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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Section 141-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§141-3 Designation of pests; control or eradication of**  
4 **pests; emergency power.** (a) The department of agriculture and  
5 biosecurity shall designate the coqui frog as a pest. All other  
6 pest designations shall be established by rule, including the  
7 criteria and procedures for the designation of pests for control  
8 or eradication.

9           (b) The department of agriculture and biosecurity shall,  
10 so far as reasonably practicable, assist, free of cost to  
11 individuals, in the control or eradication of insects, mites,  
12 diseases, noxious weeds, or other pests injurious to the  
13 environment or vegetation of value; and in the investigation,  
14 suppression, and eradication of contagious, infectious, and  
15 communicable diseases among domestic animals; and shall in like  
16 manner distribute to points where needed, beneficial insects, or  
17 pathogens and other antidotes for the control of insects, mites,



1 diseases, or other pests injurious to the environment or  
2 vegetation of value, and for the control or eradication of  
3 vegetation of a noxious character.

4 (c) Notwithstanding subsection (a), if the department  
5 finds the incipient infestation of a pest that has an adverse  
6 effect on the environment or that is injurious or deleterious or  
7 that is likely to become injurious or deleterious to the  
8 agricultural, horticultural, aquacultural, or livestock  
9 industries of the State without immediate action, it may proceed  
10 without prior notice or upon a minimum of forty-eight hours  
11 notice and hearing to adopt an emergency rule for the  
12 eradication of the pest to be effective for a period of not  
13 longer than one hundred eighty days without renewal.

14 (d) Notwithstanding subsections (a) and (c), the  
15 department may declare an emergency quarantine pursuant to  
16 chapter 150A when it has been reasonably determined that there  
17 is a threat to agriculture or the environment in the State or an  
18 area of the State is discovered to be infected with an animal  
19 disease or infested with a high-impact invasive species or pest.  
20 As part of their emergency quarantine powers, the department may  
21 order the halt of any operations related to or within the



1 affected area for a period of ninety-six hours; provided that,  
2 during this timeframe, the board of agriculture and biosecurity  
3 may vote to extend the period to address the emergency or  
4 initiate mitigation or treatment options; provided further that  
5 the department shall provide affected farmers detailed  
6 notifications about the quarantine and support options,  
7 including but not limited to assistance in identifying  
8 alternative markets or storage solutions to mitigate losses.

9 (e) If an emergency quarantine is declared by the  
10 department pursuant to subsection (d), the department shall  
11 provide compensation for farmers who incur significant losses  
12 due to the quarantine order. The department shall adopt rules  
13 pursuant to chapter 91 to establish a compensation mechanism for  
14 the compensation required pursuant to this subsection."

15 SECTION 2. Section 150A-8, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§150A-8 Transporting in State.** (a) Flora [~~and~~], fauna,  
18 and other article or material specified by rules and regulations  
19 of the department shall not be moved from one island to another  
20 island within the State or from one locality to another on the  
21 same island except by a permit issued by the department.



1        (b) The department may quarantine any business or other  
2 area that is known or reasonably suspected to be, based on the  
3 results of systematic surveys or reports or proximity to known  
4 populations, infested or infected with a pest in violation of  
5 this chapter or any rule adopted pursuant to this chapter to  
6 prevent the movement of a pest to or from the infested location.

7        [~~(b)~~] (c) The movement between the islands of the State of  
8 the following articles, viz., nursery-stock, tree, shrub, herb,  
9 vine, cut-flower, cut-foliage, cutting, graft, scion, bud, seed,  
10 leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal,  
11 or legume in the natural or raw state; moss, hay, straw,  
12 dry-grass, or other forage; unmanufactured log, limb, or timber,  
13 or any other plant-growth or plant-product, unprocessed or in  
14 the raw state; soil; microorganisms; live bird, reptile,  
15 nematode, insect, or any other animal in any stage of  
16 development (that is in addition to the so-called domestic  
17 animal, the quarantine of which is provided for in chapter 142);  
18 box, vehicle, baggage, or any other container in which the  
19 articles have been transported or any packing material used in  
20 connection therewith shall be made in the following manner  
21 [~~hereinafter set forth~~]:



1 (1) Inspectional requirements. Any person who receives  
2 for transport, or brings or causes movement between  
3 the islands of the State, as freight, air freight,  
4 baggage, as ship's stores, or otherwise, any of the  
5 foregoing articles, shall ensure that the articles  
6 comply with inspectional requirements pursuant to  
7 rules and shall provide upon the inspector's request  
8 the waybill number, container number, name and address  
9 of the consignor, name and address of the consignee or  
10 the consignee's agent, marks, number of packages,  
11 description of contents of each package, and any other  
12 information that may be necessary to inspect, locate,  
13 or identify the same. If the articles are not  
14 inspected pursuant to rules, the articles shall be  
15 held in a manner that ~~[they will not]~~ prevents spread  
16 or ~~[be likely to spread]~~ the likelihood of spreading  
17 any infestation or infection of insects, diseases, or  
18 pests that may be present until an inspection can be  
19 made by the inspector to determine whether any  
20 article, or any portion thereof, is infested or  
21 infected with insects or diseases, or contains any



