

A Bill for an Act Relating to Agricultural Inspections.

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

SECTION 1. Chapter 147, Hawaii Revised Statutes, is amended by adding two new parts to be appropriately designated and to read as follows:

“PART . AGRICULTURAL SAFETY AND SECURITY

§147-A Definitions. As used in this part, unless the context otherwise requires:

“Department” means the department of agriculture.

§147-B Cooperative agreements and contracts to provide auditing and certification services. The department may enter into cooperative agreements with the United States Department of Agriculture or other agreements and contracts with private parties or other governmental agencies for the purposes of:

- (1) Auditing and certifying that applicants are following good agricultural, handling, processing, and manufacturing practices; and
- (2) Maintaining food security and product traceability.

§147-C Audits and certification; requests necessary. The department may designate any employee or agent of the department to conduct the audits and certification authorized under this part at the request of persons having a financial interest in the business or product. These audits and certification may be requested, but in no case shall be required by the department.

§147-D Fees and deposit of moneys. (a) The department shall fix, assess, and collect fees for the audit and certification services provided under this part. The fees shall be as established under cooperative agreement with the United States Department of Agriculture or other governmental agencies or, if not applicable, as established by rule under section 147-7. The department may also charge an amount necessary to cover all costs of traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance.

(b) Except for fees collected by the department pursuant to part VII, all fees and expenses collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund.

§147-E Certificate as evidence. A certificate issued under this part and all certificates issued under the authority of the Congress of the United States relating to matters covered by this part shall be acceptable in any court of this State as prima facie evidence of the status of a business or product at the time of its audit.

PART . SEED CERTIFICATION

§147-F Official certifying agency. The department is designated as the official certifying agency for certifying seed concerning genetic purity, identity, quality, and condition for the State. The department may appoint an appropriate agent to do the work necessary for the certifications in compliance with established standards.

§147-G Definitions. As used in this part, unless the context otherwise requires:

“Certifying agency” means:

- (1) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity, identity, quality, and condition of the seed certified; or
- (2) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under paragraph (1).

“Department” means the department of agriculture.

“Seed” means:

- (1) The seed of grass, forage, cereal, and fiber crops;
- (2) Other kinds of seed commonly recognized as agricultural or vegetable seed; and
- (3) Other kinds of propagating materials.

§147-H Cooperative agreements and contracts to provide agricultural crop certification services. The department may enter into cooperative agreements with the United States Department of Agriculture or other agreements and contracts with private parties or other governmental agencies for the purposes of certifying seed.

§147-I Certification; requests necessary. The department may designate any employee or agent of the department to conduct the inspections and certification authorized under this part at the request of persons having a financial interest in the seed. These inspections and certification may be requested, but in no case shall be required by the department.

§147-J Rules. The department shall have the necessary powers to carry out and effectuate the purposes of this part, and, subject to chapter 91, may adopt rules with respect to:

- (1) Standards for grades, genetic purity, identity, quality, and condition of seed;
- (2) Procedures for certifying seed; and
- (3) Other matters necessary to carry out the purposes of this part.

§147-K Fees and deposit of moneys. (a) The department shall fix, assess, and collect fees for the inspection and certification services provided under this part. The fees shall be as established under cooperative agreement with the United States Department of Agriculture or other government agencies or, if not applicable, as established by rule under section 147-7. The department may also charge an amount necessary to cover all costs of traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance.

(b) Except for fees collected by the department pursuant to part VII, all fees and expenses collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund.

§147-L Certificate as evidence. A certificate issued under this part and all certificates issued under the authority of the Congress of the United States relating to matters covered by this part shall be acceptable in any court of this State as prima facie evidence of the genetic purity, identity, quality, and condition of seed at the time of its inspection.”

SECTION 2. Chapter 147, part VII, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§147- Certification and audit services. The department of agriculture shall fix, assess, and collect fees for certification or audit services provided by temporary inspectors employed under this part. The fees shall be in amounts necessary to cover all costs of the administration and provision of the certification or audit services provided under this part; provided that the department of agriculture shall establish charges for traveling expenses and extraordinary services when the performance of the services involves unusual cost. The fees and charges established by the department of agriculture shall not be subject to chapter 91. The department of agriculture may employ temporary inspectors to assist in providing certification or audit services under parts I, III, IV, , and , and those temporary inspectors shall be exempt from chapter 76.”

SECTION 3. Section 147-10, Hawaii Revised Statutes, is amended to read as follows:

“§147-10 Income from [~~marketing inspection~~] certification and agriculture control activities. Except for fees collected by the department pursuant to [~~section 147-7.5.~~] part VII, all fees, expenses, and penalties collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund.”

