

ACT 236

H.B. NO. 427

A Bill for an Act Relating to Biosecurity.

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

PART I

SECTION 1. The purpose of this part is to:

- (1) Rename the department of agriculture as the department of agriculture and biosecurity, and the board of agriculture as the board of agriculture and biosecurity; and
- (2) Clarify the composition of the board of agriculture and biosecurity.

SECTION 2. Section 26-16, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§26-16 Department of agriculture[;] and biosecurity. (a) The department of agriculture and biosecurity shall be headed by an executive board to be known as the board of agriculture[;] and biosecurity. The board shall consist of ten members:

- (1) One who shall be a resident of the county of Hawaii;
- (2) One who shall be a resident of the county of Maui;
- (3) One who shall be a resident of the county of Kauai;
- (4) Four at large; and
- (5) The chairperson of the board of land and natural resources; the director of business, economic development, and tourism; and the dean of the University of Hawaii college of tropical agriculture and human ~~[resources;]~~ resilience, or their designated representatives, who shall serve as ex officio[[]] voting members.

The majority of the members of the board described in paragraphs (1) through (4) shall be from the agricultural community or [the] agricultural support sector[;], with at least one member having a background in biosecurity. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairperson of the board from the members.”

SECTION 3. Section 26-56, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commission shall review and recommend an appropriate salary for the governor, lieutenant governor, members of the legislature, justices and judges of all state courts, administrative director of the State or an equivalent position, and department heads or executive officers and the deputies or assistants to the department heads of the departments of:

- (1) Accounting and general services;
- (2) Agriculture[;] and biosecurity;
- (3) The attorney general;
- (4) Budget and finance;
- (5) Business, economic development, and tourism;
- (6) Commerce and consumer affairs;
- (7) Corrections and rehabilitation;
- (8) Defense;
- (9) Hawaiian home lands;

- (10) Health;
- (11) Human resources development;
- (12) Human services;
- (13) Labor and industrial relations;
- (14) Land and natural resources;
- (15) Law enforcement;
- (16) Taxation; and
- (17) Transportation.

The commission shall not review the salary of any position in the department of education or the University of Hawaii.

The commission may recommend different salaries for department heads and executive officers and different salary ranges for deputies or assistants to department heads; provided that the commission shall recommend the same salary range for deputies or assistants to department heads within the same department; provided further that the appointing official shall specify the salary for a particular position within the applicable range.

The commission shall not recommend salaries lower than salary amounts recommended by prior commissions replaced by this section.”

SECTION 4. Section 141-42, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An individual or entity licensed to produce hemp pursuant to subsection (a) may transport hemp within the State to a facility authorized by law to process hemp or to another licensed producer’s grow area; provided that the transportation has been reported to the department of agriculture[.] and biosecurity. The department of agriculture and biosecurity may require movement reports that include copies of the United States Department of Agriculture test results for the hemp to be transported and may deny authorization if the hemp is found to not comply with any law or regulation.”

SECTION 5. Section 142-18, Hawaii Revised Statutes, is amended to read as follows:

“§142-18 **Disposal of tuberculous animals.** The owner of all cattle reacting to the tuberculin test shall, subject to section 142-16, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered for slaughter at such time and place as may be designated by the department of agriculture[.] and biosecurity. The slaughter shall be under the direct supervision of the department and in accordance with the meat inspection regulations of the United States Department of Agriculture.”

SECTION 6. Section 142-21, Hawaii Revised Statutes, is amended to read as follows:

“§142-21 **Cooperation with federal authorities.** The department of agriculture and biosecurity may cooperate with the United States Department of Agriculture in its efforts to eradicate bovine tuberculosis or any other transmissible disease of animals, and may make appraisals of condemned animals and report on the salvage derived from the sale of the animals in conformity with the regulations of the United States Department of Agriculture.”

SECTION 7. Section 147-52, Hawaii Revised Statutes, is amended to read as follows:

“§147-52 **Grades, standards and classifications; changes.** The standards for grading and classifying food products that have been or may be hereafter adopted, prescribed, or announced by the United States Department of Agricul-

ture or by or under authority of the Congress of the United States are hereby declared to be the official standards for grading and classifying such food products for the State; provided that the department of agriculture and biosecurity may establish and prescribe other and different, or additional, standards for grading and classifying any such products, to the extent permitted by the laws of the United States, which standards, so established and prescribed by the department, shall be the official standards for grading and classifying any such food products for the State. The department may also establish and prescribe official standards for grading and classifying any or all food products for which no standards have been adopted, prescribed, or announced by the United States Department of Agriculture or by or under authority of the Congress. The department may change any standards established and prescribed by it hereunder from time to time.”

SECTION 8. Section 147-53, Hawaii Revised Statutes, is amended to read as follows:

“§147-53 Department; grades, standards, and classifications; factors.

In establishing any grades, standards, or classifications for any food product, the department of agriculture[;] and biosecurity, in addition to such factors as may be specified in any other law, shall take into account and base the grades, standards, or classifications upon such of the following factors as shall be applicable to the product involved: degree of maturity; size, measured by dimensions or weight; degree of freshness, as determined by physical examination or chemical test or analysis; moisture content; uniformity; color; firmness; tenderness; defects; injury; damage; diseases; appearance; mixture of varieties; decay; conformation; soundness; varietal characteristics or type; number of specimens per pound; nature of pack; presence of dirt or other foreign material; condition as to temperature and extent to which the product is hot or heating or is in a sour condition; extent to which product is satisfactory for human or other consumption or use; extent to which the product has been affected by handling or treatment; extent to which the product has a commercially objectionable flavor or odor; and other factors indicative of class, quality, or condition, and of the value or suitability of the product involved for the commercial or other use to be made thereof. In addition, the department shall take into account any grades, standards, or classifications for such product established by the United States Department of Agriculture and also applicable federal grades and standard laws.”

SECTION 9. Section 147-57, Hawaii Revised Statutes, is amended to read as follows:

“§147-57 Department, rules and regulations, contracts, cooperation, fees.

The department of agriculture[;] and biosecurity, in addition to powers granted by this part or any other law, shall have all powers necessary or convenient to carry out and effectuate this part, including the following:

- (1) To prescribe rules and regulations, not inconsistent with this part, respecting: the standards for grading and classifying, and the grades, standards, and classification for, food products; the inspection, grading, and classification of food products; the determination and certification of the grade, classification, quality, and condition of food products and such other pertinent facts as the department may deem advisable; the licensing of inspectors, graders, and samplers and the duties of such inspectors, graders, and samplers; methods of test, analysis, and examination in determining the grade, classification, quality, and condition of food products; the official word or words, figure, or letter to indicate official grade or standards of quality or condition of food products; the design, form, and use of

- official labels and statements for use on packages or containers of products inspected, graded, classified, and certified under this part; and continuous factory inspection, grading, classification, and certification of food products;
- (2) To contract with the United States Department of Agriculture for the services of an inspector or inspectors employed by the department and the establishment of a cooperative inspection service with the United States government;
 - (3) To cooperate with the United States or any department thereof, in accomplishing the matters or things provided for herein; and
 - (4) To fix, assess, and collect, or cause to be collected, fees for inspecting or classifying food products, such fees to be on a uniform basis in an amount reasonably necessary to cover, as nearly as may be, the cost of the inspection and the administration of this part; provided that the department may adjust the fees to be collected hereunder to meet the expenses necessary to carry out the provisions hereof and may prescribe a different scale of fees for different localities; [~~and~~] provided further that the department may prescribe a reasonable charge for traveling expenses and services. Charges for continuous factory inspection and grading may be fixed, assessed, and collected on such contract basis as will reimburse the State for the salary and all expenses of the factory inspector or grader, to which shall be added an appropriate percentage of charges assessed to cover, as nearly as practicable, administrative overhead expense.”

