
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that there are many
2 examples across the country of agricultural tourism incorporated
3 within productive farms and ranches. For example, several sites
4 in Napa valley in northern California are well-known
5 agricultural tourism destinations. Agricultural tourism serves
6 as a means to provide not only additional income for farmers and
7 ranchers but also serves as a learning experience for many
8 people who do not have a connection to agriculture.

9 The legislature further finds that there are agricultural
10 tourism opportunities in areas such as the Hamakua coast on the
11 island of Hawaii, upcountry Maui, and the north and west sides
12 of Kauai. Additional economic activity in those areas will also
13 benefit neighboring communities. Although the legislature finds
14 that agricultural tourism can be a profitable marketing tool for
15 the agricultural industry, the legislature recognizes that each
16 county may have differing priorities regarding land use,
17 particularly regarding permissible uses on agricultural lands.
18 The intent of this Act is to enable the counties to make their



1 own determinations regarding the allowance of certain activities
2 on, or uses of, land in agricultural districts.

3 The purpose of this Act is to repeal the state prohibition
4 on agricultural tourism activities in the absence of bona fide
5 farming operations and to permit short-term rentals in
6 agricultural districts; provided that the county has adopted an
7 ordinance specifically allowing for such activity.

8 SECTION 2. Section 141-9, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "[+]§141-9[+] **Energy feedstock program.** (a) There is
11 established within the department of agriculture an energy
12 feedstock program that shall:

- 13 (1) Maintain cognizance of actions taken by industry and
14 by federal, state, county, and private agencies in
15 activities relating to the production of energy
16 feedstock, and promote and support worthwhile energy
17 feedstock production activities in the State;
- 18 (2) Serve as an information clearinghouse for energy
19 feedstock production activities;
- 20 (3) Coordinate development projects to investigate and
21 solve biological and technical problems involved in



- 1 raising selected species with commercial energy
- 2 generating potential;
- 3 (4) Actively seek federal funding for energy feedstock
- 4 production activities;
- 5 (5) Undertake activities required to develop and expand
- 6 the energy feedstock production industry; and
- 7 (6) Perform other functions and activities as may be
- 8 assigned by law, including monitoring the compliance
- 9 provisions under section [~~205-4.5(a)-(15)-.~~] 205-
- 10 4.5(a)(16)."

11 SECTION 3. Section 205-2, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

- 13 "(d) Agricultural districts shall include:
- 14 (1) Activities or uses as characterized by the cultivation
 - 15 of crops, crops for bioenergy, orchards, forage, and
 - 16 forestry;
 - 17 (2) Farming activities or uses related to animal husbandry
 - 18 and game and fish propagation;
 - 19 (3) Aquaculture, which means the production of aquatic
 - 20 plant and animal life within ponds and other bodies of
 - 21 water;



- 1 (4) Wind generated energy production for public, private,
2 and commercial use;
- 3 (5) Biofuel production, as described in section
4 [~~205-4.5(a)(15),~~] 205-4.5(a)(16), for public, private,
5 and commercial use;
- 6 (6) Solar energy facilities; provided that:
- 7 (A) This paragraph shall apply only to land with soil
8 classified by the land study bureau's detailed
9 land classification as overall (master)
10 productivity rating class B, C, D or E; and
- 11 (B) Solar energy facilities placed within land with
12 soil classified as overall productivity rating
13 class B or C shall not occupy more than ten per
14 cent of the acreage of the parcel, or twenty
15 acres of land, whichever is lesser;
- 16 (7) Bona fide agricultural services and uses that support
17 the agricultural activities of the fee or leasehold
18 owner of the property and accessory to any of the
19 above activities, regardless of whether conducted on
20 the same premises as the agricultural activities to
21 which they are accessory, including farm dwellings as
22 defined in section 205-4.5(a)(4), employee housing,



1 farm buildings, mills, storage facilities, processing
2 facilities, agricultural-energy facilities as defined
3 in section [~~205-4.5(a)(16),~~] 205-4.5(a)(17), vehicle
4 and equipment storage areas, roadside stands for the
5 sale of products grown on the premises, and plantation
6 community subdivisions as defined in section
7 205-4.5(a)(12);

8 (8) Wind machines and wind farms;

9 (9) Small-scale meteorological, air quality, noise, and
10 other scientific and environmental data collection and
11 monitoring facilities occupying less than one-half
12 acre of land; provided that these facilities shall not
13 be used as or equipped for use as living quarters or
14 dwellings;

15 (10) Agricultural parks;

16 (11) Agricultural tourism conducted on a working farm, or a
17 farming operation as defined in section 165-2, for the
18 enjoyment, education, or involvement of visitors;
19 provided that the agricultural tourism activity is
20 accessory and secondary to the principal agricultural
21 use and does not interfere with surrounding farm
22 operations; and provided further that this paragraph



1 shall apply only to a county that has adopted
2 ordinances regulating agricultural tourism under
3 section 205-5; [and]

4 (12) Agricultural tourism activities, including overnight
5 accommodations of twenty-one days or less, for any one
6 stay within a county; provided that this paragraph
7 shall apply only to a county that has adopted
8 ordinances regulating agricultural tourism under
9 section 205-5; and

10 [~~12~~] (13) Open area recreational facilities.

11 Agricultural districts shall not include golf courses and golf
12 driving ranges, except as provided in section 205-4.5(d).

13 Agricultural districts include areas that are not used for, or
14 that are not suited to, agricultural and ancillary activities by
15 reason of topography, soils, and other related characteristics."

16 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Within the agricultural district, all lands with soil
19 classified by the land study bureau's detailed land
20 classification as overall (master) productivity rating class A
21 or B shall be restricted to the following permitted uses:



- 1 (1) Cultivation of crops, including crops for bioenergy,
2 flowers, vegetables, foliage, fruits, forage, and
3 timber;
- 4 (2) Game and fish propagation;
- 5 (3) Raising of livestock, including poultry, bees, fish,
6 or other animal or aquatic life that are propagated
7 for economic or personal use;
- 8 (4) Farm dwellings, employee housing, farm buildings, or
9 activities or uses related to farming and animal
10 husbandry. "Farm dwelling", as used in this
11 paragraph, means a single-family dwelling located on
12 and used in connection with a farm, including clusters
13 of single-family farm dwellings permitted within
14 agricultural parks developed by the State, or where
15 agricultural activity provides income to the family
16 occupying the dwelling;
- 17 (5) Public institutions and buildings that are necessary
18 for agricultural practices;
- 19 (6) Public and private open area types of recreational
20 uses, including day camps, picnic grounds, parks, and
21 riding stables, but not including dragstrips,



- 1 airports, drive-in theaters, golf courses, golf
2 driving ranges, country clubs, and overnight camps;
- 3 (7) Public, private, and quasi-public utility lines and
4 roadways, transformer stations, communications
5 equipment buildings, solid waste transfer stations,
6 major water storage tanks, and appurtenant small
7 buildings such as booster pumping stations, but not
8 including offices or yards for equipment, material,
9 vehicle storage, repair or maintenance, treatment
10 plants, corporation yards, or other similar
11 structures;
- 12 (8) Retention, restoration, rehabilitation, or improvement
13 of buildings or sites of historic or scenic interest;
- 14 (9) Roadside stands for the sale of agricultural products
15 grown on the premises;
- 16 (10) Buildings and uses, including mills, storage, and
17 processing facilities, maintenance facilities, and
18 vehicle and equipment storage areas that are normally
19 considered directly accessory to the above-mentioned
20 uses and are permitted under section 205-2(d);
- 21 (11) Agricultural parks;



- 1 (12) Plantation community subdivisions, which as used in
2 this chapter means an established subdivision or
3 cluster of employee housing, community buildings, and
4 agricultural support buildings on land currently or
5 formerly owned, leased, or operated by a sugar or
6 pineapple plantation; provided that the existing
7 structures may be used or rehabilitated for use, and
8 new employee housing and agricultural support
9 buildings may be allowed on land within the
10 subdivision as follows:
- 11 (A) The employee housing is occupied by employees or
12 former employees of the plantation who have a
13 property interest in the land;
- 14 (B) The employee housing units not owned by their
15 occupants shall be rented or leased at affordable
16 rates for agricultural workers; or
- 17 (C) The agricultural support buildings shall be
18 rented or leased to agricultural business
19 operators or agricultural support services;
- 20 (13) Agricultural tourism conducted on a working farm, or a
21 farming operation as defined in section 165-2, for the
22 enjoyment, education, or involvement of visitors;



1 provided that the agricultural tourism activity is
2 accessory and secondary to the principal agricultural
3 use and does not interfere with surrounding farm
4 operations; and provided further that this paragraph
5 shall apply only to a county that has adopted
6 ordinances regulating agricultural tourism under
7 section 205-5;

8 (14) Agricultural tourism activities, including overnight
9 accommodations of twenty-one days or less, for any one
10 stay within a county; provided that this paragraph
11 shall apply only to a county that has adopted
12 ordinances regulating agricultural tourism under
13 section 205-5;

14 ~~[(14)]~~ (15) Wind energy facilities, including the
15 appurtenances associated with the production and
16 transmission of wind generated energy; provided that
17 the wind energy facilities and appurtenances are
18 compatible with agriculture uses and cause minimal
19 adverse impact on agricultural land;

20 ~~[(15)]~~ (16) Biofuel processing facilities, including the
21 appurtenances associated with the production and
22 refining of biofuels that is normally considered



1 directly accessory and secondary to the growing of the
2 energy feedstock; provided that biofuels processing
3 facilities and appurtenances do not adversely impact
4 agricultural land and other agricultural uses in the
5 vicinity.

6 For the purposes of this paragraph:

7 "Appurtenances" means operational infrastructure
8 of the appropriate type and scale for economic
9 commercial storage and distribution, and other similar
10 handling of feedstock, fuels, and other products of
11 biofuels processing facilities.

12 "Biofuel processing facility" means a facility
13 that produces liquid or gaseous fuels from organic
14 sources such as biomass crops, agricultural residues,
15 and oil crops, including palm, canola, soybean, and
16 waste cooking oils; grease; food wastes; and animal
17 residues and wastes that can be used to generate
18 energy;

19 ~~[(16)]~~ (17) Agricultural-energy facilities, including
20 appurtenances necessary for an agricultural-energy
21 enterprise; provided that the primary activity of the
22 agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an
2 agricultural-energy enterprise, the total acreage
3 devoted to agricultural activity shall be not less
4 than ninety per cent of the total acreage of the
5 agricultural-energy enterprise. The agricultural-
6 energy facility shall be limited to lands owned,
7 leased, licensed, or operated by the entity conducting
8 the agricultural activity.

9 As used in this paragraph:

10 "Agricultural activity" means any activity
11 described in paragraphs (1) to (3) of this subsection.

12 "Agricultural-energy enterprise" means an
13 enterprise that integrally incorporates an
14 agricultural activity with an agricultural-energy
15 facility.

16 "Agricultural-energy facility" means a facility
17 that generates, stores, or distributes renewable
18 energy as defined in section 269-91 or renewable fuel
19 including electrical or thermal energy or liquid or
20 gaseous fuels from products of agricultural activities
21 from agricultural lands located in the State.



1 "Appurtenances" means operational infrastructure
2 of the appropriate type and scale for the economic
3 commercial generation, storage, distribution, and
4 other similar handling of energy, including equipment,
5 feedstock, fuels, and other products of agricultural-
6 energy facilities;

7 ~~[(17)]~~ (18) Construction and operation of wireless
8 communication antennas; provided that, for the
9 purposes of this paragraph, "wireless communication
10 antenna" means communications equipment that is either
11 freestanding or placed upon or attached to an already
12 existing structure and that transmits and receives
13 electromagnetic radio signals used in the provision of
14 all types of wireless communications services;
15 provided further that nothing in this paragraph shall
16 be construed to permit the construction of any new
17 structure that is not deemed a permitted use under
18 this subsection;

19 ~~[(18)]~~ (19) Agricultural education programs conducted on a
20 farming operation as defined in section 165-2, for the
21 education and participation of the general public;
22 provided that the agricultural education programs are



1 accessory and secondary to the principal agricultural
2 use of the parcels or lots on which the agricultural
3 education programs are to occur and do not interfere
4 with surrounding farm operations. For the purposes of
5 this section, "agricultural education programs" means
6 activities or events designed to promote knowledge and
7 understanding of agricultural activities and practices
8 conducted on a farming operation as defined in section
9 165-2; or

10 ~~[(19)]~~ (20) Solar energy facilities that do not occupy more
11 than ten per cent of the acreage of the parcel, or
12 twenty acres of land, whichever is lesser; provided
13 that this use shall not be permitted on lands with
14 soil classified by the land study bureau's detailed
15 land classification as overall (master) productivity
16 rating class A."

17 SECTION 5. Section 205-5, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Within agricultural districts, uses compatible to the
20 activities described in section 205-2 as determined by the
21 commission shall be permitted; provided that accessory
22 agricultural uses and services described in sections 205-2 and



1 205-4.5 may be further defined by each county by zoning
2 ordinance. Each county shall adopt ordinances setting forth
3 procedures and requirements, including provisions for
4 enforcement, penalties, and administrative oversight, for the
5 review and permitting of agricultural tourism uses and
6 activities as an accessory use on a working farm, or farming
7 operation as defined in section 165-2 [~~provided that~~
8 ~~agricultural tourism activities shall not be permissible in the~~
9 ~~absence of a bona fide farming operation~~]. Ordinances shall
10 include but not be limited to:

- 11 (1) Requirements for access to a farm, including road
12 width, road surface, and parking;
- 13 (2) Requirements and restrictions for accessory facilities
14 connected with the farming operation, including gift
15 shops and restaurants; [~~provided that overnight~~
16 ~~accommodations shall not be permitted~~];
- 17 (3) Activities that may be offered by the farming
18 operation for visitors;
- 19 (4) Days and hours of operation; and
- 20 (5) Automatic termination of the accessory use upon the
21 cessation of the farming operation.



1 Each county may require an environmental assessment under
2 chapter 343 as a condition to any agricultural tourism use and
3 activity. Other uses may be allowed by special permits issued
4 pursuant to this chapter. The minimum lot size in agricultural
5 districts shall be determined by each county by zoning
6 ordinance, subdivision ordinance, or other lawful means;
7 provided that the minimum lot size for any agricultural use
8 shall not be less than one acre, except as provided herein. If
9 the county finds that unreasonable economic hardship to the
10 owner or lessee of land cannot otherwise be prevented or where
11 land utilization is improved, the county may allow lot sizes of
12 less than the minimum lot size as specified by law for lots
13 created by a consolidation of existing lots within an
14 agricultural district and the resubdivision thereof; provided
15 that the consolidation and resubdivision do not result in an
16 increase in the number of lots over the number existing prior to
17 consolidation; and provided further that in no event shall a lot
18 which is equal to or exceeds the minimum lot size of one acre be
19 less than that minimum after the consolidation and resubdivision
20 action. The county may also allow lot sizes of less than the
21 minimum lot size as specified by law for lots created or used
22 for plantation community subdivisions as defined in section



1 205-4.5(a)(12), for public, private, and quasi-public utility
2 purposes, and for lots resulting from the subdivision of
3 abandoned roadways and railroad easements."

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

6 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Zoning; Agricultural Tourism

Description:

Repeals the prohibition on agricultural tourism activities in the absence of a bona fide farming operation. Repeals the prohibition on ordinances that allow overnight accommodations in agricultural districts. Authorizes agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that a county has adopted ordinances regulating agricultural tourism. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

