



GOV. MSG. NO. 904

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2843 HD2 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2843 HD2 SD2 CD1

A BILL FOR AN ACT RELATING TO INVASIVE
SPECIES.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2843

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2843, entitled "A Bill for an Act Relating to Invasive Species."

The purposes of this bill are to: 1) expand the existing invasive species inspection, quarantine, and eradication fee to all imported freight, 2) change the basis for the fee computation from \$1 for each twenty-foot equivalent unit per container to 50 cents for every one thousand pounds of freight imported, and 3) clarify that the fee shall be paid by the person paying the freight charges to the transportation company.

The goal to enhance inspections for invasive species is laudable. However, this bill is objectionable because of its significant impact on the cost of living in Hawaii. The reconfiguration of this fee's computation from a calculation of twenty-foot equivalent unit per container to one based on weight will exponentially increase the fees for cargo coming into the State. These charges will indirectly be passed on to the consumer, who must pay more for goods in Hawaii each time a new tax, tariff, or charge is levied on products entering the State. In conjunction with the recent rise in transportation costs directly linked to the rise in fuel costs, this fee will have a serious impact on families and individuals already stretched with the burdens of rising prices for food, fuel, rent, and other necessities.

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Second, changing the method by which this fee is calculated will impact industries disproportionately. Carriers shipping food or other heavier goods will be subject to pay a much higher inspection fee, not necessarily because the cargo is a higher-risk commodity, but because it happens to weigh more than other freight packaged in the same sized container.

Third, last year my Administration vetoed the law that implemented the \$1 inspection fee that this bill now seeks to change; House Bill No. 1066 became Act 009 (Special Session, 2007). I vetoed this measure recognizing that the State of California was, and still is, considering placing a surcharge fee on all containers leaving its ports. The proposed fee would be substantial--\$30 per container, per movement into and out of Oakland, Los Angeles, and Long Beach. The majority of Hawaii's goods is shipped out of these ports and return to California. With this in mind, the increase in fees that would be set in motion by the enactment of House Bill No. 2843 not only undermines our message to persuade the California State Assembly not to impose its container tax, but would further discourage the necessary flow of goods into our state and financially impact the residents of our state who depend upon these goods.

For the foregoing reasons, I am returning House Bill No. 2843 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

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



1 Despite our ongoing efforts to detect and eradicate
2 invasive species, our fragile island ecosystems are constantly
3 at risk from insects, disease-bearing organisms, snakes, weeds,
4 and other invasive pests. The coqui frog, Salvinia molesta D.S.
5 Mitchell, Miconia calvescens DC., ohia rust, nettle caterpillar,
6 and little fire ant are all present in Hawaii, disrupting the
7 delicate balance of our ecosystems, crowding out native species,
8 and reducing the biodiversity of our islands. Other harmful
9 species like the papaya mealybug, erythrina gall wasp, Asian
10 citrus psyllid, and Varroa mite have the potential to devastate
11 our environment and agriculture if allowed to become widespread
12 in Hawaii and spread unchecked by natural predators. The
13 legislature finds that inspection of freight brought into the
14 state is necessary for the protection of the state's ecosystem.

15 The purpose of this Act is to increase the scope of the
16 existing inspection, quarantine, and eradication service fee to
17 provide funding for the department of agriculture to conduct
18 inspections of imported freight to prevent the introduction of
19 invasive species, and for the facilities necessary to conduct
20 such inspections. This fee applies only to nonpassenger
21 freight. Accordingly, this fee is not a duty of tonnage for
22 entering Hawaiian waters (United States Constitution Article I,



1 Section 10, Clause 3), nor does this fee violate the prohibition
2 on anti-head taxes on airline passengers (Title 49 United States
3 Code Section 40116).

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

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

14 "Freight" means nonpassenger goods, cargo, or lading,
15 transported for pay.

16 "Net weight" means the gross weight of the freight minus the
17 container weight, if any."

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

20 "[+]§150A-5.3[+] **Inspection, quarantine, and eradication**
21 **service fee and charge.** There is imposed a fee for the
22 inspection, quarantine, and eradication of invasive species



1 contained in any freight, including but not limited to marine
2 commercial container shipment, air freight, or any other means
3 of transporting freight, foreign or domestic, that is brought
4 into the [State] state. The fee shall be paid by the person
5 responsible for paying the freight charges to the transportation
6 company, who shall collect the fee and forward the payment to
7 the department at the port of disembarkation; provided that the
8 transportation company shall not be liable for any fee that is
9 not paid by the person responsible for paying the freight
10 charges to the transportation company. The department shall
11 deposit the fee into the pest inspection, quarantine, and
12 eradication fund under section 150A-4.5.

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

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



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

