



GOV. MSG. NO. 924

EXECUTIVE CHAMBERS
HONOLULU

July 9, 2008

LINDA LINGLE
GOVERNOR

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:

Re: Senate Bill No. 2850 SD2 HD2 CD1

On July 8, 2008, Senate Bill No. 2850, entitled "A Bill for an Act Relating to Biosecurity" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to codify the Department of Agriculture's biosecurity program and to authorize the Department to require cargo carriers to prepare and submit manifests for cargo transported into the State or between the islands. Specifically, this biosecurity program will be funded through a \$250,000 general fund appropriation and a \$6,000,000 appropriation from the Department's pest inspection, quarantine, and eradication fund.

I vetoed House Bill No. 2843 on the basis that it would increase Hawaii's already high cost of living by imposing another fee on goods coming into Hawaii. This bill raises concerns because it would have authorized the Department of Agriculture to spend a portion of these funds and also appropriates an additional \$250,000 in general funds outside of the six-year balanced budget plan.

Although the codification of the Department's biosecurity program is acceptable, it should be noted that the Department of Agriculture and the Department of Land and Natural Resources, through the Hawaii Invasive Species Council, already perform many of the activities and functions prescribed by this measure. It is important to recognize that the State budget for the Department of Agriculture's plant, pest, and disease control program has doubled from \$5.5 million to over \$11 million within the last four years.

Although I have concerns with the funding mechanisms provided, this bill recognizes the Department of Agriculture's ongoing efforts to reduce the number of invasive species that enter our state. This bill also requires carriers transporting goods into the State to provide pertinent

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information for the Department of Agriculture to detect high-risk cargo entering our islands in a timely manner.

For the foregoing reasons, I allowed Senate Bill No. 2850 to become law as Act 236, effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO BIOSECURITY.

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 one of the greatest threats 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 disease, 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 15,000 snakes per square mile. Just one new pest like the brown
16 tree snake could forever change the character of the Hawaiian
17 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*,
5 *Miconia calvescens*, ohia rust, nettle caterpillar, and little
6 fire ant are all present in Hawaii, disrupting the delicate
7 balance of our ecosystems, crowding out native species, and
8 reducing the biodiversity of our islands. Other harmful species
9 like the papaya mealybug, erythrina gall wasp, Asian citrus
10 psyllid, and varroa mite have the potential to devastate our
11 environment and agriculture if allowed to become widespread in
12 Hawaii and remain unchecked by natural predators.

13 The department of agriculture has created a biosecurity
14 program to fight invasive species on several fronts by:

- 15 (1) Administering pre-entry measures to minimize the risk
16 of invasive pests entering the State;
- 17 (2) Conducting port-of-entry inspections to detect and
18 quarantine or destroy pests upon arrival; and
- 19 (3) Administering post-entry measures to mitigate the
20 establishment of pests in the State.

21 The department has also supported the growth of Hawaii's
22 agriculture by attempting to reduce the State's dependency on



1 imported agricultural products that may contain pests. The
2 legislature finds that sufficient support for a biosecurity
3 program is vital to the public's health and welfare.

4 The purpose of this Act is to establish and fund the
5 department of agriculture's biosecurity program.

6 SECTION 2. Chapter 150A, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART . BIOSECURITY PROGRAM**

10 **§150A-A Biosecurity program; establishment.** The
11 department shall establish a biosecurity program authorized
12 under this chapter that shall interface with other relevant
13 state law; provided that the biosecurity program is not
14 inconsistent with federal law.

15 **§150A-B Objectives of biosecurity program.** The objectives
16 of the biosecurity program shall be to:

- 17 (1) Establish a multi-dimensional system to prevent the
18 entry into the State and interisland movement of pests
19 and prohibited or restricted organisms without a
20 permit; and
- 21 (2) Respond effectively to eradicate, control, reduce, and
22 suppress incipient pest populations and established



1 pests and seize and dispose of prohibited or
2 restricted organisms without a permit.

