

ACT 3

H.B. NO. 2843

A Bill for an Act Relating to Invasive Species.

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

SECTION 1. The legislature finds that the unchecked spread of invasive species is the single greatest threat to Hawaii's economy, natural environment, and the health and lifestyle of Hawaii's people. Invasive pests can cause millions of dollars in crop losses, the extinction of native species, the destruction of native forests, the spread of diseases, and the quarantine of exported agricultural crops.

Island ecosystems are particularly vulnerable to the destructive power of invasive pests. In Guam, the accidental introduction of the brown tree snake has resulted in widespread devastation. Without natural predators or competition for food, brown tree snake populations have grown exponentially, causing mass extinctions of endemic birds. Where there were once bird songs, the silent forests of Guam are now home to as many as fifteen thousand snakes per square mile. Just one new pest like the brown tree snake could forever change the character of the Hawaiian islands.

Despite our ongoing efforts to detect and eradicate invasive species, our fragile island ecosystems are constantly at risk from insects, disease-bearing organisms, snakes, weeds, and other invasive pests. The coqui frog, Salvinia molesta D.S. Mitchell, Miconia calvescens DC., ohia rust, nettle caterpillar, and little fire ant are all present in Hawaii, disrupting the delicate balance of our ecosystems, crowding out native species, and reducing the biodiversity of our islands. Other harmful species

like the papaya mealybug, erythrina gall wasp, Asian citrus psyllid, and Varroa mite have the potential to devastate our environment and agriculture if allowed to become widespread in Hawaii and spread unchecked by natural predators. The legislature finds that inspection of freight brought into the state is necessary for the protection of the state's ecosystem.

The purpose of this Act is to increase the scope of the existing inspection, quarantine, and eradication service fee to provide funding for the department of agriculture to conduct inspections of imported freight to prevent the introduction of invasive species, and for the facilities necessary to conduct such inspections. This fee applies only to nonpassenger freight. Accordingly, this fee is not a duty of tonnage for entering Hawaiian waters (United States Constitution Article I, Section 10, Clause 3), nor does this fee violate the prohibition on anti-head taxes on airline passengers (Title 49 United States Code Section 40116).

The legislature also finds that the impact of this fee on interstate commerce and the importation of goods is insignificant and that this Act is consistent with the commerce clause (United States Constitution Article I, Section 8, Clause 3), the export-import clause (United States Constitution Article I, Section 10, Clause 2), and the International Convention for Safe Containers, 1972, as amended.

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

““Freight” means nonpassenger goods, cargo, or lading, transported for pay.

“Net weight” means the gross weight of the freight minus the container weight, if any.”

SECTION 3. Section 150A-5.3, Hawaii Revised Statutes, is amended to read as follows:

“[H]§150A-5.3[H] Inspection, quarantine, and eradication service fee and charge. There is imposed a fee for the inspection, quarantine, and eradication of invasive species contained in any freight, including but not limited to marine commercial container shipment, air freight, or any other means of transporting freight, foreign or domestic, that is brought into the [State] state. The fee shall be paid by the person responsible for paying the freight charges to the transportation company, who shall collect the fee and forward the payment to the department at the port of disembarkation; provided that the transportation company shall not be liable for any fee that is not paid by the person responsible for paying the freight charges to the transportation company. The department shall deposit the fee into the pest inspection, quarantine, and eradication fund under section 150A-4.5.

[The fee shall be computed on the basis of \$1 for each twenty-foot equivalent unit per container. The department shall collect the fee at the port of disembarkation and deposit the fee into the pest [inspection], quarantine, and eradication fund under section 150A-4.5.] The fee shall be assessed on the net weight of the imported freight computed on the basis of 50 cents for every one thousand pounds of freight brought into the state, or part thereof.”

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

SECTION 5. This Act shall take effect on August 1, 2008.

(Vetoed by Governor and veto overridden by Legislature on July 8, 2008.)