
A BILL FOR AN ACT

RELATING TO TRUTH-IN-ADVERTISING.

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

1 SECTION 1. Farmers' markets play an important role in
2 Hawaii's communities by establishing and maintaining connections
3 between consumers and local farms. Moreover, the consumption of
4 locally-produced agricultural products, when practicable,
5 contributes significantly towards the goal set forth by the
6 Hawaii 2050 Sustainability Plan to "increase production and
7 consumption of local foods and products, particularly
8 agriculture."

9 However, there have been instances where outdoor markets
10 purporting to be farmers' markets primarily sell nonagricultural
11 goods. The proliferation of nonagricultural merchants at
12 farmers' markets falsely advertises to the public the nature of
13 the market and makes it difficult for those individuals who may
14 be seeking to change their lifestyles by supporting local farms.

15 The purpose of this Act is to protect consumers by ensuring
16 truth-in-advertising associated with the "farmers' market"
17 title, in order to advance the State toward long-term
18 agricultural goals in sustainability.



1 SECTION 2. Section 145-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Farmers' market operator" means any person or entity who
5 owns, operates, or organizes an outdoor market and represents
6 that the outdoor market is a farmers' market."

7 SECTION 3. Section 145-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§145-2 Licenses. (a) No person shall act as a
10 commission merchant, dealer, broker, agent, processor, [~~or~~]
11 retail merchant, or farmers' market operator without having
12 obtained a license as prescribed by rules of the department.

13 In addition to the general requirements applicable to all
14 classes of applications as prescribed by rule, the following
15 requirements shall apply to each class of application noted:

16 (1) Commission merchants and brokers: Each application
17 shall include a schedule of commissions and charges
18 for services, and the designated commissions and
19 charges shall not be changed or varied for the license
20 period except by written contract between the parties.

21 In addition, each application shall be accompanied by
22 the surety bond required by section 145-4.



1 (2) Agents: Each application shall include the name and
2 address of each commission merchant, dealer, or broker
3 represented or sought to be represented by the agent,
4 the written indorsement or nomination of the
5 commission merchant, dealer, or broker, and such
6 additional information as the department may consider
7 proper or necessary. The department shall thereupon
8 issue to the applicant a license entitling the
9 applicant to conduct the business described in the
10 application at the place named in the application for
11 a year from the date thereof, or until the same is
12 revoked for cause; provided that the license of an
13 agent shall expire upon the date of expiration of the
14 license of the principal for whom the agent acts. The
15 department may also issue to each agent a card or
16 cards which shall bear the signature of the agent,
17 separate cards being required for each principal. Any
18 agent shall show the card or cards upon the request of
19 any interested person. Any agent who displays a void
20 or expired license card shall be punished as provided
21 in section 145-12.



1 (3) Farmers' market operator: Each application shall
2 certify that greater than fifty per cent of the
3 vendors in the farmers' market primarily sell food,
4 farm produce, or flowers prepared, grown, or produced
5 in Hawaii. Any farmers' market operator who fails to
6 ensure that greater than fifty per cent of the vendors
7 in the farmers' market primarily sell food, farm
8 produce, or flowers prepared, grown, or produced in
9 Hawaii shall be subject to administrative penalties
10 pursuant to section 145-10.

11 (b) Fraud or misrepresentation in making any application
12 shall ipso facto work a revocation of any license granted
13 thereunder. All indicia of the possession of a license shall be
14 at all times the property of the State and each licensee shall
15 be entitled to the possession thereof only for the duration of
16 the license.

17 For filing the application for license, each applicant
18 shall pay a fee as prescribed by the department.

19 Should any commission merchant, dealer, broker, agent,
20 processor, ~~[or]~~ retail merchant, or farmers' market operator
21 refuse, fail, or neglect to apply for the renewal of a
22 preexisting license within thirty days after the expiration



1 thereof, a penalty of forty per cent shall apply to and be added
2 to the original fee as prescribed by the department, and shall
3 be paid by the applicant before the renewal license may be
4 issued.

5 (c) Any person who has applied for and obtained a license
6 within the classification of commission merchant, in the manner
7 and upon payment of the fee set forth, may apply for and secure
8 a license in the other classifications without payment of
9 further fee, and upon further complying with those provisions of
10 this part regulating the licensing of the other particular
11 classification involved. All licenses held by any licensee
12 under this section shall automatically expire on the expiration
13 date for the particular license for which the license fee was
14 paid."

15 SECTION 4. Section 145-9, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§145-9 Complaints and investigations.** The department of
18 agriculture may receive verified complaints from any producer
19 against any commission merchant, dealer, broker, agent,
20 processor, [~~or~~] retail merchant, or farmers' market operator or
21 any person assuming or attempting to act as such and upon
22 receipt of the verified complaint may make any and all necessary



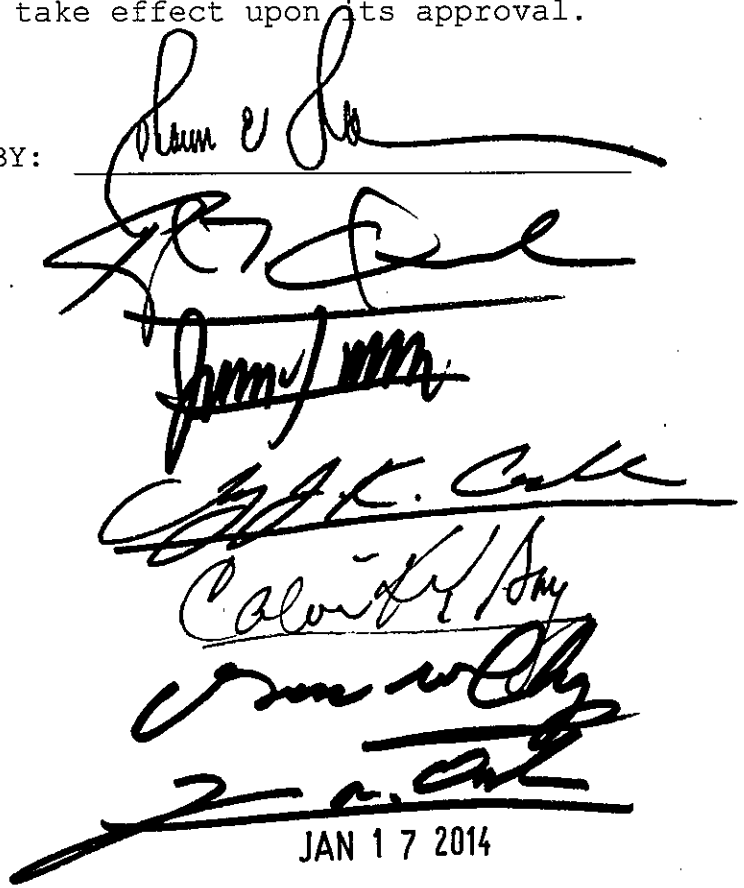
1 investigations relative to the complaint. In conducting any
2 investigation, the department or its authorized agent may
3 examine any ledgers, books, accounts, memoranda, and other
4 documents, farm produce, scales, measures, and any other
5 articles and things used in connection with the business of the
6 person of whom the complaint has been made."

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

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

12 SECTION 7. This Act shall take effect upon its approval.
13

INTRODUCED BY:





H.B. NO. 2090

Report Title:

Truth-in-Advertising; License; Locally Produced

Description:

Requires operators to procure a market operator's license to ensure that greater than 50% of vendors in farmers' markets sell food, farm produce, or flowers prepared, grown, or produced in Hawaii.

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