3 **§150A-C General actions to achieve objectives.** To achieve
4 the objectives of the biosecurity program, the department shall
5 plan for and, within available legislative appropriations,
6 implement the following:

- 7 (1) Work with government agencies and agricultural
8 commodity exporters of other states and countries to
9 establish pre-entry inspection programs under which
10 inbound cargo into the State is inspected at the ports
11 of departure or other points outside the State;
- 12 (2) Establish, operate, or participate in operating
13 port-of-entry facilities where multiple government
14 agencies may inspect, quarantine, fumigate, disinfect,
15 destroy, or exclude as appropriate, articles that may
16 harbor pests or exclude, articles that are prohibited
17 or restricted without a permit, with the goals of:
- 18 (A) Performing inspections in an efficient,
19 effective, and expeditious manner for the
20 government agencies involved and for cargo
21 owners, carriers, and importers; and



- 1 (B) Providing for the proper and safe storage and
2 handling of cargo, especially agricultural and
3 food commodities, awaiting inspection;
- 4 (3) Develop, implement, and coordinate post-entry measures
5 to eradicate, control, reduce, and suppress pests and,
6 as appropriate, eradicate or seize and dispose of
7 prohibited or restricted organisms without a permit
8 that have entered the State;
- 9 (4) Collaborate with relevant government agencies,
10 agricultural commodity importers, and other persons to
11 examine and develop joint integrated systems to better
12 implement the biosecurity program;
- 13 (5) Improve cargo inspection capabilities and methods,
14 including enhancement of the content and submission
15 requirements for cargo manifests and agricultural
16 commodity ownership and movement certificates;
- 17 (6) Promote the production of agricultural commodities in
18 the State to reduce cargo shipments of imported
19 commodities into the State; and
- 20 (7) Provide public education on the negative effects of
21 pests and prohibited or restricted organisms without a
22 permit, to the environment and economy of the State.



1 **§150A-D Biosecurity program; charges; costs.** (a) The
2 department shall set and impose charges for the inspection,
3 quarantine, and eradication of pests in accordance with this
4 chapter and chapter 141. The department shall deposit the
5 charges into the pest inspection, quarantine, and eradication
6 fund established pursuant to section 150A-4.5

7 (b) The department shall set the charges at amounts
8 intended to generate revenues that, when combined with federal
9 and other funds, are sufficient to pay for the operating and
10 maintenance cost of the program and debt service on bonds issued
11 to fund facilities constructed for the program.

12 **§150A-E Federal and other funds.** The department shall
13 place high priority on seeking and applying for federal and
14 other funds for the biosecurity program.

15 **§150A-F Schedule of appropriations and expenditures for**
16 **program.** (a) By January 1, 2009, the department shall prepare
17 a schedule of proposed annual appropriations for the biosecurity
18 program for the ensuing six fiscal years that represents the
19 department's realistic expectation as to the amounts necessary
20 to effectively operate the program, yet remain within the
21 constraints of projected state revenue growth.



1 (b) By January 1 of each fiscal year thereafter, the
2 department shall update the schedule to include the following
3 information, as applicable, for the immediate past fiscal year,
4 current fiscal year, and ensuing five fiscal years:

5 (1) The proposed appropriations submitted or to be
6 submitted by the department to the governor for the
7 biosecurity program;

8 (2) The proposed appropriations submitted or to be
9 submitted by the governor to the legislature in the
10 executive or supplemental budget;

11 (3) The actual appropriations by the legislature; and

12 (4) The actual expenditures.

13 (c) The department shall submit each required schedule to
14 the legislature no later than twenty days prior to the convening
15 of each regular session of the legislature.

16 (d) The department may submit with each schedule a
17 narrative commenting on the effects of any variance between the
18 actual expenditure for the biosecurity program during a fiscal
19 year and proposed appropriation submitted by the department to
20 the governor for that fiscal year.

21 **§150A-G Annual report.** The department shall submit an
22 annual report on the biosecurity program to the legislature no



1 later than twenty days prior to the convening of each regular
2 session of the legislature. The schedule required under section
3 150A-F shall be included in the pertinent annual report."

