

JAN 23 2015

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 individuals who may be
14 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"



1 title, in order to advance the State toward long-term
2 agricultural goals in sustainability.

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

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

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

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

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

18 (1) Commission merchants and brokers: Each application
19 shall include a schedule of commissions and charges
20 for services, and the designated commissions and
21 charges shall not be changed or varied for the license



1 period except by written contract between the parties.

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

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



1 any interested person. Any agent who displays a void
2 or expired license card shall be punished as provided
3 in section 145-12.

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

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

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



1 Should any commission merchant, dealer, broker, agent,
2 processor, [øx] retail merchant, or farmers' market operator
3 refuse, fail, or neglect to apply for the renewal of a
4 preexisting license within thirty days after the expiration
5 thereof, a penalty of forty per cent shall apply to and be added
6 to the original fee as prescribed by the department, and shall
7 be paid by the applicant before the renewal license may be
8 issued.

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

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



1 "§145-9 **Complaints and investigations.** The department of
2 agriculture may receive verified complaints from any producer
3 against any commission merchant, dealer, broker, agent,
4 processor, [~~or~~] retail merchant, or farmers' market operator or
5 any person assuming or attempting to act as such and upon
6 receipt of the verified complaint may make any and all necessary
7 investigations relative to the complaint. In conducting any
8 investigation, the department or its authorized agent may
9 examine any ledgers, books, accounts, memoranda, and other
10 documents, farm produce, scales, measures, and any other
11 articles and things used in connection with the business of the
12 person of whom the complaint has been made."

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

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

18 SECTION 7. This Act shall take effect upon its approval.

19

INTRODUCED BY: 



S.B. NO. 171

Report Title:

Truth-in-Advertising; License; Locally Produced

Description:

Requires farmers' market operators to procure a license to ensure that greater than 50 per cent of vendors in farmers' markets primarily 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.