SECTION 10. Section 147-74, Hawaii Revised Statutes, is amended to read as follows:

“§147-74 **Grading standards and regulations.** Subject to chapter 91, the department of agriculture and biosecurity may make rules with respect to:

- (1) Sale and transportation for sale of eggs for human consumption;
- (2) Specific grades or standards of quality, condition, and size or weight classes which shall conform when practical to those established by the United States Department of Agriculture as local conditions will permit;
- (3) Inspection and classification;
- (4) Assessment and collection of fees for requested certification as to grade, standard of quality, condition, and size or weight classes;
- (5) Labeling of containers of imported and locally produced eggs and marking of individual imported eggs as to origin;
- (6) Seller’s invoice for sale of eggs;
- (7) Records of imported shell eggs of foreign origin;
- (8) Methods of determining egg quality, which shall not include re-candling or any other method applied to eggs in interstate commerce which is discriminatory or impairs that commerce in any way or requires a cost increase of eggs in interstate commerce; and
- (9) Enforcement of this part and of the rules adopted under this part.”

SECTION 11. Section 147-93, Hawaii Revised Statutes, is amended to read as follows:

“§147-93 **Cooperating with federal authority.** The department of agriculture and biosecurity may enter into cooperative agreements with the United States Department of Agriculture for the purpose of grading beef, pork, mutton, and lamb carcasses.”

SECTION 12. Section 159-2, Hawaii Revised Statutes, is amended to read as follows:

“§159-2 Findings and declaration of necessity. It is hereby declared that the meat industry is a paramount agricultural industry of this State and the production and marketing of meat is an enterprise that is of significant importance to the economy of this State and to the health of the consuming public. It is essential to the public health and welfare of consumers that they be protected by assuring that meat and meat products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat products are injurious to the public health and welfare, destroy markets for wholesome, unadulterated, and properly labeled and packaged meat and meat products and result in sundry losses to livestock producers and processors of meat and meat products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the department of agriculture and biosecurity and cooperation by this State with the United States Department of Agriculture as contemplated by this Hawaii Meat Inspection Act is appropriate to protect the health and welfare of consumers and otherwise to effectuate the purposes of this chapter.

Congress enacted the Meat Inspection Act in 1907 (Public Law 59-242), as amended by the Wholesome Meat Act in 1967 (Public Law 90-201) which is now redesignated as the Federal Meat Inspection Act. The Federal Meat Inspection Act is intended to protect the consuming public from adulterated or misbranded meat and meat products and to assist the states in their efforts to accomplish this objective. The Federal Meat Inspection Act authorizes the Secretary of Agriculture to furnish financial and related assistance to states for the administration of meat inspection programs which conform to established federal standards up to fifty per cent of the estimated total cost of the cooperative program. Presently, the meat processing industry in this State is not subject to any meat inspection law or rules and regulations that meet the minimum federal requirement in this area. This State, in order to qualify for the cooperative program, must demonstrate “progressive action” by November 15, 1969; and, further, all physical facilities must be upgraded in accordance with the established federal standards by November 15, 1970. Failure to comply with the federal standards prescribed by the Federal Meat Inspection Act will result in federal control of the meat and meat processing industries of the State. Accordingly, the State deems it to be in the best interest of the public health and welfare to take those steps as are necessary to qualify for federal financial and related assistance for the administration of a meat inspection program which conforms to federal standards prescribed in the Federal Meat Inspection Act.”

SECTION 13. Section 161-2, Hawaii Revised Statutes, is amended to read as follows:

“§161-2 Findings and declaration of necessity. It is hereby declared that the poultry industry is a paramount agricultural industry of this State and the production and marketing of poultry is an enterprise that is of significant importance to the economy of the State and to the health of the consuming public. It is essential to the public health and welfare of consumers that they be protected by assuring that poultry or poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry or poultry products are in-

jurious to the public health and welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry or poultry products, and result in sundry losses to poultry producers and processors of poultry as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the department of agriculture and biosecurity and cooperation by this State with the United States Department of Agriculture as contemplated by this chapter is appropriate to protect the health and welfare of consumers and otherwise to effectuate the purposes of this chapter.

The 90th Congress enacted Public Law 90-492, entitled "The Wholesome Poultry Products Act", which is now redesignated as the "Poultry Products Inspection Act". The Poultry Products Inspection Act is intended to protect the consuming public from adulterated or misbranded poultry or poultry products and to assist the states in their efforts to accomplish this objective. The Poultry Products Inspection Act authorizes the United States Secretary of Agriculture to furnish financial and related assistance to states for the administration of poultry inspection programs which conform to established federal standards up to fifty per cent of the estimated total cost of the cooperative program. Hawaii's poultry industry is not subject to poultry inspection law or rules and regulations that meet the minimum federal requirement in this area. In order to qualify for the cooperative program, the State must demonstrate "progressive action" by July 18, 1970; and, further, all physical facilities must be upgraded in accordance with the established federal standards by July 18, 1971. Failure to comply with the standards prescribed by the Poultry Products Inspection Act will result in federal control of the poultry or poultry processing industries of the State. Accordingly, the State of Hawaii deems it to be in the interest of the State's public health and welfare to take ~~[such]~~ steps as are necessary to qualify for federal financial and related assistance for the administration of a poultry inspection program which conforms to federal standards prescribed in the Poultry Products Inspection Act."

SECTION 14. Section 205-47, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Each county shall develop maps of potential lands to be considered for designation as important agricultural lands in consultation and cooperation with landowners~~;~~; the department of agriculture~~;~~ and biosecurity; agricultural interest groups, including representatives from the Hawaii Farm Bureau Federation and other agricultural organizations~~;~~; the United States Department of Agriculture - Natural Resources Conservation Service~~;~~; the office of planning and sustainable development~~;~~; and other groups as necessary."

SECTION 15. Section 219-8, Hawaii Revised Statutes, is amended to read as follows:

§219-8 Participation in loans by the department.

- (1) The department of agriculture and biosecurity may provide funds for a share, not to exceed ninety per cent, of the principal amount of a loan made to a qualified aquaculturist by a private lender who is otherwise unable ~~[otherwise]~~ to lend the applicant sufficient funds at reasonable rates where the qualified farmer is unable to obtain sufficient funds for the same purpose from the United States Department of Agriculture;

- (2) Participation loans under this section shall be limited by the provisions of section 219-6 and the department of ~~[agriculture's]~~ agriculture and biosecurity's share shall not exceed the maximum amounts specified therefor;
- (3) Interest charged on the private lender's share of the loan shall not be more than the sum of two per cent above the lowest rate of interest charged by all state or national banks authorized to accept or hold deposits in the State on secured short term loans made to borrowers who have the highest credit rating with those banks;
- (4) The private lender's share of the loan may be insured by the department up to ninety per cent of the principal balance of the loan, under section 219-7;
- (5) When a participation loan has been approved by the department, its share shall be paid to the participating private lender for disbursement to the borrower. The private lender shall collect all payments from the borrower and otherwise service the loan;
- (6) Out of interest collected, the private lender may be paid a service fee to be determined by the department ~~[which fee]~~ that shall not exceed one per cent of the unpaid principal balance of the loan; provided that this fee shall not be added to any amount which the borrower is obligated to pay;
- (7) The participating private lender may take over a larger percentage or the full principal balance of the loan at any time that it has determined, to the satisfaction of the department, that the borrower is able to pay any increased interest charges resulting; and
- (8) Security for participation loans shall be limited by section 219-5(a)(6). All collateral documents shall be held by the private lender. Division of interest in collateral received shall be in proportion to participation by the department and the private lender."

SECTION 16. Section 460J-26, Hawaii Revised Statutes, is amended to read as follows:

"§460J-26 Exemptions. This chapter shall not apply to:

- (1) Officials of the federal government on military reservations;
- (2) Personnel of the United States Department of Agriculture, ~~[the]~~ state department of agriculture~~[-or]~~ and biosecurity, state department of land and natural resources, or ~~[the]~~ United States Public Health Service in the performance of their official duties;
- (3) Other government employees who conduct research on pesticides or pest control or who use pesticides in the performance of their duties;
- (4) Qualified scientific personnel specially exempted by the board;
- (5) Persons engaged in pest control for agricultural purposes; or
- (6) Engineers or architects licensed under chapter 464 who:
 - (A) Draft or prepare design documents that prescribe anti-termite or anti-pest measures, including the specification of termiticides, that are required by the building code and other governmental agencies;
 - (B) Conduct building condition or assessment surveys to observe and evaluate the condition of the building or structure, if the primary purpose of these surveys is not to report on the identification of infestations; or

- (C) Prepare reports based on the results of the surveys specified in subparagraph (B) that identify the location, extent, and probable cause of the pest damage (e.g., “termite damage”); provided that where a report concerns termite damage, the particular type or species of termite shall not be specified unless the report is written in consultation with a licensed pest control operator licensed in termite control or other duly recognized expert in urban entomology, such as an insect taxonomist or urban entomologist with expertise in the identification or control of termites; and provided further that if a licensed pest control operator is not consulted, the report shall include a recommendation that a licensed pest control operator be contracted for further assessment or treatment.”

