A BILL FOR AN ACT

RELATING TO COFFEE BERRY BORER.

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

SECTION 1. Act 105, Session Laws of Hawaii 2014 (Act 105), established a pesticide subsidy program in the department of agriculture for five years and having the purpose of assisting coffee growers with offsetting the costs of purchasing certain pesticides known to be effective against the coffee berry borer, a highly destructive coffee pest that has infested coffee crops on Hawaii island and more recently has been detected on Oahu and Maui.

Act 152, Session Laws of Hawaii 2015 (Act 152), established a pesticide subsidy program manager position as a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes, and appropriated moneys from the pesticide use revolving fund for the position for fiscal years 2015-2016 and 2016-2017. Section 76-16(b)(17), Hawaii Revised Statutes, provides that any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature. Pursuant to section
76-16(b)(17), the exemption from civil service of the pesticide
subsidy program manager position expired on June 30, 2018, three
years after it was created by Act 152.

Because it took longer than anticipated for Act 105 to be
implemented, Act 65, Session Laws of Hawaii 2017 (Act 65),
extended the pesticide subsidy program from its original sunset
date of June 30, 2019, to a new sunset date of June 30, 2021, to
assist coffee growers for the number of years intended when Act
105 was enacted. However, Act 65 did not extend the civil
service and collective bargaining laws exemption of the
pesticide subsidy program manager position.

Pursuant to section 3(c) of Act 105, an application for a
subsidy for pesticide purchases made in a fiscal year must be
filed in the immediately following fiscal year. For pesticide
purchases made in the last fiscal year of the program, from
July 1, 2020, to June 30, 2021, applications for subsidies must
be filed in the immediately following fiscal year, anytime from
July 1, 2021, to June 30, 2022. The manager position will be
needed to process these applications for subsidies for costs
incurred in the final year of the program. Accordingly, Act 32,
Session Laws of Hawaii 2018, extended the pesticide subsidy
program manager position, including the position's civil service
and collective bargaining laws exemption, until June 30, 2022.

The purposes of this Act are to extend the pesticide
subsidy program by three years, to June 30, 2025; extend the
pesticide subsidy program manager position, including the
position's civil service and collective bargaining laws
exemption, until the year after the program sunsets,
specifically, June 30, 2026; and make appropriations for the
program and program manager position for fiscal year 2020-2021.

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

1. By amending section 3 to read:

"SECTION 3. (a) There is established in the department of
agriculture a pesticide subsidy program to be administered by
the department beginning on July 1, 2014, and ending on June 30,
[2021-] 2025. The department shall grant subsidies to coffee
growers to assist them in offsetting the costs of purchasing any
pesticide that is listed by the department pursuant to subsection (f).

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

(1) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the pesticide purchased; and

(2) The department may request an applicant to provide necessary information for the purposes of verifying the size or sale weight, as applicable, and amount of the pesticide purchased.

(c) Documentation of pesticide costs, as requested by the department, shall be filed for pesticides purchased within the immediate preceding fiscal year of filing and shall be effective for pesticide costs incurred after June 30, 2014, and before July 1, [2021–] 2025.

(d) Funds shall be disbursed upon approval on an annual basis by the department to the coffee grower for up to seventy-
five per cent of the costs incurred for the purchase of the 
pesticide before July 1, 2016, and for up to fifty per cent of 
the costs incurred after June 30, 2016, and before July 1, 
[2021–] 2025.

(e) The department shall aggregate the total subsidy 
applications pursuant to this section and divide and distribute 
the available subsidy funds on a pro rata basis; provided that 
no single coffee grower shall receive subsidies that are more 
than $600 per year per acre of land in coffee production; 
provided further that no single coffee grower shall receive 
subsidies that are more than $9,000 per year; provided further 
that no single coffee grower shall receive subsidies that total 
more than $6,000 per year for the period after June 30, 2018, 
and before July 1, [2021–] 2025.

(f) The department shall establish a list of pesticides 
that are registered with the Environmental Protection Agency and 
are licensed with the State that contain Beauveria bassiana, a 
fungus known to eradicate the coffee berry borer, as an active 
ingredient.

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

(1) Facilitate the efficient division and distribution of available subsidy funds; and

(2) Manage the day-to-day coordination for the pesticide subsidy program.

The pesticide subsidy program manager shall receive a salary of not more than $50,000 per year. The pesticide subsidy program manager position, including the position's exemption from chapters 76 and 89, Hawaii Revised Statutes, shall expire on June 30, [2022] 2026.

(h) Not later than twenty days prior to the convening of the regular session of [2021] 2025, the department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature on the results of the subsidy program and whether the program should be allowed to expire or be extended, and if extended, with or without modification.
(i) Actions taken by the department pursuant to this section shall be exempt from the rulemaking requirements of section 91-3, Hawaii Revised Statutes."

2. By amending section 6 to read:

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

{1} Section 3 shall be repealed on June 30, [2024,] 2025, except that section 3(g) shall be repealed on June 30, [2022,] and

{2} The amendment made to section 149A-13.5(b), Hawaii Revised Statutes, under section 2 of this Act shall not be repealed when section 149A-13.5(b), Hawaii Revised Statutes, is repealed and reenacted on June 30, 2015, by section 4 of Act 168, Session Laws of Hawaii 2010.[ 2026."

SECTION 3. There is appropriated out of the general fund the sum of $175,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the pesticide subsidy program established by Act 105, Session Laws of Hawaii 2014, including the sum of $25,000 or so much thereof as may be necessary for fiscal year 2020-2021 for the salary and fringe benefits of the
pesticide subsidy program manager position established by Act 152, Session Laws of Hawaii 2015.

The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

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

SECTION 5. This Act shall take effect on July 1, 2020.
Report Title:
Coffee Berry Borer; Subsidy Program; Appropriation

Description:
Extends the sunset date for the Coffee Berry Borer Pesticide Subsidy Program until June 30, 2025, for the purchase of pesticides containing Beauveria bassiana to combat the coffee berry borer. Extends the program manager position to June 30, 2026. Appropriates funds. (SD1)

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