

JAN 17 2020

A BILL FOR AN ACT

RELATING TO COFFEE BERRY BORER.

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

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

8 Act 152, Session Laws of Hawaii 2015, established a
9 pesticide subsidy program manager position as a full-time,
10 temporary position exempt from chapters 76 and 89, Hawaii
11 Revised Statutes, and appropriated moneys from the pesticide use
12 revolving fund for the position for fiscal years 2015-2016 and
13 2016-2017. Section 76-16(b)(17), Hawaii Revised Statutes,
14 provides that any exemption created after July 1, 2014, shall
15 expire three years after its enactment unless affirmatively
16 extended by an act of the legislature. Pursuant to section 76-
17 16(b)(17), the exemption from civil service of the pesticide



1 subsidy program manager position expired on June 30, 2018, three
2 years after it was created by Act 152, Session Laws of Hawaii
3 2015.

4 Because it took longer than anticipated for Act 105 to be
5 implemented, Act 65, Session Laws of Hawaii 2017 (Act 65),
6 extended the pesticide subsidy program from its original sunset
7 date of June 30, 2019, to a new sunset date of June 30, 2021, to
8 assist coffee growers for the number of years intended when Act
9 105 was enacted. However, Act 65 did not extend the civil
10 service and collective bargaining laws exemption of the
11 pesticide subsidy program manager position.

12 Pursuant to section 3(c) of Act 105, an application for a
13 subsidy for pesticide purchases made in a fiscal year must be
14 filed in the immediately following fiscal year. For pesticide
15 purchases made in the last fiscal year of the program, from July
16 1, 2020, to June 30, 2021, applications for subsidies must be
17 filed in the immediately following fiscal year, anytime from
18 July 1, 2021, to June 30, 2022. The manager position will be
19 needed to process these applications for subsidies for costs
20 incurred in the final year of the program. Accordingly, Act 32,
21 Session Laws of Hawaii 2018, extended the pesticide subsidy



1 program manager position, including the position's civil service
2 and collective bargaining laws exemption, until June 30, 2022.

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

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

16 1. By amending section 3 to read:

17 "SECTION 3. (a) There is established in the department of
18 agriculture a pesticide subsidy program to be administered by
19 the department beginning on July 1, 2014, and ending on June 30,
20 [~~2021-~~] 2025. The department shall grant subsidies to coffee
21 growers to assist them in offsetting the costs of purchasing any



1 pesticide that is listed by the department pursuant to
2 subsection (f).

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

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

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

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

20 (d) Funds shall be disbursed upon approval on an annual
21 basis by the department to the coffee grower for up to seventy-



1 five per cent of the costs incurred for the purchase of the
2 pesticide before July 1, 2016, and for up to fifty per cent of
3 the costs incurred after June 30, 2016, and before July 1,
4 [~~2021-~~] 2025.

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

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

20 (g) There is established within the department a pesticide
21 subsidy program manager position, which shall be a full-time,



1 temporary position exempt from chapters 76 and 89, Hawaii
2 Revised Statutes. The pesticide subsidy program manager shall
3 possess a requisite level of knowledge and expertise in the area
4 of program management necessary to carry out the duties of the
5 position. The pesticide subsidy program manager shall:

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

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

15 (h) Not later than twenty days prior to the convening of
16 the regular session of [~~2021~~] 2025, the department shall submit
17 a report of its findings and recommendations, including any
18 proposed legislation, to the legislature on the results of the
19 subsidy program and whether the program should be allowed to
20 expire or be extended, and if extended, with or without
21 modification.



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

4 2. By amending section 6 to read:

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

7 ~~(1)~~ Section 3 shall be repealed on June 30, ~~[2021,~~ 2025,
8 except that section 3(g) shall be repealed on June 30, ~~[2022,~~
9 and

10 ~~(2) The amendment made to section 149A-13.5(b), Hawaii~~
11 ~~Revised Statutes, under section 2 of this Act shall not be~~
12 ~~repealed when section 149A-13.5(B), Hawaii Revised Statutes, is~~
13 ~~repealed and reenacted on June 30, 2015, by section 4 of Act~~
14 ~~168, Session Laws of Hawaii 2010.] 2026."~~

15 SECTION 3. There is appropriated out of the general fund
16 the sum of \$ or so much thereof as may be necessary
17 for fiscal year 2020-2021 for the pesticide subsidy program
18 established by Act 105, Session Laws of Hawaii 2014, including
19 the sum of \$ or so much thereof as may be necessary
20 for fiscal year 2020-2021 for the salary and fringe benefits of



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1 the pesticide subsidy program manager position established by
2 Act 152, Session Laws of Hawaii 2015.

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

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

7 SECTION 5. This Act shall take effect on July 1, 2020.
8

INTRODUCED BY:

~~DC. ...~~



S.B. NO. 2623

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.

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