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SYLVIA LUKE
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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CONSERVATION AND RESOURCES
ENFORCEMENT
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HISTORIC PRESERVATION
KAHOOLawe ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
RYAN K.P. KANAKA'OLE
Acting Chairperson

Before the Senate Committees on
AGRICULTURE AND ENVIRONMENT
and
TRANSPORTATION

Friday, February 13, 2026
3:00 PM
State Capitol, Conference Room 224

In consideration of
SENATE BILL 2709
RELATING TO BIOSECURITY

Senate Bill 2709 requires the Department of Agriculture and Biosecurity (DAB) to establish rules to enforce the Akamai Arrival Program; and requires DAB to strengthen enforcement of plant and non-domestic animal quarantine and microorganism importations. **The Department of Land and Natural Resources (Department) strongly supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.**

The Department supports the requirements of this measure for DAB to establish rules to enforce the Akamai Arrival Program. Rulemaking is integral to implementing this Program, which regulates imports into the State. Strategic management of imports is a cornerstone of biosecurity and the prevention of invasive species entering the State.

The Department also supports the implementation of the Akamai Arrival Program, which requires the submission of invasive species declarations in digital form. Digital forms required before arrival in Hawai'i are a significant way to improve overall compliance. Given the Program's importance to biosecurity, the Department recommends consulting members of the Hawai'i Invasive Species Council (HISC) regarding the digital declaration form.

The Department also supports the bill's amendments to section 150A, Hawai'i Revised Statutes, that make regulatory actions mandatory rather than optional. These revisions strengthen DAB's authority and enhance its capacity to fulfill its biosecurity mandate. These changes include rulemaking to update the importation lists in section 150A-6.6, which need more regular updates. The amendments also strengthen DAB's authority to efficiently make interim rules that protect Hawai'i from invasive species threats.

Mahalo for the opportunity to comment on this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson
Board of Agriculture & Biosecurity

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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE AND BIOSECURITY**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND TRANSPORTATION**

**FRIDAY, FEBRUARY 13, 2026
3:00 PM
CONFERENCE ROOM 224 & VIDEOCONFERENCE**

**SENATE BILL NO. 2709
RELATING TO BIOSECURITY**

Chairs Gabbard and Inouye, Vice Chairs Richards and Elefante, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 2709 relating to biosecurity. This measure requires the Department of Agriculture and Biosecurity (Department) to establish rules to enforce the Akamai Arrival Program. Requires the Department to strengthen enforcement of plant and non-domestic animal quarantine and microorganism importations. The Department offers comments on this measure.

While the Department generally agrees with the intent of this measure, including some changes that would be appropriate, such as those in section 12, overall, the Department believes that many of the proposed changes in this measure are either unnecessary or compel the Department into processes that are not significantly beneficial to overall biosecurity or complicate compliance activities.

Regarding the requirement to implement administrative rules for the Akamai Arrival program, the Department does not believe that rules are necessary at this time. The Department has been working closely with each carrier to effectuate distribution of the digitized biosecurity declaration and since implementation has shown an overall increase in the amounts of declarations submitted. Allowing the carriers to integrate dissemination of the form to passengers enables them to use systems best tailored to their individual workflows, service their customers, and maintain compliance. The Department is continually working with carriers to refine dissemination of declarations

and transmission of data to the Department and believes that administrative rules would hamper these efforts. For increased compliance activities, increasing use of trained detector dogs is the most feasible solution. The Department is working on creating a new job series that allows for the use of detector dogs, but without the need for a four year degree. Additionally, the infrastructure to house and maintain canine teams will need additional funding, particularly on the neighbor islands. Regarding the proposed inclusion of new section HRS 150A-5(b), the Department believes that this section should be removed because the Department believes that there should be some ability to use a physical form, should the need arise such as during a power outage or for those individuals who do not have access to, or are unfamiliar with a mobile device. Moving forward as the program becomes more established, should administrative rules be required, HRS 150A-9 already enables the Department to do conduct rulemaking.