SECTION 4. Section 147-34, Hawaii Revised Statutes, is amended to read as follows:

“§147-34 Inspection [~~classification~~]; certification fees. The board of agriculture may designate any employee or agent of the department [~~of agriculture~~] as an inspector to classify and inspect fresh and processed flowers and foliage for quality and condition and to determine if containers, packing materials, and methods of packing meet the minimum requirements established. In addition the inspector may classify and inspect flowers and foliage for quality and condition at the request of persons having a financial interest in the commodities in order to ascertain and to certify to [~~such~~] those persons the grade, classification, quality, or condition thereof and other pertinent facts. The department may fix, assess, and collect or cause to be collected fees for [~~such~~] those certification services when they are performed by the employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of [~~inspections made~~] certification services provided at the request of persons having a financial interest. [~~AH~~] Except for fees collected by the department pursuant to part VII, all fees collected by the department pursuant to this part shall be deposited with the state director of finance to the credit of the general fund.”

SECTION 5. Section 147-64, Hawaii Revised Statutes, is amended to read as follows:

“§147-64 Deposit of moneys. ~~[All] Except for fees collected by the department pursuant to part VII, all~~ fees, charges, expenses, civil penalties, and other moneys collected by the department under this part or any rules prescribed by the department ~~[of agriculture]~~ pursuant to this part shall be deposited with the state director of finance to the credit of the general fund.”

SECTION 6. Section 147-93, Hawaii Revised Statutes, is amended to read as follows:

“§147-93 Cooperating with federal authority. The department of agriculture may enter into ~~[a] cooperative [agreement] agreements~~ with the ~~[meat grading service of the] United States Department of Agriculture [and may, to the extent funds are available in the division of animal industry special fund, pay the salaries, or portions thereof, of federal employees providing services under such agreement.]~~ for the purpose of grading beef, pork, mutton, and lamb carcasses.”

SECTION 7. Section 147-97, Hawaii Revised Statutes, is amended to read as follows:

“§147-97 Disposition of fees. All fees collected under this part shall be paid into a special fund ~~[in the division of animal industry]~~ established by the department of agriculture and shall be expended for the purposes of this part.”

SECTION 8. Chapter 147, part VII, Hawaii Revised Statutes, is amended to read as follows:

“[H]PART VII.[H] ~~[MARKETING ORDER] CERTIFICATION SERVICES REVOLVING FUND~~

[H]§147-101[H] ~~[Marketing order] Certification services revolving fund.~~ There is established a certification services revolving fund for use by the department of agriculture ~~[in providing inspection services for federal marketing order programs.]~~ to support certification or audit services established under parts I, III, IV, and _____. Moneys in the fund may be expended for materials, salaries, equipment, training, travel, and other costs related to providing ~~[inspection]~~ certification or audit services. ~~[Moneys] Notwithstanding sections 147-10, 147-34, 147-64, 147-D and 147-K, moneys derived from the [inspection] certification or audit services provided by temporary inspectors employed under this part or from charges for traveling expenses or extraordinary services shall be deposited [in] into the fund. [Marketing order inspectors hired under this chapter shall be exempt from chapter 76.]”~~

SECTION 9. Section 150-22, Hawaii Revised Statutes, is amended to read as follows:

“§150-22 Rules. Subject to chapter 91, the department may adopt rules with respect to:

- (1) Designation of noxious weed seed for the purpose of this chapter;
- (2) Maximum amount of noxious weed seed and other weed seed which may be found in agricultural or vegetable seed sold in the State;
- (3) Germination standards for agricultural and vegetable seed;

- (4) Inspection, sampling, and testing of seed at the request of interested persons, and charges to be made for these services;
- ~~[(5) Minimum standards pertaining to the process of certifying seed;]~~ and
- ~~[(6)]~~ (5) Other requirements regarding the sale and labeling of seed and seed licenses, including the license fee, as it deems necessary to effectuate this chapter.

In adopting rules with respect to standards for agricultural and vegetable seed and tolerances of noxious weed seed, the department shall follow as closely as practicable the standards and tolerances of the Federal Seed Act, or as adopted by the Association of Official Seed Analysts.”

SECTION 10. Section 150-21, Hawaii Revised Statutes, is amended by repealing the definition of “certifying agency”.

~~[““Certifying agency” means (1) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or (2) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (1).”]~~

SECTION 11. Section 147-7.5, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 150-2, Hawaii Revised Statutes, is repealed.

SECTION 13. The director of finance shall transfer the unexpended balance, including encumbrances and accrued liabilities, of the coffee inspection revolving fund as of close of business on June 30, 2003, to the credit of the certification services revolving fund. Encumbered moneys shall continue to be encumbered until paid out or released from prior encumbrances.

SECTION 14. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect on June 30, 2003; provided that section 11 shall take effect on July 1, 2003.

(Approved May 7, 2003.)

Note

1. Edited pursuant to HRS §23G-16.5.