SECTION 17. Sections 6E-61, 23-12, 26-4, 26-16(d), 46-67, 141-1, 141-3, 141-3.6, 141-4, 141-5, 141-6, 141-7, 141-9, 141-12, 141-12.5, 141-13, 141-14, 141-15, 141-16, 141-17, 141-43, 141-51, 141-53, 141D-1, 141D-2, 142-1, 142-2, 142-3, 142-3.5, 142-4, 142-5, 142-6, 142-7, 142-8, 142-9, 142-12, 142-13, 142-16, 142-19, 142-20, 142-22, 142-23, 142-23.1, 142-23.5, 142-29, 142-31, 142-41, 142-43, 142-49, 142-92, 142-93, 142-98, 142-100, 142-101, 142-111, 143-2.2, 144-1, 145-1, 145-3, 145-7, 145-8, 145-9, 145-27, 145D-5, 146-22, 147-1, 147-21, 147-31, 147-32, 147-51, 147-54, 147-55, 147-56, 147-58, 147-59, 147-60, 147-73, 147-75, 147-76, 147-78, 147-80, 147-91, 147-92, 147-94, 147-95, 147-96, 147-97, 147-101, 147-102, 147-111, 147-116, 147-122, 148-1, 148-2, 148-61, 148-62, 148-63, 148-64, 148-66, 149A-2, 150-21, 150A-2, 150A-6.3, 150A-11.5, 152-1, 155-1, 155-2, 155-4, 155-5, 155-5.5, 155-5.6, 155-6, 155-6.5, 155-8, 155-9, 155-11, 155-12, 155-13, 155-14, 155-31, 155D-1, 157-1, 157-13, 159-3, 159-15, 161-3, 161-6, 163D-4, 166-2, 166-3, 166-11, 166E-1, 166E-2, 166E-3, 167-22, 167-23, 169-1, 171-2, 171-3, 171-37.5, 171-55.5, 171-59, 171-64.7, 171-112, 171-117, 173A-4, 173A-5, 174C-31, 187A-6.5, 194-2, 205-6, 205-44.5, 205-45, 205-45.5, 205-48, 205-49, 205-50, 205A-62, 206E-34, 219-2, 219-4, 219-7, 219-9, 235-110.93, 261-4.5, 266-21.5, 269-26.5, 342G-47, 421-6, 421-21.6, 460J-21, 460J-24.5, and 486-1, Hawaii Revised Statutes, and the title of chapter 141, Hawaii Revised Statutes, are amended by substituting the term “department of agriculture and biosecurity”, or similar term, wherever the term “department of agriculture”, or similar term, appears, except within the term “United States Department of Agriculture”, as the context requires.

SECTION 18. Sections 10-41, 26-34, 84-17, 84-18, 128E-2, 141-6, 141-9, 141-12, 141-51, 141D-2, 142-3.5, 142-3.6, 142-23.1, 142-28.5, 142-29, 142-31, 144-10, 145-22, 145-27, 147-9, 147-24, 147-34, 147-58, 147-59, 147-60, 148-1, 149A-2, 149A-32.5, 150A-2, 155-3, 155-5.6, 155-6.5, 155-9, 155-13, 155-14, 155-33, 157-1, 157-14, 157-15, 157-18, 157-22, 157-23, 157-24, 157-25, 157-26, 157-27, 157-29, 157-41, 157-42, 159-3, 161-3, 163D-3, 166-2, 166-3, 166-4, 166-5, 166-6, 166-11, 166E-1, 166E-2, 166E-3, 167-1, 167-2, 167-3, 167-4, 167-5, 167-6, 167-7, 167-9, 167-11, 167-12, 167-13, 167-14, 167-15, 167-16, 167-17, 167-18, 167-19, 167-20, 167-21, 167-22, 168-1, 168-2, 168-3, 168-4, 168-5, 168-6, 168-7, 168-8, 169-3, 195-6, 205-44, 210D-5, 219-2, 219-3, 219-4, 220-1, 225P-3, 225P-4, 279A-4, 330C-3, 371-19, 460J-2, and 486-1, Hawaii Revised Statutes, are amended by substituting the term “board of agriculture and biosecurity”, or similar term, wherever the term “board of agriculture”, or similar term, appears, as the context requires.

SECTION 19. Sections 26-52 and 194-2(b), Hawaii Revised Statutes, are amended by substituting the words “agriculture and biosecurity”, or similar term, wherever the word “agriculture”, or similar term, appears, as the context requires.

PART II

SECTION 20. The purpose of this part is to establish a new deputy chairperson position within the department of agriculture and biosecurity, to be known as the deputy chairperson for biosecurity.

SECTION 21. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§141- Deputy chairperson for biosecurity; established. (a) There is established within the department a deputy chairperson for biosecurity. The deputy chairperson for biosecurity shall oversee all of the department’s biosecurity initiatives, including programs under chapters 142 and 150A and sections 141-5, 261-4.5, and 266-21.5.

(b) The deputy chairperson for biosecurity shall be a deputy to the chairperson of the board of agriculture and biosecurity and be appointed, without regard to chapter 76, by the governor. The salary of the deputy chairperson for biosecurity shall be as provided in section 26-53 for first deputies or first assistants to the head of any department.”

PART III

SECTION 22. Chapter 150A, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

“§150A- Biosecurity emergency. (a) The department, with the approval of the governor, may declare a biosecurity emergency if:

- (1) There has been in the State an outbreak or occurrence of a pest or prohibited or restricted organism that has the potential to cause significant economic or environmental loss if the pest or organism becomes established in the State;
- (2) There is established in one area of the State a pest or prohibited or restricted organism that has the potential to cause significant economic or environmental loss if the pest or organism expands to other areas within a county or becomes established in another area of the State; or
- (3) A pest or prohibited or restricted organism is, or threatens to be, beyond the State’s ability to control.

(b) A biosecurity emergency shall automatically terminate one hundred calendar days after its declaration, unless the declaration is extended by the department with the approval of the governor.

(c) For the duration of a declared biosecurity emergency:

- (1) The department shall be exempt from chapter 103D;
- (2) The Hawaii invasive species council shall work with the chairperson; and
- (3) The governor may transfer moneys to the department from any account within the governor’s control.

(d) The governor may requisition and take control of any goods, real property, or watercraft required for the purposes of this section, or requisition and take control of the temporary use thereof; provided that:

- (1) This subsection shall not apply to any vessel that:
 - (A) Has anti-fouling hull coating; and
 - (B) Does not discharge ballast water, uses freshwater for ballasting, or is equipped with ultraviolet filtration systems for ballast water;
- (2) The requisition shall be made by serving notice upon any person found in occupation of the premises or having the property in the person's custody, possession, or control, and a like notice shall also be served upon any person who has filed with the governor, or with a person the governor designates for the purpose, a request for notice with respect to the property; provided further that if any person entitled to compensation for the property is unable to be served, the governor shall publish a notice of the requisition at the earliest practicable date; and
- (3) A requisition shall terminate automatically one hundred calendar days after the declaration of a biosecurity emergency, or by a separate proclamation of the governor, whichever occurs first.
- (e) If the governor requisitions and takes control of any property or the temporary use thereof, the owner, or other person entitled thereto, shall be paid a sum, determined by the governor to be fair and just compensation for the property or use, within twenty days after the property has been requisitioned and taken, or in monthly or lesser installments if the property is taken for temporary use.

