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# A BILL FOR AN ACT

RELATING TO MINING.

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

- 1 SECTION 1. Section 205-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:
- 3 "(d) Agricultural districts shall include:
- 4 (1) Activities or uses as characterized by the cultivation  
5 of crops, crops for bioenergy, orchards, forage, and  
6 forestry;
- 7 (2) Farming activities or uses related to animal  
8 husbandry[?] and game and fish propagation;
- 9 (3) Aquaculture, which means the production of aquatic  
10 plant and animal life within ponds and other bodies of  
11 water;
- 12 (4) Wind generated energy production for public, private,  
13 and commercial use;
- 14 (5) Biofuel production as described in section  
15 205-4.5(a)(15) for public, private, and commercial  
16 use;
- 17 (6) Bona fide agricultural services and uses that support  
18 the agricultural activities of the fee or leasehold



1 owner of the property and accessory to any of the  
2 above activities, regardless of whether [~~or not~~]  
3 conducted on the same premises as the agricultural  
4 activities to which they are accessory, including but  
5 not limited to farm dwellings as defined in section  
6 205-4.5(a)(4), employee housing, farm buildings,  
7 mills, storage facilities, processing facilities,  
8 vehicle and equipment storage areas, roadside stands  
9 for the sale of products grown on the premises, and  
10 plantation community subdivisions as defined in  
11 section 205-4.5(a)(12);

12 (7) Wind machines and wind farms;

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

19 (9) Agricultural parks;

20 (10) 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; [~~and~~]

8 (11) Open area recreational facilities[-]; and

9 (12) Mining for sand, rock, gravel, and other materials

10 suitable for use and used in construction, and

11 activities ancillary to mining including processing

12 and storage; provided that the person is engaged in

13 mining.

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

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

19 SECTION 2. Section 205-5, Hawaii Revised Statutes, is  
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) Except as herein provided, the powers granted to  
22 counties under section 46-4 shall govern the zoning within the



1 districts, [~~other than in~~] except for conservation districts[-]  
2 and mining pursuant to section 205-2(d)(12). Conservation  
3 districts shall be governed by the department of land and  
4 natural resources pursuant to chapter 183C. Mining pursuant to  
5 section 205-2(d)(12) shall be within the exclusive jurisdiction  
6 of the land use commission.

7 (b) Within agricultural districts, uses compatible to the  
8 activities described in section 205-2 as determined by the  
9 commission shall be permitted; provided that accessory  
10 agricultural uses and services described in sections 205-2 and  
11 205-4.5 may be further defined by each county by zoning  
12 ordinance[-], except for mining pursuant to section  
13 205-2(d)(12). Each county shall adopt ordinances setting forth  
14 procedures and requirements, including provisions for  
15 enforcement, penalties, and administrative oversight, for the  
16 review and permitting of agricultural tourism uses and  
17 activities as an accessory use on a working farm, or farming  
18 operation as defined in section 165-2; provided that  
19 agricultural tourism activities shall not be permissible in the  
20 absence of a bona fide farming operation. Ordinances shall  
21 include but not be limited to:



- 1           (1) Requirements for access to a farm, including road
- 2                   width, road surface, and parking;
- 3           (2) Requirements and restrictions for accessory facilities
- 4                   connected with the farming operation, including gift
- 5                   shops and restaurants; provided that overnight
- 6                   accommodations shall not be permitted;
- 7           (3) Activities that may be offered by the farming
- 8                   operation for visitors;
- 9           (4) Days and hours of operation; and
- 10          (5) Automatic termination of the accessory use upon the
- 11                   cessation of the farming operation.

12 Each county may require an environmental assessment under  
13 chapter 343 as a condition to any agricultural tourism use and  
14 activity. Other uses may be allowed by special permits issued  
15 pursuant to this chapter. The minimum lot size in agricultural  
16 districts shall be determined by each county by zoning  
17 ordinance, subdivision ordinance, or other lawful means;  
18 provided that the minimum lot size for any agricultural use  
19 shall not be less than one acre, except as provided herein. If  
20 the county finds that unreasonable economic hardship to the  
21 owner or lessee of land cannot otherwise be prevented or where  
22 land utilization is improved, the county may allow lot sizes of



1 less than the minimum lot size as specified by law for lots  
2 created by a consolidation of existing lots within an  
3 agricultural district and the resubdivision thereof; provided  
4 that the consolidation and resubdivision do not result in an  
5 increase in the number of lots over the number existing prior to  
6 consolidation; and provided further that in no event shall a lot  
7 [~~which~~] that is equal to or exceeds the minimum lot size of one  
8 acre be less than that minimum after the consolidation and  
9 resubdivision action. The county may also allow lot sizes of  
10 less than the minimum lot size as specified by law for lots  
11 created or used for plantation community subdivisions as defined  
12 in section 205-4.5(a)(12), for public, private, and quasi-public  
13 utility purposes, and for lots resulting from the subdivision of  
14 abandoned roadways and railroad easements."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2034.



**Report Title:**

Land Use; Agricultural District; Mining

**Description:**

Permits in the agricultural districts, mining for sand, rock, gravel, and other materials used in construction. Allows activities ancillary to mining, including processing and storage, if the person is engaged in mining. (HB3286 HD1)