1 pest. The department may adopt rules to define  
2 inspectional requirements of specific articles.  
3 Failure to obtain certification that the articles have  
4 met the inspectional requirements [~~prior to~~] before  
5 movement between the islands of the State [~~is~~] shall  
6 be a violation of this section;

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

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

20 (A) Enter and inspect any aircraft, vessel, or other  
21 carrier at any time whether offshore, at the



- 1 pier, or at the airport, for the purpose of  
2 determining whether any of the articles or pests  
3 enumerated in this chapter or rules adopted  
4 [~~thereto,~~] pursuant to this chapter is present;
- 5 (B) Enter into or upon any pier, warehouse, airport,  
6 or any other place in the State where any of the  
7 [~~above-mentioned~~] articles are moved or stored,  
8 for the purpose of ascertaining, by inspection  
9 and examination, whether or not any of the  
10 articles is infested or infected with any pest or  
11 disease or contaminated with soil or contains  
12 prohibited plants or animals;
- 13 (C) Inspect any baggage or personal effects of  
14 passengers, officers, and crew members on  
15 aircraft or vessels moving between the islands of  
16 the State to ascertain if they contain any of the  
17 articles or pests enumerated in this chapter;
- 18 (D) Baggage or cargo inspection shall be made at the  
19 discretion of the inspector, on the pier, vessel,  
20 or aircraft or in any quarantine or inspection  
21 area; and



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

14 (4) Place of inspection. The inspector shall make a  
15 determination whether it is necessary or advisable to  
16 move any of the [~~above-mentioned~~] articles, or any  
17 portion thereof, to a place more suitable for  
18 inspection than the pier, airport, or any other place  
19 where they are initially presented for inspection.  
20 All costs and expenses incident to the movement and  
21 transportation of the articles to [~~such~~] the place



1 shall be borne by the consignee or the consignee's  
2 agent;

3 (5) Disinfection or quarantine. If, upon inspection, any  
4 article intended for movement between the islands of  
5 the State is found to be infested or infected with an  
6 insect, disease, or pest, or there is reasonable cause  
7 to presume that it is infested or infected and the  
8 infestation or infection can, in the judgment of the  
9 inspector, be eradicated, a treatment shall be given  
10 ~~[such]~~ the article ~~[prior to]~~ before movement between  
11 the islands of the State. The treatment shall be at  
12 the expense of the owner or the owner's agent, and the  
13 treatment shall be as prescribed by the department.  
14 The article shall be quarantined at the expense of the  
15 owner or the owner's agent at a satisfactory place  
16 approved by the department for a sufficient length of  
17 time to determine that eradication has been  
18 accomplished. If the infestation or infection is of  
19 ~~[such]~~ a nature or extent that it cannot be  
20 effectively and completely eradicated, or after  
21 treatment it is determined that the infestation or



1 infection is not completely eradicated, or if the  
2 owner or the owner's agent refuses to allow the  
3 article to be treated or to be responsible for the  
4 cost of treatment and quarantine, the shipment,  
5 article, or any portion thereof, together with all  
6 packing and containers, shall not be certified for  
7 movement between the islands of the State. An article  
8 infested or infected with an insect, disease, or pest  
9 that is not widespread in the State shall be destroyed  
10 at the expense of the owner or the owner's agent;  
11 provided that no treatment exists that would eradicate  
12 the insect, disease, or pest to the satisfaction of  
13 the department. [~~Such~~] The destruction shall not be  
14 made the basis of a claim against the department or  
15 the inspector for damage or loss incurred; and

16 (6) Disposition. Upon completion of inspection, the  
17 inspector shall conspicuously affix to the article,  
18 container, or to the delivery order or other similar  
19 document, a tag, label, or stamp to indicate that the  
20 article has been inspected and can be moved between  
21 the islands of the State."



1 SECTION 3. Section 150A-9.5, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) The department shall have the power, subject to the  
4 provisions of this section, to establish, implement, and enforce  
5 interim rules governing the transporting of flora [~~and~~], fauna,  
6 and other materials known to harbor or transport a high-impact  
7 invasive species or pest into and within the State. [~~Such~~] The  
8 rules shall not be subject to chapter 91.

9 (b) An interim rule may be adopted in the event that the  
10 importation or movement of any flora [~~or~~], fauna, or materials,  
11 in the absence of effective rules, creates a situation dangerous  
12 to the public health and safety or to the ecological health of  
13 flora or fauna present in the State [~~which~~] that is so immediate  
14 in nature as to constitute an emergency. No interim rule shall  
15 be adopted without [~~such~~] a finding by the advisory committee on  
16 plants and animals created under section 150A-10."

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

DAB; BAB; Emergency Quarantine; Pests

**Description:**

Authorizes the Department of Agriculture and Biosecurity to declare an emergency quarantine when it has been reasonably determined that there is a threat to agriculture or the environment in the State. Authorizes the Department to halt operations related to or within the affected area for ninety-six hours, subject to extension by vote of the Board of Agriculture and Biosecurity. Authorizes the Department to quarantine any business or other area that is known or reasonably suspected to be infested or infected with any pest. Requires the Department to provide certain notices to affected farmers and provide compensation. Authorizes the Department to establish interim rules governing the transportation of any material into and within the State known to harbor or transport a high-impact invasive species or pest. (SD2)

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