If any person is unwilling to accept the sum determined by the governor as full and complete compensation for the property or use, the person shall be paid seventy-five per cent of that sum and may sue the State for an additional sum that, when added to the sum already received by the person, the person may consider fair and just compensation for the property or use, in the manner provided by chapter 661 for actions against the State; provided that:

- (1) Any suit under this section shall be instituted within two years after the requisition in the case of the taking of real property in fee simple, or within one year after the requisition in all other cases, subject to sections 657-13 to 657-15, which are hereby made applicable to the suit;
- (2) No more than six months shall be allowed for the bringing of a suit after the appointment of a conservator of a person under disability, or the removal of the disability, or after the appointment of personal representatives; and
- (3) Recovery shall be confined to the fair market value of the property or its fair rental value, as the case may be, without any allowance for prospective profits, or punitive or other damages.

If the owner of property, or other person entitled to compensation for the requisitioning of property or use thereof, is under a disability, or has died, and no conservator or personal representative has been appointed, the State, acting through the attorney general, may apply for the appointment of a conservator or for the appointment of a personal representative.

(f) The governor shall appoint a board of three disinterested certified appraisers with whom may be filed any claim for damages arising out of any failure to return private property, the temporary use of which was requisitioned, or which was leased, or any claim for damages arising out of the condition in which the private property is returned. No claim may be filed for deterioration of

property resulting from ordinary wear and tear and not for any deterioration or damage, except any that is shown to have resulted from the taking or use of the property; provided that any claim shall be filed within thirty days after the return of the property or after the governor proclaims that all private property has been returned to the owners, whichever is earlier. The decision of the appraisers shall be final and binding upon the governor and the claimant. Either party may file a petition in the circuit court within sixty days after the rendering of a decision of the board of appraisers, praying for the decision of the court upon the claim. The petition, if filed by the State, shall be entitled in the name of the State by the attorney general and shall be heard and decided by the circuit court without the intervention of a jury. If filed by any other party, the petition shall be filed, heard, and decided in the manner provided for suits against the State. Appellate review may be had, subject to chapter 602, in the manner provided for civil appeals from the circuit courts. The court may order the joinder of other parties or may allow other parties to intervene. Any award that has become final shall be paid out of any funds available under this chapter and, if not sufficient, out of the general revenues of the State as appropriated."

SECTION 23. Section 150A-52, Hawaii Revised Statutes, is amended to read as follows:

"§150A-52 Objectives of biosecurity program. The objectives of the biosecurity program shall be to:

- (1) Establish a multi-dimensional system to survey for and prevent the entry into the State and interisland movement of pests and prohibited or restricted organisms without a permit;
- (2) Respond effectively to eradicate, control, reduce, and suppress incipient pest populations and established pests and seize and dispose of prohibited or restricted organisms without a permit; and
- (3) Coordinate with partner agencies and organizations to direct the control and eradication of [~~invasive species~~] pests."

SECTION 24. Section 150A-53, Hawaii Revised Statutes, is amended to read as follows:

"§150A-53 General actions to achieve objectives. (a) To achieve the objectives of the biosecurity program, the department shall plan for and, within available legislative appropriations or through funding from other sources, implement the following:

- (1) Work with government agencies and agricultural commodity exporters of other states and countries to establish pre-entry inspection programs under which inbound cargo into the State is inspected at the ports of departure or other points outside the State;
- (2) Establish, operate, or participate in operating port-of-entry facilities where multiple government agencies may inspect, quarantine, fumigate, disinfect, destroy, or exclude as appropriate, articles that may harbor pests or prohibited or restricted organisms or exclude articles that are prohibited or restricted without a permit, with the goals of:
 - (A) Performing inspections in an efficient, effective, and expeditious manner for the government agencies involved and for cargo owners, carriers, and importers; and
 - (B) Providing for the proper and safe storage and handling of cargo, especially agricultural and food commodities, awaiting inspection;

- (3) Develop, implement, and coordinate post-entry measures to eradicate, control, reduce, and suppress pests and, as appropriate, eradicate or seize and dispose of prohibited or restricted organisms without a permit that have entered the State;
- (4) Collaborate with relevant government agencies, agricultural commodity importers, and other persons to examine and develop joint integrated systems to better implement the biosecurity program;
- (5) Improve cargo inspection capabilities and methods, including enhancement of the content and submission requirements for cargo manifests and agricultural commodity ownership and movement certificates;
- (6) Promote the production of agricultural commodities in the State to reduce cargo shipments of imported commodities into the State; and
- (7) Provide public education on ~~the~~:
 - (A) The negative effects of pests and prohibited or restricted organisms without a permit, to the environment and economy of the State[-];
 - (B) Reporting pests and prohibited or restricted organisms without a permit that are discovered or suspected to be present in imported products; and
 - (C) Protecting imported products to prevent pest infestation.

(b) For purposes of the biosecurity program, the department may:

- (1) Subpoena any necessary documentation from importers relating to a discovered or suspected infestation of a pest or prohibited or restricted organism; and
- (2) Declare a biosecurity emergency pursuant to section 150A-

~~(b)~~ (c) The department shall establish parameters and construction requirements for biosecurity facilities that provide for and ensure the safety of agricultural and food commodities consumed by Hawaii residents, including cold storage facilities established by private-public partnerships to preserve the quality and ensure the safety of the commodities arriving at the State's airports and harbors."

PART IV

SECTION 25. The legislature finds that New Zealand's use of transitional facilities has increased the country's biosecurity while improving the efficiency of importing goods. In New Zealand, most imported goods subject to inspection are transported away from the airport or seaport to one of six thousand five hundred privately-run secure transitional facilities. At the transitional facility, a private individual licensed by the government inspects the goods for disease, infection, infestation, and other matters of concern.

The legislature further finds that New Zealand's process allows for a more efficient flow of goods entering the country by reducing delays or stoppages at the ports of entry while also ensuring that all relevant goods are properly inspected before delivery to their destination.

The purpose of this part is to enhance Hawaii's biosecurity measures by authorizing the establishment of similar transitional facilities in the State along with licenses for private individuals to inspect the imported goods.

SECTION 26. Chapter 150A, Hawaii Revised Statutes, is amended by adding five new sections to part II to be appropriately designated and to read as follows:

“§150A-A Transitional facilities; uses. (a) Upon notification by the department, items at a pier, airport, or other place where the items are first received may be transported to a transitional facility suitable for the items.

(b) Items transported pursuant to subsection (a) shall be transported in a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present.

(c) All costs and expenses incident to the use of a transitional facility shall be borne by the importer or the importer’s agent. For the purposes of this subsection, “import” (and any nounal, verbal, adjectival, adverbial, and other equivalent for the term used interchangeably in this subsection) means to bring or attempt to bring goods or products into the State, and includes items labeled or designated as samples, even if not intended for retail sale, subject to this chapter.

(d) No items shall be transported out of a transitional facility unless:

- (1) Authorized by the department; or
- (2) Certified by a biosecurity compliance auditor that the items are free of diseases, infections, infestations, and other items that the department deems relevant.

§150A-B Transitional facilities; established. The department shall establish standards for transitional facilities, including standards for the construction, maintenance, and operation of transitional facilities. The department may establish standards for transitional facilities pursuant to the types of items stored by those facilities, and corresponding classes of licensure.

§150A-C Transitional facility license. (a) No person shall operate a transitional facility without a transitional facility license and under the terms of a signed compliance agreement.

(b) A person may apply to the department for a transitional facility license. The application shall be made under oath on forms provided by the department and shall contain information as prescribed by the department, including the following:

- (1) The name, business address, telephone number, social security number, and, where applicable, the federal tax identification number of the applicant;
- (2) The proposed location of the transitional facility; and
- (3) The type of items the transitional facility will hold.

(c) The department shall establish standards for transitional facilities, including:

- (1) Standards for construction, maintenance, security, and operation; and
- (2) Quarterly inspections; provided that the department may perform periodic random inspections to ensure compliance.

(d) The department may suspend or revoke a transitional facility license if the transitional facility does not satisfy the standards established by the department under subsection (c) or the department determines that the transitional facility is not in compliance under the terms of the compliance agreement.

§150A-D Biosecurity compliance auditor; certification. (a) The department shall certify biosecurity compliance auditors and offer training to individuals seeking a biosecurity compliance auditor certification.