Regarding the proposed changes of “may” to “shall” relating to rulemaking found in HRS 150A-(a)(1), HRS 150A-(a)(2)(B), HRS 150A-6.6, HRS 150A-8(b)(1), the Department believes these changes are unnecessary as the administrative rules already exist. The rules related to HRS 150A-(a)(1) include: HAR 4-70, 4-71, and 4-71A require permits for the importation of restricted plants, non-domestic animals, and microorganisms, which have labeling requirements built into the permit conditions. The rules related to HRS 150A-(a)(2)(B) include: the aforementioned rules and HAR 4-28 and 4-29 for poultry and birds, and dogs and cats respectively, which contain carrier responsibilities. The rules related to HRS 150A-6.6 include: HAR 4-71 and 4-71A, and both include processes for changes to the lists contained in these rules. The rules related to HRS 150A-8(b)(1) include HAR 4-72 which defines inspection requirements for the interisland movement of plant materials.

In section 3, regarding the change of “may” to “shall” in HRS 150A-5.5(c), the Department believes this change should not be made and there should be the discretion when to enact penalties. If passed as is, it would require the Department to penalize all violations. For example, live seafood requires a permit prior to importation. Many first time importers do not realize that a permit is required until Inspectors intercept shipments at the port of entry. The Department works with the Department of the Attorney General (AG) Investigations Division to investigate these situations and once it is determined the individuals are first time offenders, they are issued warning letters. Since working with the AG, the Department has not seen repeat offenders.

In section 6, regarding the change of “may” to “shall” in HRS 150A-7(c), the Department believes this change would severely impact the Department if required to recapture of an escaped animal. Depending on the type of escaped organism, the Department may not have the capability, equipment, facility, or training necessary to appropriately capture or handle the organism. Depending on the organism, should an escape occur, the Department normally would assist the permittee with the recapture, as opposed to being the sole entity responsible for the recapture.

In section 8, regarding the proposed changes to HRS 150A-9.5, the Department believes that section (a) should not be changed because the Department believes the intent is to enable interim rulemaking, if needed. As is currently written, it appears to require the Department to enact interim rulemaking, regardless of whether or not an interim rule is necessary or not. Similarly, for section (b), the Department believes that the change from “may” to “shall” should not be enacted because there may be instances where the requirement to enact rules to restrict movement would do little to stop the spread of a pest. Coffee leaf rust (CLR) is a good example of this. When CLR was identified in October 2020, the Department effectuated an interim rule in late November 2020. Surveys across the state subsequently detected CLR on Lanai in January 2021, and two detections on Oahu in late January and early February 2021. The Department worked on expanding the quarantine to include Oahu and Lanai but after additional discussion with industry members, it was decided to not move forward. As currently drafted it would appear to require the Department to continue implementation of the interim rule even if the industry it was designed to protect did not want it or if the regulation was effective or not.

In section 9, regarding the change of “may” to “shall” in HRS 150A-11.2, the Department believes this change should not be made as it would prevent the Department from refusing entry of the materials. Alternatively, if shall is used, including the ability to “refuse entry” should be included with the ability to seize, destroy or require treatment.

In section 10, regarding the change of “may, at its discretion,” to “shall” in HRS 150A-14, the Department believes that discretion is necessary to appropriately deal with certain situations, such as administrative errors in a permit renewal. For example, as currently drafted it would require the Department to either refuse entry or destroy a large shipment of orchid plants because the permittee overlooked the expiration date of their permit.

In section 11, regarding the change of “may” to “shall” in HRS 150A-16.2(d), the Department believes the criteria used to determine when a suspension or revocation occurs should be in the required administrative rules. While the rules for transitional facilities do not yet exist, as written it would require the Department to suspend or revoke a transitional facility for any infraction, even ones that could be immediately resolved, which is impractical. The forthcoming rules should state the conditions of suspension and revocation, including what is necessary to become a valid transitional facility.