4 SECTION 3. Section 141-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§141-2 Rules.** Subject to chapter 91 the department of
7 agriculture shall adopt, amend, and repeal rules not
8 inconsistent with law, for and concerning:

- 9 (1) The introduction, transportation, and propagation of
10 trees, shrubs, herbs, and other plants;
- 11 (2) The quarantine, inspection, fumigation, disinfection,
12 destruction, or exclusion, either upon introduction
13 into the State, or at any time or place within the
14 State, of any nursery-stock, tree, shrub, herb, vine,
15 cut-flower, cutting, graft, scion, bud, seed, leaf,
16 root, or rhizome; any nut, fruit, or vegetable; any
17 grain, cereal, or legume in the natural or raw state;
18 any moss, hay, straw, dry-grass, or other forage; any
19 unmanufactured log, limb, or timber; or any other
20 plant growth or plant product unprocessed or in the
21 raw state; any sand, soil, or earth; any live bird,
22 reptile, insect, or other animal, in any stage of



1 development, that is in addition to the so-called
2 domestic animals, which are provided for in section
3 142-2; and any box, barrel, crate, or other containers
4 in which the articles, substances, or objects have
5 been transported or contained, and any packing
6 material used in connection therewith, [~~which~~] that is
7 or may be diseased or infested with insects or likely
8 to assist in the transmission or dissemination of any
9 insect or plant disease injurious, harmful, or
10 detrimental, or likely to become injurious, harmful,
11 or detrimental to the agricultural or horticultural
12 industries or the forests of the State, or [~~which~~]
13 that is or may be in itself injurious, harmful, or
14 detrimental to the same (included therein may be rules
15 governing the [~~shipping~~] transportation of any of the
16 articles, substances, or objects enumerated above in
17 this section between different localities on any one
18 of the islands within the State;

- 19 (3) The prohibition of importation into the State, from
20 any or all foreign countries[-] or from other parts of
21 the United States, or the shipment from one island
22 within the State to another island therein, or the



1 transportation from one part or locality of any island
2 to another part or locality of the same island, of any
3 specific article, substance, or object or class of
4 articles, substances, or objects, among those
5 enumerated above in this section, [~~which~~] that is
6 diseased or infested with insects or likely to assist
7 in the transmission or dissemination of any insect or
8 plant disease injurious, harmful, or detrimental or
9 likely to be injurious, harmful, or detrimental to the
10 agricultural or horticultural industries, or the
11 forests of the State, or [~~which~~] that is or may be in
12 itself injurious, harmful, or detrimental to the same;

13 (4) The preparation by cargo carriers of manifests of
14 cargo transported into the State or between islands of
15 the State and the submission of the manifests to the
16 department; and

17 [~~(4)~~] (5) The manner in which agricultural product
18 promotion and research activities may be undertaken,
19 after coordinating with the agribusiness development
20 corporation.

21 All rules adopted under this section shall have the force
22 and effect of law."



1 SECTION 4. Section 141-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§141-5 Charges for inspection, etc.** The department of
4 agriculture [~~shall~~], with the approval of the governor, shall
5 adopt a reasonable scale of charges, which may be changed from
6 time to time, for the inspection, disinfection, fumigation, and
7 quarantine[~~]~~ that is authorized, required, or permitted by this
8 chapter or chapter 142 [~~or~~], 150[~~]~~, or 150A. Certificates and
9 permits in [~~such~~] these chapters [~~provided for~~] concerning
10 articles or animals imported, or proposed to be imported, into
11 the State, and the charges [~~so~~] provided for, shall be paid for
12 in advance before any certificate or permit is delivered, or any
13 of [~~such~~] the articles or animals are permitted to be landed.
14 If thereafter further expense is incurred in the inspection,
15 treatment, or quarantine of any of [~~such~~] the articles or
16 animals, the charges [~~therefor~~] shall be paid before any of
17 [~~such~~] the articles or animals shall be delivered."

18 SECTION 5. Section 150A-4.5, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) The moneys in the pest inspection, quarantine, and
21 eradication fund shall be expended by the department for the
22 operation of pest inspection, quarantine, eradication,



1 biosecurity, and monitoring programs, related facilities, and
2 the execution of emergency remedial measures when pests are
3 detected in the course of inspection and quarantine activities
4 by the department."

5 SECTION 6. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$250,000 or so much
7 thereof as may be necessary for fiscal year 2008-2009 for the
8 biosecurity program of the department of agriculture.

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

11 SECTION 7. There is appropriated out of the pest
12 inspection, quarantine, and eradication fund of the State of
13 Hawaii the sum of \$6,000,000 or so much thereof as may be
14 necessary for the fiscal year 2008-2009 for the biosecurity
15 program of the department of agriculture.

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

18 SECTION 8. In codifying the new sections added by
19 section 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2008.

APPROVED this day of , 2008

GOVERNOR OF THE STATE OF HAWAII