(b) The training shall include:

- (1) The identification of diseases, infections, infestations, and other subjects that the department deems relevant; and
- (2) Procedures following the identification of a disease, infection, infestation, or other subject that the department deems relevant.
- (c) Upon completion of the training and satisfaction of other requirements under the compliance agreement, the department shall issue a biosecurity compliance auditor certification to the individual. The certification shall be valid for one year, shall identify the specific transitional facility where the biosecurity compliance auditor is authorized to conduct compliance audits, and may be renewed under requirements established by the department.
- (d) The department may require each biosecurity compliance auditor to complete additional training as needed, including any emergency training in the interests of biosecurity.
- (e) The department may revoke or suspend any biosecurity compliance auditor certification for good cause.
- (f) A biosecurity compliance auditor may be employed by the owner of a transitional facility.
- (g) The department may charge reasonable fees for the training, certification, and certification renewal under this section.

§150A-E Biosecurity compliance auditor; powers. (a) Subject to the terms of the compliance agreement, a certified biosecurity compliance auditor may certify items located in a transitional facility as free of diseases, infections, infestations, and other items that the department deems relevant.

(b) Unless authorized by the department, a certified biosecurity compliance auditor shall not certify any items located outside a transitional facility where the certified biosecurity compliance auditor is authorized to conduct inspections to ensure compliance.”

SECTION 27. Section 150A-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Biosecurity compliance auditor” means an individual with a valid biosecurity compliance auditor certification issued under section 150A-D.

““Transitional facility” means a facility with a valid transitional facility license issued under section 150A-C.”

SECTION 28. Section 150A-5, Hawaii Revised Statutes, is amended to read as follows:

“§150A-5 Conditions of importation. The importation into the State of any of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower, cut-foliage, cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil; microorganisms; live bird, reptile, nematode, insect, or any other animal in any stage of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in chapter 142); box, vehicle, baggage, or any other container in which the articles have been transported or any packing material used in connection therewith shall be made in the manner hereinafter set forth:

- (1) Notification of arrival. Any person who receives for transport or brings or causes to be brought to the State as freight, air freight, baggage, or otherwise, for the purpose of debarkation or entry therein, or as ship’s stores, any of the foregoing articles, shall,

immediately upon the arrival thereof, notify the department~~[-in writing]~~ of the arrival, giving the waybill number, container number, name and address of the consignor, name and address of the consignee or the consignee's agent in the State, marks, number of packages, description of contents of each package, port at which laden, and any other information that may be necessary to locate or identify the same, and shall hold the articles at the pier, airport, ~~[or]~~ any other place where they are first received or discharged, or a transitional facility, in a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present until inspection and examination can be made by the inspector or a certified biosecurity compliance auditor to determine whether ~~[or not]~~ any article, or any portion thereof, is infested or infected with or contains any pest. The department may adopt rules to require identification of specific articles on negotiable and non-negotiable warehouse receipts, bills of lading, or other documents of title for inspection of pests. In addition, the department shall adopt rules to designate restricted articles that shall require:

- (A) A permit from the department in advance of importation; or
- (B) A department letter of authorization or registration in advance of importation.

The restricted articles shall include but not be limited to certain microorganisms or living insects. Failure to obtain the permit, letter of authorization, or registration in advance is a violation of this section;

(2) Individual passengers, officers, and crew.

- (A) It shall be the responsibility of the transportation company to distribute, prior to the debarkation of passengers and baggage, the State of Hawaii ~~[plant and animal]~~ biosecurity declaration ~~[form in paper or electronic form]~~ to each passenger, officer, and crew member of any aircraft or vessel originating in the continental United States or its possessions or from any other area not under the jurisdiction of the appropriate federal agency in order that the passenger, officer, or crew member can comply with the directions and requirements appearing thereon. All passengers, officers, and crew members, whether or not they are bringing or causing to be brought for entry into the State ~~[the]~~ any articles listed ~~[on the form]~~, shall complete the declaration, except that one adult member of a family may complete the declaration for other family members. Any person who ~~[defaces the declaration form required under this section]~~ gives false information, fails to declare restricted articles in the person's possession or baggage, or fails to declare in cargo manifests is in violation of this section;
- (B) ~~[Completed paper forms shall be collected by the transportation company and be delivered, immediately upon arrival, to the inspector at the first airport or seaport of arrival. Completed electronic forms shall be transmitted to the inspector before passengers depart the first airport or seaport of arrival. Failure to distribute or collect paper declaration forms, immediately deliver completed paper forms, or transmit completed electronic forms before passengers depart the first airport or seaport of arrival is a violation of this section; and]~~ All passen-

gers, officers, and crew members who are bringing or causing to be brought for entry into the State domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter, shall immediately upon arrival or prior to arrival notify the department of the arrival of any restricted article. The department may adopt rules necessary to effectuate this subparagraph; and

- (C) It shall be the responsibility of the officers and crew of an aircraft or vessel originating in the continental United States or its possessions or from any other area not under the jurisdiction of the appropriate federal agency to immediately report all sightings of any plants and animals to the plant quarantine branch. Failure to comply with this requirement is a violation of this section;
- [(3)] ~~Plant and animal declaration form. The form shall include directions for declaring domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter;~~
- (4)] (3) Labels. Each container in which any of the above-mentioned articles are imported into the State shall be plainly and legibly marked, in a conspicuous manner and place, with the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or the person's agent, the name of the country, state, or territory and locality therein where the product was grown or produced, and a statement of the contents of the container. Upon failure to comply with this paragraph, the importer or carrier is in violation of this section;
- [(5)] (4) Authority to inspect. Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector may:
 - (A) Enter and inspect any aircraft, vessel, or other carrier at any time after its arrival within the boundaries of the State, whether offshore, at the pier, or at the airport, for the purpose of determining whether any of the articles or pests enumerated in this chapter or rules adopted thereto, is present;
 - (B) Enter into or upon any pier, warehouse, airport, or any other place in the State where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether ~~or not~~ any of the articles is infested or infected with any pest or disease or contaminated with soil or contains prohibited plants or animals; and
 - (C) Inspect any baggage or personal effects of disembarking passengers, officers, and crew members on aircraft or vessels arriving in the State to ascertain if they contain any of the articles or pests enumerated in this chapter. No baggage or other personal effects of the passengers or crew members shall be released until the baggage or effects have been passed.

Baggage or cargo inspection shall be made at the discretion of the inspector, on the pier, vessel, or aircraft or in any quarantine or inspection area.

Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector may require that any box, package, suitcase, or any other container carried as ship's stores, cargo, or otherwise by any vessel or aircraft moving

between the continental United States and Hawaii or between the ~~[Hawaiian Islands,]~~ islands of the State, be opened for inspection to determine whether any article or pest prohibited by this chapter or by rules adopted pursuant thereto is present. It is a violation of this section if any prohibited article or any pest or any plant, fruit, or vegetable infested with plant pests is found;

[(6)] (5) Request for importation and inspection. In addition to requirements of the United States customs authorities concerning invoices or other formalities incident to importations into the State, the importer shall be required to file a written statement with the department, signed by the importer or the importer's agent, setting forth the importer's desire to import certain of the above-mentioned articles into the State and:

(A) Giving the following additional information:

- (i) The kind (scientific name), quantity, and description;
- (ii) The locality where same were grown or produced;
- (iii) Certification that all animals to be imported are the progeny of captive populations or have been held in captivity for a period of one year immediately before importation or have been specifically approved for importation by the board;
- (iv) The port from which the same were last shipped;
- (v) The name of the shipper; and
- (vi) The name of the consignee; and

(B) Containing:

- (i) A request that the department, by its duly authorized agent, examine the articles described;
- (ii) An agreement by the importer to be responsible for all costs, charges, or expenses; and
- (iii) A waiver of all claims for damages incident to the inspection or the fumigation, disinfection, quarantine, or destruction of the articles, or any of them, as hereinafter provided, if any treatment is deemed necessary.

