

ACT 72

H.B. NO. 788

A Bill for an Act Relating to Control or Eradication of Pests.

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

SECTION 1. Section 141-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Notwithstanding subsection (a), if the department finds the incipient infestation of a pest [which] that is injurious or deleterious or [which] that is likely to become injurious or deleterious to the agricultural, horticultural, aquacultural, or livestock industries of the State without immediate action, it may proceed without prior notice or upon a minimum of forty-eight hours notice and hearing to adopt an emergency rule for the eradication of the pest to be effective for a period of

ACT 72

not longer than one hundred eighty days without renewal.”

SECTION 2. Section 141-3.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) After notice as required by subsection (a), any member of the department or any agent authorized by the department may enter at reasonable times any private property other than dwelling places to maintain a pest control or eradication program, being liable only for damage caused by acts beyond the scope of [their] the person’s authority, or [acts due to] the person’s negligence[.], gross negligence, or intentional misconduct. [If the entry is refused, the department may bring an action in the appropriate district court to enjoin the landowner from refusing entry and to enforce compliance with this chapter. Upon proper showing, the court shall grant a restraining order or other appropriate relief.] If entry is refused, the department member or agent may apply to the district court in the circuit in which the property is located for a warrant to enter on the premises to effectuate the purposes of this chapter. The district court may issue a warrant directing a police officer of the circuit to assist the department member or agent in gaining entry onto the premises during regular working hours or at other reasonable times.”

SECTION 3. Section 141-7, Hawaii Revised Statutes, is amended to read as follows:

“**§141-7 General penalty.** (a) Any person violating any of the provisions of chapters 141, 142, [and] or 144 to 149A, for which violation a penalty is not otherwise provided, or violating any rule [or regulation] of the department of agriculture, [and] or any master of any vessel which brings into the State any article which the department at any time shall prohibit from being imported into the State[; and], or the master of any vessel from which is landed any article required in chapters 141, 142, [and] or 144 to 149A to be inspected, before the master has received a permit to land the articles from the department or its officer or inspector, as provided by chapters 141, 142, and 144 to 149A, shall be fined not more than \$500.

(b) When any landowner or land occupier fails to cooperate with the department in its pest control or eradication programs, the department may proceed with its program at the expense of the landowner or land occupier. Any person who violates this chapter or any rule adopted by the department pursuant to section 141-3 shall be fined not less than \$100 nor more than \$500 for the first offense, and not less than \$1,000 nor more than \$5,000 for each offense thereafter.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1992.)