In section 13, regarding the change of “may” to “shall” in HRS 150A-16.4(a), the Department believes that this change is unnecessary as this section is intended to enable certified biosecurity compliance auditors to certify items as free of insects, diseases, pests, or other issues the Department deems relevant. However, as written, it appears to require the certified biosecurity compliance auditors to certify items

regardless of whether or not an insect, disease, pest, or other issue was discovered. Additionally, this change also appears to require certified biosecurity compliance auditors to complete certifications on any item in a transitional facility, regardless of an order by the Department stating otherwise, such as during a periodic inspection or other compliance activities the Department may deem necessary.

Thank you for the opportunity to testify on this measure.



Testimony of
ALASKA AIRLINES and HAWAIIAN AIRLINES

Before the Senate Committees on
Agriculture and Environment
&
Transportation

Friday, February 13, 2026
3:00 P.M.
Hawai‘i State Capitol, Room 224

In consideration of
SENATE BILL 2709
RELATING TO BIOSECURITY

The Honorable Mike Gabbard, Chair of the Committee on Agriculture and Environment
The Honorable Lorraine Inouye, Chair of the Committee on Transportation
Members of the Senate Committee on Agriculture and Environment & Transportation

Re: Comments on S.B. 2709 – Relating To Biosecurity

Aloha Chairs Gabbard and Inouye, and members of the joint committee:

Alaska Airlines and Hawaiian Airlines recognize and strongly support the State’s commitment to strengthening Hawai‘i’s biosecurity framework. As airlines that serve communities across the islands and connect Hawai‘i to the continent and international destinations, we understand how critical it is to prevent the introduction and spread of invasive species, pests, and plant diseases. Protecting Hawai‘i’s unique environment is in everyone’s interest.

That said, we respectfully submit comments on S.B. 2709 to address potential federal preemption and operational control concerns raised by the bill’s change from discretionary to mandatory inspection authority.

Change from “May” to “Shall” Inspection Authority

On page 6, line 19 through page 7, line 7, S.B. 2709 amends the Department’s authority to inspect aircraft by replacing “may” with “shall.” Under current law, when an inspector has good cause to believe a violation has occurred, the inspector may enter and inspect an aircraft. The bill would instead require that the inspector shall enter and inspect.

Although this may appear to be a minor wording change, it has significant legal and operational consequences.

Under the existing discretionary framework, inspectors can coordinate with airport operators, the Federal Aviation Administration, and the Transportation Security Administration to ensure inspections occur at appropriate times and in a manner consistent with federal safety and security requirements. That flexibility is essential in a system where aircraft access, security protocols, and operational control are comprehensively regulated at the federal level.

By converting this authority to mandatory, the bill would require inspectors to enter and inspect aircraft whenever “good cause” exists, without regard to operational timing, security posture, or federally controlled access restrictions. This substantially increases the likelihood of conflict with:

1. The FAA’s exclusive authority over aircraft operational control, safety sensitive areas, and flight operations; and
2. TSA’s authority over access control and secure areas within airports and aircraft.

We are not arguing that the State lacks inspection authority. Rather, our concern is that S.B. 2709 would require the State to exercise that authority in circumstances where federal law may limit or regulate aircraft access and timing. That creates a meaningful risk of conflict preemption.

Field Preemption and Operational Control

Beyond direct conflict concerns, the shift from discretionary to mandatory inspections may also raise field preemption issues. Operational control of aircraft is an area of exclusive federal authority. A statutory mandate that compels inspections at state-determined times, without regard to federal operational frameworks, risks intruding into a federally occupied field.

Airline operations are tightly structured and highly regulated. Maintenance windows, crew duty time limits, aircraft turn schedules, and security clearances are all governed by federal rules. A mandatory inspection requirement that removes discretion may interfere with federally regulated operational control in ways that the current discretionary statute does not.

Recommended Clarifying Amendment

We respectfully request that the joint committee amend S.B. 2709 to make clear that **inspection authority must be exercised in a manner consistent with federal aviation law and without interference with federally regulated operational control.**

We suggest language such as:

“The department’s inspection authority shall be exercised only at times and in a manner consistent with federal aviation safety, operational, and security requirements, and shall not interfere with the federally regulated operational control of aircraft.”