Failure or refusal to file a statement, including the agreement and waiver, is a violation of this section and may, in the discretion of the department, be sufficient cause for refusing to permit the entry of the articles into the State;

[(7)] (6) Place of inspection. If, in the judgment of the ~~[inspector,]~~ department, it is deemed necessary or advisable to move any of the above-mentioned articles, or any portion thereof, to a transitional facility or another place more suitable for inspection than the pier, airport, or any other place where they are first received or discharged, the ~~[inspector]~~ department is authorized to do so~~[-]~~ or order the importer or importer's agent to do so. All costs and expenses incident to the movement and transportation of the articles to any other place shall be borne by the importer or the importer's agent. If the importer, importer's agent, or transportation company requests inspection of sealed containers of the above-mentioned articles at locations other than where the articles are first received or discharged or a transitional facility and the department determines that inspection at the other place is appropriate, the department may require payment of costs necessitated by these inspections, including overtime costs;

- [~~(8)~~] (7) Disinfection or quarantine. If, upon inspection, any article received or brought into the State for the purpose of debarkation or entry therein is found to be infested or infected or there is reasonable cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given ~~[such]~~ to the article. The treatment shall be at the expense of the owner or the owner's agent, and the treatment shall be as prescribed by the department. The article shall be held in quarantine at the expense of the owner or the owner's agent at a satisfactory place approved by the department for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of the nature or extent that it cannot be effectively and completely eradicated, or if it is a potentially destructive pest or it is not widespread in the State, or after treatment it is determined that the infestation or infection is not completely eradicated, or if the owner or the owner's agent refuses to allow the article to be treated or to be responsible for the cost of treatment and quarantine, the article, or any portion thereof, together with all packing and containers, may, at the discretion of the inspector, be destroyed or sent out of the State at the expense of the owner or the owner's agent. The destruction or exclusion shall not be made the basis of a claim against the department or the inspector for damage or loss incurred;
- [~~(9)~~] (8) Disposition. Upon completion of inspection, either at the time of arrival or at any time thereafter should any article be held for inspection, treatment, or quarantine, the inspector shall affix to the article or the container or to the delivery order in a conspicuous place thereon, a tag, label, or stamp to indicate that the article has been inspected and passed. This action shall constitute a permit to bring the article into the State; and
- [~~(10)~~] (9) Ports of entry. None of the articles mentioned in this section shall be allowed entry into the State except through the airports and seaports in the State designated and approved by the board."

SECTION 29. Section 150A-5.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In legal effect, articles landed for the purpose of inspection or quarantine shall be construed to be still outside the State seeking entry, and shall not, in whole or in part, be considered suitable for entry into the State unless a tag, label, or stamp has been affixed to the article, its container, or its delivery order by the inspector as provided in section ~~[150A-5(9)]~~ 150A-5(8), except that articles quarantined in the biocontrol containment facilities of the department or of other government agencies engaged in joint projects with the department may be released upon issuance of a permit approved by the board."

SECTION 30. Section 150A-8, Hawaii Revised Statutes, is amended to read as follows:

"§150A-8 Transporting in State. (a) Flora and fauna specified by rules and regulations of the department shall not be moved from one island to another island within the State or from one locality to another on the same island except by a permit issued by the department.

(b) The movement between the islands of the State of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower, cut-foliage, cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain,

cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil; microorganisms; live bird, reptile, nematode, insect, or any other animal in any stage of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in chapter 142); box, vehicle, baggage, or any other container in which the articles have been transported or any packing material used in connection therewith shall be made in the manner hereinafter set forth:

- (1) Inspectional requirements. Any person who receives for transport, or brings or causes movement between the islands of the State, as freight, air freight, baggage, as ship's stores, or otherwise, any of the foregoing articles, shall ensure that the articles comply with inspectional requirements pursuant to rules and shall provide upon the inspector's request the waybill number, container number, name and address of the consignor, name and address of the consignee or the consignee's agent, marks, number of packages, description of contents of each package, and any other information that may be necessary to inspect, locate, or identify the same. If the articles are not inspected pursuant to rules, the articles shall be held in a manner that they will not spread or be likely to spread any infestation or infection of insects, diseases, or pests that may be present until an inspection can be made by the inspector to determine whether any article, or any portion thereof, is infested or infected with insects or diseases, or contains any pest. The department may adopt rules to define inspectional requirements of specific articles. Failure to obtain certification that the articles have met the inspectional requirements prior to movement between the islands of the State is a violation of this section;
- (2) Labels. Each container in which any of the above-mentioned articles are transported between the islands of the State shall be plainly and legibly marked, in a conspicuous manner and place, with the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or the person's agent, and a statement of the contents of the container. Failure to comply with this paragraph is a violation of this section;
- (3) Authority to inspect. Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector shall:
 - (A) Enter and inspect any aircraft, vessel, or other carrier at any time whether offshore, at the pier, or at the airport, for the purpose of determining whether any of the articles or pests enumerated in this chapter or rules adopted thereto, is present;
 - (B) Enter into or upon any pier, warehouse, airport, or any other place in the State where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether or not any of the articles is infested or infected with any pest or disease or contaminated with soil or contains prohibited plants or animals;
 - (C) Inspect any baggage or personal effects of passengers, officers, and crew members on aircraft or vessels moving between the islands of the State to ascertain if they contain any of the articles or pests enumerated in this chapter;

- (D) Baggage or cargo inspection shall be made at the discretion of the inspector, on the pier, vessel, or aircraft or in any quarantine or inspection area; and
- (E) Whenever the inspector has good cause to believe that the provisions of this chapter are being violated, the inspector shall require that any box, package, suitcase, or any other container carried as ship's stores, cargo, or otherwise by any vessel or aircraft moving between the islands of the State, be opened for inspection to determine whether any article or pest prohibited by this chapter or by rules adopted pursuant thereto is present. It is a violation of this section if any prohibited article, pest, or any article infested with an insect or disease is found;
- (4) Place of inspection. The inspector shall make a determination whether it is necessary or advisable to move any of the above-mentioned articles, or any portion thereof, to a place more suitable for inspection than the pier, airport, or any other place where they are initially presented for inspection. All costs and expenses incident to the movement and transportation of the articles to such place shall be borne by the consignee or the consignee's agent;
- (5) Disinfection or quarantine. If, upon inspection, any article intended for movement between the islands of the State is found to be infested or infected with an insect, disease, or pest, or there is reasonable cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given such article prior to movement between the islands of the State. The treatment shall be at the expense of the owner or the owner's agent, and the treatment shall be as prescribed by the department. The article shall be quarantined at the expense of the owner or the owner's agent at a satisfactory place approved by the department for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of such nature or extent that it cannot be effectively and completely eradicated, or after treatment it is determined that the infestation or infection is not completely eradicated, or if the owner or the owner's agent refuses to allow the article to be treated or to be responsible for the cost of treatment and quarantine, the shipment, article, or any portion thereof, together with all packing and containers, shall not be certified for movement between the islands of the State. An article infested or infected with an insect, disease, or pest that is not widespread in the State shall be destroyed at the expense of the owner or the owner's agent; provided that no treatment exists that would eradicate the insect, disease, or pest to the satisfaction of the department. Such destruction shall not be made the basis of a claim against the department or the inspector for damage or loss incurred; and
- (6) Disposition. Upon completion of inspection, the inspector shall conspicuously affix to the article, container, or to the delivery order or other similar document, a tag, label, or stamp to indicate that the article has been inspected and can be moved between the islands of the State."

SECTION 31. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsections (b) through (g) to read as follows:

“(b) Any person who violates section 150A-5 or 150A-F shall be [~~guilty of a petty misdemeanor and~~] fined [~~not~~] no less than [~~\$50~~] \$100 and [~~not~~] no more than [~~\$5,000~~] \$10,000. For a second [~~offense~~] violation committed within five years of a prior [~~offense~~] violation, the person may be fined [~~not~~] no less than [~~\$250~~] \$500 and [~~not~~] no more than [~~\$15,000~~] \$25,000.

