

ACT 61

H.B. NO. 2009

A Bill for an Act Relating to Agriculture.

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

Section 1. Chapter 150A, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“PLANT AND NON-DOMESTIC ANIMAL QUARANTINE
AND MICROORGANISM IMPORT”**

SECTION 2. Section 150A-6.3, Hawaii Revised Statutes, is amended to read as follows:

“§150A-6.3 Microorganism import. (a) The board shall maintain:

- (1) A list of nonrestricted microorganisms allowed entry into the State without a permit;
- (2) A list of restricted microorganisms that require a permit for import into the State and possession; and
- (3) A list of microorganisms that are select human pathogens allowed entry into the State without a permit but that require the department to notify the department of health of entry for the purpose of possible department of health inspection and monitoring.

Import of a microorganism on these lists, as well as import of any unlisted microorganism, shall be subject to the notification, labeling, and inspection requirements of section 150A-5, and is allowed only as provided herein.

(b) Import of a microorganism on the restricted list of microorganisms shall be by permit issued pursuant to rules and subject to conditions established by rules;

provided that, if the department in its discretion determines that import of a microorganism on the restricted list or the microorganism's proposed use presents a high risk to agriculture, horticulture, the environment, or animal or public health, the import request shall be subject to advisory committee review and board approval, including a determination that the importer is able to comply with conditions established by the board, before a permit may be issued.

(c) Import and possession of an unlisted microorganism may be allowed based on the department's determination of the level of risk presented by the import, including its proposed use, to agriculture, horticulture, the environment, or animal or public health. Import shall be either by letter of authorization or special permit issued by the department, without advisory committee review or board approval, or, alternatively, by special permit issued by the department subsequent to advisory committee review and board approval, according to risk level as provided by rule; provided that in the latter instance the importer is able to comply with conditions established by the board.

(d) The department may issue an emergency permit on a case-by-case basis to a state or federal agency or state university to allow import and possession of a microorganism on the list of restricted microorganisms or an unlisted microorganism for the purpose of remediating any emergency or disaster affecting agriculture, horticulture, the environment, [ø] animal or public health[;], or for emergency preparedness; provided that:

- (1) The board, without advisory committee review, first obtains advice from qualified persons with relevant expertise;
- (2) The board determines that import in less time than is required for issuance of a special permit under subsections (b) and (c) as applicable, is necessary to remediate the emergency or disaster; and
- (3) The importer is able to meet conditions established by the board.

(e) Microbial products may be imported as follows:

- (1) Microbial products containing certain strains of microorganisms on the nonrestricted list of microorganisms, as identified by rule, may enter the State without a permit but shall not be imported without a registration issued pursuant to rules. Import of an unregistered microbial product required to be registered with the department is a violation of this section; and
- (2) Import of microbial products other than those products required to be registered pursuant to paragraph (1) shall be by permit or letter of authorization, as provided in subsections (b) and (c) as applicable.

(f) Permits issued under rules adopted prior to Act 211, Session Laws of Hawaii 2000, are valid until the expiration date shown on the permit with no entitlement to renewal on the original import terms and conditions. Upon expiration of those permits, continued import is subject to reapplication and satisfaction of requirements under rules adopted to implement this section.

(g) The board may amend conditions in permits, letters of authorization, and registrations, or cancel permits, letters of authorization, and registrations, as necessary, if the board determines that the classification of the microorganism being imported or the conditions attendant to the microorganism's import and use must be changed due to newly discovered risks to agriculture, horticulture, the environment, or animal or public health."

SECTION 3. Section 150A-6.4, Hawaii Revised Statutes, is amended to read as follows:

"§150A-6.4 Permit and other import document issuance; requirements. Except as otherwise provided in this part, all permits, letters of authorization, or

registrations referenced in sections 150A-6 through 150A-6.3 shall be issued pursuant to rules. Any violation of conditions listed on the permits, letters of authorization, or registrations shall be a violation of this chapter.”

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

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

(Approved May 23, 2002.)