Hawai'i Forest Industry Association (HFIA)

SUBJECT: Testimony in Support of SB562 SD1 Relating to Invasive Species

Dear Chair Keohokalole, Chair Dela Cruz and CPN and WAM Committee Members,

On behalf of the Directors of the Hawai'i Forest Industry Association (HFIA), this testimony is in opposition to SB652 SD1 Relating to Invasive Species.

The Hawai'i Forest Industry Association (HFIA) believes that the state should enforce regulations that help to prevent the introduction and spread of invasive species to Hawaii, however we do not support the Nursery Registration program as described in SB652 SD1.

For small nurseries who may not have the staffing to meet the requirements and expectations a Nursery Registration program would demand, annual registration is a lot to ask. Many nurseries are backyard operations with only one operator and laborer. Despite their small size they provide highly valuable services and resources to their communities. Implementing the requirement to register their nursery and meet the list of criteria outlined in the bill may hinder their ability to provide their services and resources to their communities.

The HFIA does believe that nurseries need to be held to enforceable standards in order to protect Hawaii from the spread of invasive species, however we suggest that the Nursery Registration program be more stratified to accommodate nurseries of varying sizes and capacities, and that the Department of Agriculture be better resourced to help nurseries (and agricultural operations) in combating invasive species. Small scale operations do not have the time, resources and manpower to do it on their own and should not be penalized for that.

For these reasons HFIA hopes that you will oppose SB652 SD1 in its current form. The bill should be amended to make meeting Nursery Registration requirements more attainable for numerous small nurseries across the state.

Mahalo,

Guy Cellier, President
Hawai'i Forest Industry Association

HFIA's mission is to promote healthy and productive forests and a sustainable forest industry through management, education, planning, information exchange, and advocacy. HFIA has over 100 members including woodworkers, landowners, sawyers, foundations, foresters, growers, educators, environmentalists, architects, millers, ranchers, and others interested in HFIA's mission and goals.

HFIA Board of Directors

Officers: President Guy Cellier, Vice President Irene Sprecher, Secretary Taylor Coons, Treasurer Wade Lee
Directors: Jeremy Campbell, Doug Gordon, Nicholas Koch, Michael Sowards, Aileen Yeh



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON JUDICIARY
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 016
Wednesday, February 26, 2025 AT 9:40 A.M.**

To The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Mike Gabbard, Vice Chair
Members of the committee on Judiciary

COMMENTS ON SB562 SD1 RELATING TO INVASIVE SPECIES

The Maui Chamber of Commerce would like to share our **COMMENTS on SB562 SD1**.

The Chamber strongly believes that one of the greatest challenges in our island state is the transfer of invasive species through the sale of plants between islands. In addition to this, the importation of plants that bypass agricultural inspections further expands opportunities for invasive species to establish themselves in new locations, where mitigation measures may no longer be effective. These species can significantly alter our environment, economy, and social well-being. We advocate for funding to focus on increasing the number of inspectors and exploring options for quarantining plants prior to interisland shipping to ensure they are not transporting invasive species.

We encourage the legislature to collaborate with the nursery, agriculture, and plant industries in the development of certain aspects of this bill prior to its passage. It is important to ensure that the list of invasive species is accompanied by appropriate actions, such as quarantines and eradication efforts. Additionally, we are concerned about the introduction of a new nursery registration process and its potential impacts on businesses. We view this as another opportunity for the legislature to engage with the industry to explore options for licenses and fees, ultimately working together to establish an effective accountability program.

For these reasons, we are providing **COMMENTS on SB562 SD1**.

Sincerely,

Pamela Tumpap
President

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