(c) Any person who:

- (1) Violates section 150A-6(3) or [~~150A-6(4)~~] (4), or owns or intentionally transports, possesses, harbors, transfers, or causes the importation of any snake or other prohibited animal seized under section 150A-7(b), or whose violation involves an animal that is prohibited [~~or~~], a plant[~~;~~] that is restricted, or an animal[~~;~~] or microorganism that is restricted[~~;~~] or unlisted, without a permit, shall be guilty of a misdemeanor and subject to a fine of [~~not~~] no less than \$5,000, but [~~not~~] no more than \$20,000;
- (2) Intentionally transports, transfers, possesses, harbors, or imports with the intent to propagate, sell, or release any animal that is prohibited [~~or any plant, animal~~], a plant that is restricted, or an animal or microorganism that is restricted[~~;~~] or unlisted, without a permit, shall be guilty of a class C felony and subject to a fine of [~~not~~] no less than \$50,000, but [~~not~~] no more than \$200,000; or
- (3) Intentionally imports, possesses, harbors, transfers, or transports, including through interisland or intransland movement, with the intent to propagate, sell, or release, any pest designated by statute or rule, unless otherwise allowed by law, shall be guilty of a class C felony and subject to a fine of [~~not~~] no less than \$50,000, but [~~not~~] no more than \$200,000.

(d) Whenever a court sentences a person or organization pursuant to subsection (a) or (c) for an offense [~~which~~] that has resulted in the escape or establishment of any pest or animal or microorganism that is restricted or unlisted and caused the department to initiate a program to capture, control, or eradicate that pest[~~;~~] or animal or microorganism that is restricted or unlisted, the court shall also require that the person or organization pay to the state general fund an amount of money to be determined in the discretion of the court upon advice of the department, based upon the cost of the development and implementation of the program.

(e) The department may, at its discretion, refuse entry, confiscate, or destroy any prohibited [~~articles or~~], restricted, or unlisted articles that are brought into the State without a permit issued by the department, or order the return of any plant, fruit, vegetable, or any other article infested with insects, diseases, or pests to its place of origin or otherwise dispose of it or such part thereof as may be necessary to comply with this chapter. Any expense or loss in connection therewith shall be borne by the owner or the owner's agent.

(f) Any person or organization that voluntarily surrenders any pest, prohibited animal, or any restricted plant, animal, or microorganism without a permit issued by the department, prior to the initiation of any seizure action by the department, shall be exempt from the penalties of this section.

(g) For purposes of this section, “intent to propagate” shall be presumed when the person in question is found to possess, transfer, transport, harbor, or import:

- (1) Any two or more animal specimens of the opposite sex that are prohibited, unlisted, or restricted, without a permit, or are a pest designated by statute or rule;
- (2) Any three or more animal specimens of either sex that are prohibited, unlisted, or restricted, without a permit, or are a pest designated by statute or rule;
- (3) Any plant that is restricted or microorganism that is restricted or unlisted, having the inherent capability to reproduce [~~and that is restricted~~], without a permit; or
- (4) Any specimen that is in the process of reproduction.”

SECTION 32. Section 150A-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall set and impose charges for the inspection, quarantine, and eradication of pests in accordance with this chapter and chapter 141[-], including imposing charges on an importer for using a transitional facility. The department shall deposit the charges into the pest inspection, quarantine, and eradication fund established pursuant to section 150A-4.5.”

PART V

SECTION 33. The purpose of this part is to:

- (1) Authorize the department of agriculture and biosecurity to enter into agreements with private industries for readiness and response to prevent and address unwanted organisms; and
- (2) Establish a pest dashboard.

SECTION 34. Chapter 150A, Hawaii Revised Statutes, is amended by adding two new sections to part VI to be appropriately designated and to read as follows:

“§150A-F Government-industry agreements for readiness and response.

(a) The department may enter into readiness and response agreements with businesses and representatives of businesses in the plant and animal industries of the State, including businesses that grow, harvest, or produce animals and plants or products from animals and plants.

(b) The agreements shall include:

- (1) Readiness activities that:
 - (A) Prevent unwanted organisms from entering the State; and
 - (B) Detect unwanted organisms; and
- (2) Response activities that:
 - (A) Facilitate the immediate investigation of an unwanted organism after detection, including timely reporting of the unwanted organism’s detection to the department;
 - (B) Minimize the impact of the unwanted organism on natural and physical resources, human health, and overseas market access for Hawaii products;
 - (C) Control the spread of an unwanted organism;
 - (D) Reduce the geographical distribution of an unwanted organism;
 - (E) Eradicate the unwanted organism; and
 - (F) Include providing the department with relevant information for posting to the pest dashboard pursuant to section 141-3.5.

(c) A violation of an applicable readiness plan shall be subject to penalties under section 150A-14.

§150A-G Biosecurity and pest management plans. (a) Any person, including any unit of state or local government, may submit to the board a proposed biosecurity or pest management plan. The proposed biosecurity or pest management plan shall include:

- (1) The name of the person or organization submitting the proposed biosecurity or pest management plan;
 - (2) The organism proposed to be classified as a pest; provided that a proposed biosecurity or pest management plan may encompass a category of organisms proposed to be classified as pests;
 - (3) A description of the organism's adverse effects;
 - (4) A description of the region of the proposed plan or whether the proposed plan will be implemented statewide;
 - (5) The reason for the proposed plan;
 - (6) Objectives of the proposed plan;
 - (7) The principal measures to achieve the objectives and alternative measures, if any;
 - (8) An allocation of the costs, if applicable;
 - (9) Proposed funding; and
 - (10) Other information as required by the department.
- (b) The board shall review the proposed plan, taking into consideration:
- (1) Whether the implementation of the proposed plan is likely to eradicate or effectively manage the organism proposed to be declared a pest;
 - (2) Whether the proposed plan is inconsistent with any federal or state requirement, activity, or policy;
 - (3) Any harmful effects of denying the proposed biosecurity or pest management plan;
 - (4) Whether the benefits of the proposed plan would outweigh the costs; and
 - (5) Other considerations established by the department.
- (c) At a public hearing, the board shall approve the proposed plan, deny the proposed plan, or approve the proposed plan with modifications.
- (d) The department may negotiate with the person who submitted the proposed plan or any other person before taking action.
- (e) The board shall publish each proposed plan it approves and each proposed plan it approves with modifications. These shall be known as "approved plans".
- (f) The department may enter into contracts to implement approved plans.
- (g) A pest management plan that was previously disapproved may be resubmitted to the board upon the chairperson's determination that the proposed management plan is significantly different from the previously disapproved request."

SECTION 35. Section 141-3.5, Hawaii Revised Statutes, is amended to read as follows:

"§141-3.5 Control or eradication programs. (a) The department of agriculture and biosecurity 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) The department of agriculture and biosecurity shall:

- (1) Lead and coordinate the State's invasive pest control and eradication biosecurity efforts;
 - (2) Engage in memorandums of understanding with interagency partners and private organizations;
 - (3) Approve of memorandums of understanding with submitted working plans to execute control and eradication programs; and
 - (4) Include in its annual report to the legislature pursuant to section 150A-57 any memorandums of understanding and partnerships pursuant to paragraphs (2) and (3) to advance the State's invasive pest control and eradication biosecurity efforts.
- (c) For any pest designated by emergency rule as provided in section 141-3, the department of agriculture and biosecurity shall implement an emergency program using the best available technology in a manner consistent with state and federal law.
- (d) The department of agriculture[;] and biosecurity:
- (1) In conjunction with the department of land and natural resources; department of health; department of transportation; department of business, economic development, and tourism; university of Hawaii system; or state and privately organized agencies and programs, as applicable, shall identify best practices for the treatment of pests designated in section 141-3;
 - (2) Shall post on its website [any] infestation updates and data, including [any] real-time geographic information system map data, and best practices identified for the treatment of pests designated in section 141-3, as prioritized by the department[;]. No later than December 1, 2025, the department shall establish a pest dashboard to provide real-time data and information for treatment areas of pests designated in section 141-3 to the public. The dashboard shall be updated regularly and be hosted and managed by the department;
 - (3) Shall, along with contracted parties, document past responses in the department's geographic information system database; provided that the information shall include date, location, names of individual participants, organization, activities performed, and presence and absence of pests; provided further that the disclosure of information shall be under the jurisdiction of the department; and
 - (4) Shall, along with contracted parties, provide notice to the department's pesticides branch prior to usage of pesticides in the course of controlling pests. Upon receipt of notification, pesticide inspectors may perform random inspections to ensure compliance with pesticide laws and regulations. The department of agriculture and biosecurity, department of land and natural resources, and contracted parties pursuant to section 150A-F shall regularly and timely post treatment area information to the pest dashboard.
- (e) Any state department, agency, political subdivision, or contracted party pursuant to section 150A-F that does not provide information for the pest dashboard in compliance with this section shall not receive or expend public funds. The deputy chairperson for biosecurity shall be responsible for ensuring compliance with this section."

