

---

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1           SECTION 1. The legislature finds that Hawaii's dependence  
2 on petroleum for over ninety per cent of its energy needs is  
3 more than any other state in the nation. This makes the state  
4 extremely vulnerable to any oil embargo, supply disruption,  
5 international market dysfunction, and many other factors beyond  
6 the control of the State. Furthermore, the continued  
7 consumption of conventional petroleum fuel and price volatility  
8 can negatively impact the viability of agricultural operations.  
9 At the same time, Hawaii has among the most abundant renewable  
10 energy resources in the world, in the form of solar, geothermal,  
11 wind, biomass, and ocean energy assets.

12           The legislature further finds that increased energy  
13 efficiency and use of renewable energy resources would increase  
14 Hawaii's energy self-sufficiency, achieving broad societal  
15 benefits, including increased energy security, resistance to  
16 increases in oil prices, environmental sustainability, economic  
17 development, and job creation.



1           To shape Hawaii's energy and agricultural future and  
2 achieve the goal of energy and food self-sufficiency for the  
3 state, our efforts must continue on all fronts, integrating new  
4 and evolving technologies, seizing upon opportunities to become  
5 more economically diversified, and providing incentives and  
6 assistance to address barriers. It is crucial to address the  
7 negative impacts that rising and volatile petroleum prices have  
8 on fuel and fertilizer.

9           The purpose of this Act is to permit the use of lands in  
10 agricultural land use districts for agricultural-energy  
11 facilities when the production, storage, and distribution of  
12 renewable energy are integrated with an agricultural activity.

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

15           "(d) Agricultural districts shall include:

16           (1) Activities or uses as characterized by the cultivation  
17           of crops, crops for bioenergy, orchards, forage, and  
18           forestry;

19           (2) Farming activities or uses related to animal  
20           husbandry, and game and fish propagation;



- 1           (3)   Aquaculture, which means the production of aquatic  
2           plant and animal life within ponds and other bodies of  
3           water;
- 4           (4)   Wind generated energy production for public, private,  
5           and commercial use;
- 6           (5)   Biofuel production as described in section  
7           205-4.5(a)(15) for public, private, and commercial  
8           use;
- 9           (6)   Bona fide agricultural services and uses that support  
10          the agricultural activities of the fee or leasehold  
11          owner of the property and accessory to any of the  
12          above activities, whether or not conducted on the same  
13          premises as the agricultural activities to which they  
14          are accessory, including but not limited to farm  
15          dwellings as defined in section 205-4.5(a)(4),  
16          employee housing, farm buildings, mills, storage  
17          facilities, processing facilities, agricultural-energy  
18          facilities as defined in section 205-4.5(a)(16),  
19          vehicle and equipment storage areas, roadside stands  
20          for the sale of products grown on the premises, and  
21          plantation community subdivisions as defined in  
22          section 205-4.5(a)(12);



- 1           (7) Wind machines and wind farms;
- 2           (8) Small-scale meteorological, air quality, noise, and
- 3           other scientific and environmental data collection and
- 4           monitoring facilities occupying less than one-half
- 5           acre of land; provided that these facilities shall not
- 6           be used as or equipped for use as living quarters or
- 7           dwellings;
- 8           (9) Agricultural parks;
- 9           (10) Agricultural tourism conducted on a working farm, or a
- 10           farming operation as defined in section 165-2, for the
- 11           enjoyment, education, or involvement of visitors;
- 12           provided that the agricultural tourism activity is
- 13           accessory and secondary to the principal agricultural
- 14           use and does not interfere with surrounding farm
- 15           operations; and provided further that this paragraph
- 16           shall apply only to a county that has adopted
- 17           ordinances regulating agricultural tourism under
- 18           section 205-5; and
- 19           (11) Open area recreational facilities.
- 20           Agricultural districts shall not include golf courses and golf
- 21           driving ranges, except as provided in section 205-4.5(d).
- 22           Agricultural districts include areas that are not used for, or



1 that are not suited to, agricultural and ancillary activities by  
2 reason of topography, soils, and other related characteristics."

3 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

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

9 (1) Cultivation of crops, including but not limited to  
10 crops for bioenergy, flowers, vegetables, foliage,  
11 fruits, forage, and timber;

12 (2) Game and fish propagation;

13 (3) Raising of livestock, including but not limited to  
14 poultry, bees, fish, or other animal or aquatic life  
15 that are propagated for economic or personal use;

16 (4) Farm dwellings, employee housing, farm buildings, or  
17 activities or uses related to farming and animal  
18 husbandry. "Farm dwelling", as used in this  
19 paragraph, means a single-family dwelling located on  
20 and used in connection with a farm, including clusters  
21 of single-family farm dwellings permitted within  
22 agricultural parks developed by the State, or where



