

ACT 104

H.B. NO. 794

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 150A-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Microorganism” means any unicellular microscopic organism including but not limited to algae, bacteria, fungi, protozoa, and viruses.”

SECTION 2. Section 150A-14, Hawaii Revised Statutes, is amended to read as follows:

“§150A-14 Penalty. (a) Any person who violates any provision of this chapter other than [section] sections 150A-5(2)(B), 150A-6(a)(3) and 150A-6(a)(4) or who violates any rule adopted under this chapter [or any person or organization who owns or intentionally transports, possesses, harbors, propagates, sells, transfers, or causes the importation of any snake or other prohibited animal seized under section 150A-7(b)] other than those rules involving a plant, animal, or microorganism on the prohibited list or the restricted list without a permit shall be guilty of a [misdemeanor.] violation and fined not less than \$100 nor more than \$1,000.

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(b) Any transportation company that violates section 150A-5(2)(B) shall be guilty of a petty misdemeanor.

(c) Any person or organization that violates sections 150A-6(a)(3) or 150A-6(a)(4), or who owns or intentionally transports, possesses, harbors, propagates, sells, transfers, or causes the importation of any snake or other prohibited animal seized under section 150A-7(b), or any person or importer who violates this chapter more than [three times within a five-year period] once or whose violation involves a plant, animal, or microorganism on the prohibited list or the restricted list without a permit shall be guilty of a [class C felony.] violation and fined not less than \$1,000 nor more than \$10,000.

(d) For the purposes of this section:

(1) Convictions under two or more [counts of an indictment or complaint] citations issued in connection with the same course of conduct or episode shall be considered a single conviction [without regard to when the convictions occurred or when the individual offenses were committed]; and

(2) A conviction occurs on the date judgment is entered.

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

(f) In addition to the penalties in subsection (a) or (c) and the payment under subsection (e), the department may, at its discretion, refuse entry, confiscate, or destroy any prohibited articles or restricted articles without a permit issued by the department, brought to the State or order the return of any plant, fruit, vegetable, or any other article infested with pests to its place of origin or otherwise dispose of it or such part thereof as may be necessary to comply with this chapter. Any expense or loss in connection therewith shall be borne by the owner or the owner's agent.

(g) Any person who voluntarily surrenders any prohibited snake, other prohibited animal, or restricted animal without a permit issued by the department, prior to the initiation of any seizure action by the department shall be exempt from the penalties of this section."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 10, 1991.)