

ACT 32

H.B. NO. 1854

A Bill for an Act Relating to Little Fire Ants.

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

SECTION 1. The legislature finds that little fire ants threaten human health, wildlife, agriculture, and tourism. Since first discovered on the island of Hawaii in 1999, little fire ants have been spreading rapidly throughout the State. There are now little fire ant populations on Kauai, Maui, and Oahu.

The legislature further finds that the Hawaii Ant Lab's methods for treating little fire ants have been successful in controlling infestations on properties of homeowners and farmers. The Hawaii Ant Lab uses a dual approach of applying insect growth regulators followed by a barrier treatment. This method,

which targets the source of the infestation and kills the queen and causes colony collapse, reduces the likelihood that this invasive species will spread.

The legislature also finds that pest control operators in the State are not required by law to use the Hawaii Ant Lab's approach when treating little fire ants. There are reports that some pest control operators do not employ these methods and opt to spray contact insecticides in lieu of using the Hawaii Ant Lab treatment strategy. By using less effective methods that do not completely eradicate the infestation, pest control operators create permanent customers who continue to require repeat service as more little fire ants return. The legislature recognizes that untreated little fire ant nests can grow and spread to surrounding properties, thereby further exacerbating the problems and creating a much bigger challenge for mitigation efforts.

The purpose of this Act is to control the spread of little fire ants in the State by:

- (1) Authorizing the department of agriculture, in conjunction with Hawaii Ant Lab, to identify best practices for the treatment of little fire ants;
- (2) Requiring the department of agriculture to post any identified best practices on its website;
- (3) Adding to the prohibited acts of pesticides, any application that may defeat the best practices for the treatment of little fire ants as identified by the department of agriculture; and
- (4) Clarifying that training for invasive species be based on the best available technology and best practices in a manner consistent with state and federal laws.

SECTION 2. Section 141-3.5, Hawaii Revised Statutes, is amended to read as follows:

“[H]§141-3.5[] Control or eradication programs. (a) The department of agriculture shall develop and implement a detailed control or eradication program for any pest designated in section 141-3, using the best available technology in a manner consistent with state and federal law.

(b) For any pest designated by emergency rule as provided in section 141-3, the department of agriculture shall implement an emergency program using the best available technology in a manner consistent with state and federal law.

(c) The department of agriculture:

- (1) In conjunction with the Hawaii Ant Lab, may identify best practices for the treatment of little fire ants; and
- (2) Shall post on its website any best practices identified for the treatment of little fire ants.”

SECTION 3. Section 149A-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It shall be unlawful to:

- (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless it is approved by the department to correct an improper label or labeling under section 24(c), FIFRA;
- (2) Add any substance to, or take any substance from, a pesticide or apply a pesticide in a manner that may defeat the purpose of this chapter[;] or of section 141-3.5;
- (3) Use for a person's own advantage or reveal any information relative to formulas of products acquired in the administration of this

chapter, to persons other than to the chairperson or proper officials or employees of the State or the federal government; to the courts of this State or the federal government in response to a subpoena; to physicians; or, in emergencies, to pharmacists and other qualified persons for use in the preparation of antidotes;

- (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained a license from the department;
- (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides to any person other than a certified pesticide applicator;
- (6) For any pesticide dealer, wholesaler, or retailer to make any verbal or written claim or representation relating to any pesticide product that is inconsistent with the specific pesticide product label; or
- (7) For any pesticide dealer to expose to, offer for sale to, or solicit or receive orders for the sale of restricted use pesticides to any pest control operator or to an employee of the pest control operator acting on the pest control operator's behalf without satisfactory proof that the pest control operator holds, or has held within the previous one hundred twenty days, a pest control license and, when applicable, without satisfactory proof that the employee is employed by the pest control operator."

SECTION 4. Section 149A-13.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the pesticide use revolving fund shall be expended by the department:

- (1) To support the pesticide program's registration and licensing, certification and education, and compliance monitoring activities;
- (2) To establish pesticide training workshops and educational programs[;], including, but not limited to, eradication and control programs for pests designated in section 141-3, using the best available technology and best practices in a manner consistent with state and federal law;
- (3) To develop integrated pest management strategies, the pesticide subsidy program created under Act 105, Session Laws of Hawaii 2014, and other services for pesticide users such as the agricultural pest control industry, the structural pest control industry, and consumer users of pesticides, which provide pesticide instruction in areas, including but not limited to the collection, disposal, and recycling of pesticide containers; and
- (4) For all other pesticide services deemed necessary by the department.

Moneys from the revolving fund may be used for personnel, services, materials, and equipment for the purposes of this section.

Moneys expended by the department from the pesticide use revolving fund for training workshops, educational programs, and other services for the agricultural pest control industry, the structural pest control industry, and consumer groups shall be expended in a manner that appropriately addresses the needs of each category of pesticide user."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon approval.

(Approved September 15, 2020.)