- 1 agricultural activity provides income to the family  
2 occupying the dwelling;
- 3 (5) Public institutions and buildings that are necessary  
4 for agricultural practices;
- 5 (6) Public and private open area types of recreational  
6 uses, including day camps, picnic grounds, parks, and  
7 riding stables, but not including dragstrips,  
8 airports, drive-in theaters, golf courses, golf  
9 driving ranges, country clubs, and overnight camps;
- 10 (7) Public, private, and quasi-public utility lines and  
11 roadways, transformer stations, communications  
12 equipment buildings, solid waste transfer stations,  
13 major water storage tanks, and appurtenant small  
14 buildings such as booster pumping stations, but not  
15 including offices or yards for equipment, material,  
16 vehicle storage, repair or maintenance, treatment  
17 plants, corporation yards, or other similar  
18 structures;
- 19 (8) Retention, restoration, rehabilitation, or improvement  
20 of buildings or sites of historic or scenic interest;
- 21 (9) Roadside stands for the sale of agricultural products  
22 grown on the premises;



- 1       (10) Buildings and uses, including but not limited to  
2           mills, storage, and processing facilities, maintenance  
3           facilities, and vehicle and equipment storage areas  
4           that are normally considered directly accessory to the  
5           ~~[above-mentioned]~~ above-mentioned uses and are  
6           permitted under section 205-2(d);
- 7       (11) Agricultural parks;
- 8       (12) Plantation community subdivisions, which as used in  
9           this ~~[paragraph]~~ chapter means [a] an established  
10          subdivision or cluster of employee housing, community  
11          buildings, and ~~[acreage-established]~~ agricultural  
12          support buildings on land currently or formerly owned,  
13          leased, or operated by a sugar or pineapple plantation  
14          ~~[and in residential use]~~ where the existing structures  
15          are used, rehabilitated, or increased for use as  
16          provided herein:
- 17          (A) The employee housing shall be occupied by  
18             employees or former employees of the plantation[+  
19             ~~provided that]~~ and the employees or former  
20             employees shall have a property interest in the  
21             land;



1           (B) The employee housing units shall be rented or  
2           leased at affordable rates for agricultural  
3           workers; or

4           (C) The agricultural support buildings shall be  
5           rented or leased to agricultural business  
6           operators or agricultural support services.

7           (13) Agricultural tourism conducted on a working farm, or a  
8           farming operation as defined in section 165-2, for the  
9           enjoyment, education, or involvement of visitors;  
10          provided that the agricultural tourism activity is  
11          accessory and secondary to the principal agricultural  
12          use and does not interfere with surrounding farm  
13          operations; and provided further that this paragraph  
14          shall apply only to a county that has adopted  
15          ordinances regulating agricultural tourism under  
16          section 205-5;

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





1           (15) Biofuel processing facilities, including the  
2           appurtenances associated with the production and  
3           refining of biofuels that is normally considered  
4           directly accessory and secondary to the growing of the  
5           energy feedstock; provided that biofuels processing  
6           facilities and appurtenances do not adversely impact  
7           agricultural land and other agricultural uses in the  
8           vicinity.

9                     For the purposes of this paragraph:

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

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



1       (16) Agricultural-energy facilities, including  
2       appurtenances necessary for an agricultural-energy  
3       enterprise; provided that the primary activity of the  
4       agricultural-energy enterprise is agricultural  
5       activity. To be considered the primary activity of an  
6       agricultural-energy enterprise, the total acreage  
7       devoted to agricultural activity shall be not less  
8       than ninety per cent of the total acreage of the  
9       agricultural-energy enterprise. The agricultural-  
10       energy facility shall be limited to lands owned,  
11       leased, licensed, or operated by the entity conducting  
12       the agricultural activity.

13               As used in this paragraph:

14               "Agricultural activity" means any activity  
15       identified in paragraphs (1) to (3) of this  
16       subsection.

17               "Agricultural-energy enterprise" means an  
18       enterprise that integrally incorporates an  
19       agricultural activity with an agricultural-energy  
20       facility.

21               "Agricultural-energy facility" means a facility  
22       that generates, stores, or distributes renewable



1 energy or renewable fuel including electrical or  
2 thermal energy or liquid or gaseous fuels from  
3 products of agricultural activities from agricultural  
4 lands located in the state.

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

11 or

12 ~~[(16)]~~ (17) Construction and operation of wireless  
13 communication antennas; provided that, for the purposes  
14 of this paragraph, "wireless communication antenna"  
15 means communications equipment that is either  
16 freestanding or placed upon or attached to an already  
17 existing structure and that transmits and receives  
18 electromagnetic radio signals used in the provision of  
19 all types of wireless communications services; provided  
20 further that nothing in this paragraph shall be  
21 construed to permit the construction of any new



1 structure that is not deemed a permitted use under this  
2 subsection."

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

5 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Agricultural-energy Facilities; Agricultural Districts

**Description:**

Permits the use of lands in agricultural land use districts to be used for agricultural-energy facilities provided that the primary activity of the agricultural-energy enterprise is agricultural activity. (SD1)

