

ACT 138

S.B. NO. 855

A Bill for an Act Relating to Coffee Pest Control.

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

SECTION 1. The legislature finds that coffee is one of the largest agricultural crops in the State and is a highly valued commodity in Hawaii's economy. In recent years, the coffee berry borer, a small beetle, has infested coffee crops in the Kona and Kau regions of Hawaii island, and more recently has been detected on Oahu, Maui, Kauai, and Lanai. In 2020, coffee leaf rust was discovered for the first time in the State on Maui and Hawaii island. These two pests threaten the viability of the State's entire coffee industry. Efforts to control the coffee berry borer and coffee leaf rust are critical to the coffee industry, and the State must continue to support these efforts.

The legislature also finds that application of the organic biological pesticide containing the fungus *Beauveria bassiana* is known to cause high rates of mortality in the coffee berry borer and is a primary method of pest control for the coffee berry borer in other coffee-growing regions of the world. The legislature further finds that the combination of a topical contact fungicide with a systemic fungicide is the most effective control method for coffee leaf rust. Research shows that subsidizing the cost of pesticides is an effective and necessary incentive to encourage farmers to adopt recommended pest management strategies.

Act 105, Session Laws of Hawaii 2014 (Act 105), appropriated funds for the development and implementation of a pesticide subsidy program to assist coffee growers with offsetting the cost of purchasing pesticides containing *Beauveria bassiana*. However, implementing Act 105 took longer than anticipated, and this assistance only became available from the State at the end of 2016, more than two years later.

Act 152, Session Laws of Hawaii 2015, established a pesticide subsidy program manager position as a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes.

Act 65, Session Laws of Hawaii 2017, extended the sunset date of the pesticide subsidy program for two years, to June 30, 2021, so that the program can remain in effect for the number of years intended when Act 105 was passed.

Act 32, Session Laws of Hawaii 2018, extended the pesticide subsidy program manager position, including the exemption from chapters 76 and 89, Hawaii Revised Statutes, for two years to June 30, 2022, in order to process applications for subsidies for costs incurred in the final year of the program.

The purpose of this Act is to extend the sunset dates of both the pesticide subsidy program and the program manager position, including the position's civil service and collective bargaining laws exemption, for two more years so that the program can remain in effect to assist in responding to the newly discovered coffee leaf rust, continue helping growers manage coffee berry borer, and add control methods for coffee leaf rust as an eligible reimbursable item.

SECTION 2. Act 105, Session Laws of Hawaii 2014, as amended by section 1 of Act 152, Session Laws of Hawaii 2015, as amended by section 2 of Act 65, Session Laws of Hawaii 2017, as amended by section 2 of Act 32, Session Laws of Hawaii 2018, as amended by section 43 of Act 111, Session Laws of Hawaii 2019, is amended as follows:

1. By amending section 3 to read:

“SECTION 3. (a) There is established in the department of agriculture a pesticide subsidy program to be administered by the department beginning on July 1, 2014, and ending on June 30, ~~2021~~ 2023. The department shall grant subsidies to coffee growers to assist ~~them~~ the coffee growers in offsetting the costs of purchasing any pesticide that is listed by the department pursuant to subsection (f).

(b) Applications for subsidies by coffee growers shall be submitted on a form furnished by the department and shall be filed with accompanying documentation of the costs of purchasing the pesticide; provided that:

- (1) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the pesticide purchased; and
- (2) The department may request that an applicant ~~to~~ provide necessary information for the purposes of verifying the size or sale weight, as applicable, and amount of the pesticide purchased.

(c) Documentation of pesticide costs, as requested by the department, shall be filed for pesticides purchased within the ~~immediate~~ immediately preceding fiscal year of filing and shall be effective for pesticide costs incurred after June 30, 2014, and before July 1, ~~2021~~ 2023.

(d) Funds shall be disbursed upon approval on an annual basis by the department to the coffee grower for up to seventy-five per cent of the costs incurred for the purchase of the pesticide before July 1, 2016, and for up to fifty per cent of the costs incurred after June 30, 2016, and before July 1, ~~2021~~ 2023.

(e) The department shall aggregate the total subsidy applications pursuant to this section and divide and distribute the available subsidy funds on a pro rata basis; provided that no single coffee grower shall receive subsidies that

are more than \$600 per year for coffee berry borer control and more than \$600 per year for coffee leaf rust control per acre of land in coffee production; provided further that no single coffee grower shall receive subsidies that are more than \$9,000 per year; provided further that no single coffee grower shall receive subsidies that total more than \$6,000 per year for the period after June 30, 2018, and before July 1, 2021[-]; provided further that no single coffee grower shall receive subsidies that total more than \$12,000 per year for the period after June 30, 2021, and before July 1, 2023.

(f) The department shall establish a list of pesticides that are registered with the United States Environmental Protection Agency and are licensed with the State that contain *Beauveria bassiana*, a fungus known to eradicate the coffee berry borer, as an active ingredient. The department shall also establish a list of pesticides that are registered with the United States Environmental Protection Agency; are licensed with the State; and are contact and systemic fungicides that, when combined, are effective against coffee leaf rust.

(g) There is established within the department a pesticide subsidy program manager position, which shall be a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes. The pesticide subsidy program manager shall possess a requisite level of knowledge and expertise in the area of program management necessary to carry out the duties of the position. The pesticide subsidy program manager shall:

- (1) Facilitate the efficient division and distribution of available subsidy funds; and
- (2) Manage the day-to-day coordination for the pesticide subsidy program.

The pesticide subsidy program manager shall receive a salary of not more than \$50,000 per year. The pesticide subsidy program manager position, including the position's exemption from chapters 76 and 89, Hawaii Revised Statutes, shall expire on June 30, ~~[2022.]~~ 2024.

(h) Not later than twenty days prior to the convening of the regular session of ~~[2021.]~~ 2023, the department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature on the results of the subsidy program and whether the program should be allowed to expire or be extended, and if extended, with or without modification.

(i) Actions taken by the department pursuant to this section shall be exempt from the rulemaking requirements of section 91-3, Hawaii Revised Statutes.

(j) As used in this Act, "department" means the department of agriculture."

2. By amending section 6 to read:

"SECTION 6. This Act shall take effect on July 1, 2014; provided that:

- (1) Section 3 shall be repealed on June 30, ~~[2021.]~~ 2023, except that section 3(g) shall be repealed on June 30, ~~[2022.]~~ 2024; and
- (2) The amendment made to section 149A-13.5(b), Hawaii Revised Statutes, under section 2 of this Act shall not be repealed when section 149A-13.5(b), Hawaii Revised Statutes, is repealed and reenacted on June 30, 2015, by section 4 of Act 168, Session Laws of Hawaii 2010."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2021.

(Approved June 30, 2021.)