PART VI

SECTION 36. The legislature finds that treating plant care components, which includes any quantity of wood chips, compost, or filter socks, reduces po-

tential pests and increases the State's overall biosecurity. Act 197, Session Laws of Hawaii 2024 (Act 197), requires the department of agriculture to certify plant care component treatments performed within the State. The purpose of this part is to expressly provide the department of agriculture and biosecurity with the rulemaking authority to adopt administrative rules and to assess administrative penalties to fully effectuate Act 197.

SECTION 37. Section 141-2, Hawaii Revised Statutes, is amended to read as follows:

“§141-2 Rules. Subject to chapter 91, the department of agriculture and biosecurity shall adopt, amend, and repeal rules not inconsistent with law, for and concerning:

- (1) The introduction, transportation, and propagation of trees, shrubs, herbs, and other plants;
- (2) The quarantine, inspection, fumigation, disinfection, destruction, or exclusion, either upon introduction into the State, or at any time or place within the State, of any nursery-stock, tree, shrub, herb, vine, cut-flower, cut-foliage, cutting, graft, scion, bud, seed, leaf, root, or rhizome; any nut, fruit, or vegetable; any grain, cereal, or legume in the natural or raw state; any moss, hay, straw, dry-grass, or other forage; any unmanufactured log, limb, or timber; or any other plant growth or plant product unprocessed or in the raw state; any sand, soil, or earth; any live bird, reptile, insect, or other animal, in any stage of development, that is in addition to the so-called domestic animals, which are provided for in section 142-2; and any box, barrel, crate, or other containers in which the articles, substances, or objects have been transported or contained, and any packing material used in connection therewith, that is or may be diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental, or likely to become injurious, harmful, or detrimental to the agricultural or horticultural industries or the forests of the State, or that is or may be in itself injurious, harmful, or detrimental to the same; provided that included therein may be rules governing the transportation of any of the articles, substances, or objects enumerated above in this section between different localities on any one of the islands within the State;
- (3) The prohibition of importation into the State, from any or all foreign countries or from other parts of the United States, or the shipment from one island within the State to another island therein, or the transportation from one part or locality of any island to another part or locality of the same island, of any specific article, substance, or object or class of articles, substances, or objects, among those enumerated above in this section, that is diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental or likely to be injurious, harmful, or detrimental to the agricultural or horticultural industries, or the forests of the State, or that is or may be in itself injurious, harmful, or detrimental to the same;
- (4) The preparation by cargo carriers of manifests of cargo transported into the State or between islands of the State and the submission of the manifests to the department;
- (5) The establishment, maintenance, and enforcement of compliance agreements with federal or state departments of agriculture autho-

rizing agriculture inspectors from the state of origin in the case of imports to the State, or state agricultural inspectors in the case of state exports, to monitor the growing and packing of plant commodities and any treatment procedures to ensure compliance with quarantine laws, and further authorizing the assessment of fees for conducting inspections required under the compliance agreement; [and]

- (6) The manner in which agricultural product promotion and research activities may be undertaken, after coordinating with the agribusiness development corporation[-];
- (7) The establishment, fee schedule, appropriate treatments, certification requirements, restrictions, and enforcement of or for a plant care component program; and
- (8) Any other purpose within this part.

All rules adopted under this section shall have the force and effect of law.”

SECTION 38. Section 141-18, Hawaii Revised Statutes, is amended to read as follows:

“[§141-18] Plant care components; fumigation; treatment; certification; fees; restrictions. (a) The department of agriculture[-] and biosecurity:

- (1) Shall certify plant care component treatments performed within the State;
- (2) May certify and permit entities to conduct plant care component treatments before shipment; and
- (3) Shall deposit any fees collected for certifications of plant care component treatment pursuant to section 150A-21 into the pest inspection, quarantine, and eradication fund established pursuant to section 150A-4.5.

(b) No person shall distribute within the State any plant care component that originated outside the State, unless [the]:

- (1) The plant care component was subject to a treatment before entering the State; or
- (2) The plant care component has been treated immediately after [entering] arriving in the State, as certified by the department of agriculture[-] and biosecurity.

(c) No person shall transport any plant care component:

- (1) Between the islands of the State; or
- (2) From a location within the State to a location outside the State,

without prior certification from the department of agriculture and biosecurity that the component has been treated pursuant to this section; provided that the component shall be stored in a manner to prohibit infestation post-treatment.

(d) Any person who violates any provision of this section or rules adopted under this section may be assessed an administrative penalty by the board of not more than \$10,000 for each offense. No administrative penalty shall be assessed unless the person charged has been given notice and an opportunity for a hearing on the specific charge. The administrative penalty and any proposed action contained in the notice of finding of violation shall become a final order unless, within twenty days of receipt of the notice, the person or persons charged make a written request for a hearing. In determining the amount of penalty, the board shall consider the appropriateness of the penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation.

(e) In case of inability to collect the administrative penalty or failure of any person to pay all or a portion of the administrative penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover the amount by action in the appropriate court. For any judicial proceeding to recover the administrative penalty imposed, the attorney general need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the administrative penalty was imposed, and the penalty remains unpaid.

(f) When construing and enforcing this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

[(d)] (g) For the purposes of this section:

“Board” means board of agriculture and biosecurity.

“Filter sock” means a mesh tube that contains organic plant material, which is used for erosion control.

“Person” means an individual, firm, corporation, association, or partnership or any organized group of persons whether incorporated or not.

“Plant care component” or “component” means any quantity of wood chips[;] or compost[;] that is used in the propagation of plants or in a filter [socks;] sock.

“Treat” or “treatment” means fumigation or heat treatment.”

PART VII

SECTION 39. All rights, powers, functions, and duties of the Hawaii invasive species council are transferred from the department of land and natural resources to the department of agriculture and biosecurity.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 40. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of land and natural resources relating to the functions of the Hawaii invasive special council that are transferred to the department of agriculture and biosecurity shall be transferred with the functions to which they relate.

PART VIII

SECTION 41. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,250,000 or much¹ thereof as may be necessary for fiscal year 2025-2026 for the operations of the Hawaii invasive species council.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 42. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,250,000 or so much thereof as may be necessary for fiscal year 2026-2027 for the operations of the Hawaii invasive species council.

The sum appropriated shall be expended by the department of agriculture and biosecurity for the purposes of this Act.

SECTION 43. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or much¹ thereof as may be necessary for the fiscal year 2025-2026 and the same sum or so much thereof as may be necessary for fiscal year 2026-2027 for the operations of the Hawaii Ant Lab.

The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 44. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2025-2026 and the same sum or so much thereof as may be necessary for fiscal year 2026-2027 for the operations of the coconut rhinoceros beetle response under the university of Hawaii.

The sums appropriated shall be expended by the university of Hawaii for the purposes of this Act.

PART IX

SECTION 45. In codifying the new sections added by sections 26 and 34 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 46. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 47. This Act shall take effect as follows:

- (1) Part I shall take effect upon approval of this Act; provided that if part I takes effect before June 30, 2025, the amendments made to section 167-6, Hawaii Revised Statutes, by section 18 of this Act shall not be repealed when that section is repealed and reenacted on June 30, 2025, pursuant to Act 223, Session Laws of Hawaii 2014;

- (2) Part II shall take effect on January 1, 2027;
- (3) Part III and sections 25, 26, 27, and 32 shall take effect on January 1, 2028;
- (4) Sections 30 and 31 and parts V and VIII shall take effect on July 1, 2025;
- (5) Part VI shall take effect upon approval of this Act;
- (6) Part VII shall take effect on January 1, 2030; and
- (7) Sections 28 and 29 and Part IX shall take effect upon approval of this Act.

(Approved June 27, 2025.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.