This clarification would allow the State to strengthen biosecurity enforcement while avoiding unintended legal conflicts and operational disruption.

Alaska Airlines and Hawaiian Airlines remain committed to working collaboratively with the State to protect Hawai‘i’s environment in a way that is legally sound and operationally workable.

Mahalo for the opportunity to provide testimony.



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February 13, 2026

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON TRANSPORTATION

TESTIMONY ON SB 2709
RELATING TO BIOSECURITY

Conference Room 224 & Videoconference
3:00 PM

Aloha Chairs Gabbard and Inouye, Vice-Chairs Richards and Elefante, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports the intent of SB 2709, which requires the Department of Agriculture and Biosecurity to establish rules to enforce the Akamai Arrival Program and requires DAB to strengthen enforcement of plant and non-domestic animal quarantine and microorganism importations.

Strong and effective biosecurity is essential to protecting Hawai'i's agricultural industry, natural resources, and communities across the State. Invasive species continue to pose one of the most serious long-term threats to local food production, and prevention remains far more cost-effective than mitigation. HFB supports continued strengthening of the State's plant quarantine framework and the implementation of the Akamai Arrival program to enhance inspection, compliance, and accountability.

The transition from discretionary to mandatory enforcement authority in certain sections of Chapter 150A reflects the Legislature's commitment to consistent application of biosecurity laws. Clear standards and predictable enforcement help protect compliant operators while deterring intentional violations.

As this measure moves forward, HFB encourages careful attention to implementation to ensure that compliance pathways remain practical and workable for local agricultural producers, nurseries, shippers, and other regulated entities. Hawai'i's farmers and plant

producers routinely move agricultural materials interisland and import regulated articles in accordance with existing permit and inspection systems. Clear rulemaking, stakeholder engagement, and sufficient agency resources will be important to ensure that strengthened enforcement authority is paired with efficient administrative processes.

HFB supports efforts that enhance border protection and prevent the introduction and spread of invasive species while maintaining a fair and functional regulatory system for those who operate in good faith and comply with the law.

Thank you for the opportunity to provide testimony on this measure.



Date, 2026

To: Chair Gabbard, Vice Chair Inouye and the Senate Committee

Subject: **SB 2709**

Aloha,

I am submitting testimony in support of SB 2709, which strengthens enforcement of the State of Hawaii Biosecurity Declaration and the Akamai Arrival Program, and requires the Department of Agriculture and Biosecurity to adopt rules to implement and ensure compliance with biosecurity laws. This bill is an important step toward protecting Hawaii's agriculture, environment, and food system from invasive species and pathogens that threaten our unique ecosystems and local economy.

Hawaii's geographic isolation has historically protected our native plants, animals, and agricultural systems. However, invasive pests and diseases remain a serious risk whenever materials are brought into the state. Programs like Akamai Arrival, which digitizes and modernizes the agriculture and biosecurity declaration process for arriving passengers and cargo, have already demonstrated improved compliance rates, with digital form completion significantly higher than under the old paper system. Strengthening enforcement mechanisms and establishing clear implementation rules will ensure these early successes translate into lasting protections and more efficient operations.

By requiring rulemaking under chapter 91 and clarifying compliance and enforcement authority, SB 2709 empowers the Department to do what many stakeholders already recognize: better protect Hawaii's farms, landscapes, and food systems from harmful organisms that can devastate crops, disrupt supply chains, and increase costs for farmers and consumers. For these reasons, I respectfully urge your support of SB 2709.

The Food+ Policy Internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2026, the cohort of interns are undergraduate and graduate students and young professionals working in the food system. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.



**HAWAII
FOOD+
POLICY**

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Mahalo,

Carlin McFadden and the Food+ Policy team
#fixourfoodsystem

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SB-2709

Submitted on: 2/11/2026 10:19:33 AM
Testimony for AEN on 2/13/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT