

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL COMMODITIES.

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

1 SECTION 1. Section 145-25, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§145-25 Enforcement; [citation and summons.]~~ criminal  
4 penalties. Violations of this part or any rule adopted pursuant  
5 thereto [~~may be enforced by citation and summons issued by:~~]  
6 shall be criminal offenses as follows:

7 (1) [~~Any state or county law enforcement officer; or~~] A  
8 violation in which the value of the agricultural  
9 commodity exceeds \$100 shall be a class C felony; and

10 (2) [~~Any officer or employee of the department of~~  
11 ~~agriculture, or any other person, authorized and~~  
12 ~~designated by the board of agriculture to investigate~~  
13 ~~and enforce this chapter and all rules adopted by the~~  
14 ~~department pursuant thereto.] A violation in which the  
15 value of the agricultural commodity is \$100 or less  
16 shall be a misdemeanor."~~

17 SECTION 2. Section 145-27, Hawaii Revised Statutes, is  
18 amended to read as follows:



1 " ~~[+]~~§145-27~~[+]~~ Authorization to seize and hold  
2 commodities; disposition. (a) ~~[In addition to the issuance of~~  
3 ~~a citation and summons, upon]~~ Upon reasonable belief that ~~[the]~~  
4 a person is in unlawful possession of agricultural commodities a  
5 law enforcement officer or other officer or employee ~~[as~~  
6 ~~described in section 145-25]~~ shall be authorized to hold the  
7 agricultural commodity for not longer than forty-eight hours to  
8 investigate and ascertain the ownership of the agricultural  
9 commodity. If the lawful owner is determined and located, the  
10 agricultural, aquacultural, or horticultural commodity shall be  
11 released to the lawful owner.

12 (b) If for any reason the agricultural commodity is not  
13 released to the lawful owner after being in the custody of the  
14 law enforcement officer or other officer or employee ~~[as~~  
15 ~~described in section 145-25]~~ for forty-eight hours, or less in  
16 the case of highly perishable commodities, the commodity may be  
17 sold at fair market value to any retailer, wholesaler, or packer  
18 of the commodity. All of the proceeds derived from the sale  
19 shall be held by the law enforcement officer or other officer or  
20 employee ~~[as described in section 145-25]~~ for not longer than  
21 six months, during which time the lawful owner of the commodity  
22 may submit satisfactory proof of ownership and obtain possession



1 of the proceeds. The owner may be held responsible for any  
2 costs and expenses that may be incurred by the law enforcement  
3 officer or other officer or employee [~~as described in section~~  
4 ~~145-25~~]. Any proceeds of sale not recovered within six months  
5 for lack of a claim or for insufficient proof shall be treated  
6 as unclaimed property of the State.

7 (c) Any commodity that remains unsold after being offered  
8 for sale pursuant to this section may be donated to a nonprofit  
9 charitable organization or destroyed at the discretion of the  
10 law enforcement officer or other officer or employee [~~as~~  
11 ~~described in section 145-25~~].

12 (d) For the purposes of this section, "officer or  
13 employee" means any officer or employee of the department of  
14 agriculture, or any other person, authorized and designated by  
15 the board of agriculture to investigate and enforce this chapter  
16 and all rules adopted by the department pursuant thereto."

17 SECTION 3. Section 145-26, Hawaii Revised Statutes, is  
18 repealed.

19 [~~§145-26~~] ~~Form of citation and summons.~~ (a) ~~In issuing~~  
20  ~~Citations and summons for violations of this part, state and~~  
21  ~~county law enforcement officers shall use the summons and~~



1 ~~complaint citation books issued by the judiciary for violations~~  
2 ~~of the traffic code.~~

3 ~~(b) Citations issued by officers and employees as~~  
4 ~~described in section 145-25(2) shall use citation and summons~~  
5 ~~forms that shall warn the person to appear and answer the charge~~  
6 ~~against the person at a place and at a time within thirty days~~  
7 ~~after the citation.~~

8 ~~The citation and summons shall be in a form that allows a~~  
9 ~~carbon copy to be provided to the accused. The district courts~~  
10 ~~may provide for the disposition of the original and any other~~  
11 ~~copies. Every citation and summons shall be consecutively~~  
12 ~~numbered and each carbon copy shall bear the number of its~~  
13 ~~respective original." ]~~

14 SECTION 4. Section 145-28, Hawaii Revised Statutes, is  
15 repealed.

16 ~~[ "~~§145-28~~ Administration of oath. When a complaint is~~  
17 ~~made by officers and employees as described in section 145-25(2)~~  
18 ~~to any prosecuting officer of the violation of this part or of~~  
19 ~~any rules adopted pursuant thereto, the officer or employee who~~  
20 ~~issued the citation and summons shall subscribe to it under oath~~  
21 ~~administered by another official of the department whose name~~  
22 ~~has been submitted to the prosecuting officer and who has been~~



1 ~~designated by the chairperson of the board of agriculture to~~  
2 ~~administer the oaths." ]~~

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8 SECTION 7. This Act shall take effect upon approval.

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INTRODUCED BY:

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# S.B. NO. 2354

**Report Title:**

Agricultural Commodities; Criminal Penalties

**Description:**

Establishes criminal penalties for failure to maintain a certificate of ownership or other written proof of ownership of agricultural commodities.

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

