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## A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Chapter 141, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           **"PART . AGRICULTURAL PRODUCTS PROCESSING PROGRAM**

5           **§141-A Purpose.** The purpose of this part is to encourage  
6 the development of agricultural products processing activities  
7 in the State, adding value to agricultural products grown or  
8 produced in the State.

9           **§141-B Definitions.** As used in this part, unless the  
10 context other requires:

11           "Agricultural product" includes floriculture, horticulture,  
12 viticultural, forestry, aquaculture, forestry, nut, coffee,  
13 dairy, livestock, poultry, bee, animal, and any other farm,  
14 agronomic, or plantation product.

15           "Agricultural production processing" includes research,  
16 development, processing, manufacturing, production, and sale of  
17 agricultural products grown or produced in the State for resale  
18 within or without the State.



1 "Department" means the department of agriculture.

2 "Eligible business activity" means the:

3 (1) Manufacturing, production, or processing of  
4 agricultural products, all of which were grown within  
5 the State; or

6 (2) Research, development, sale, or production of all  
7 types of genetically-engineered medical, agricultural,  
8 or maritime biotechnology products.

9 "Establishment" means a single physical location in any  
10 agricultural district where business is conducted. A business  
11 firm may include one or more establishments, all of which must  
12 be in the agricultural district.

13 "Force majeure event" means an event, including damaging  
14 weather or natural disasters, including epidemic disease, pest  
15 outbreak, high wind, thunderstorm, hailstorm, tornado, fire,  
16 flood, earthquake, lava flow or other volcanic activity,  
17 drought, tidal wave, hurricane, or without limiting or  
18 restricting the foregoing in any way, any event reasonably  
19 beyond the control of, and not attributable to neglect by, an  
20 agricultural business.

21 "Full-time employee" means any employee, including a leased  
22 employee and an employee under a joint employment arrangement,



1 for whom the employer is legally required to provide employee  
2 fringe benefits.

3 "Joint employment" means an employment arrangement:

4 (1) Between two or more employers to share an employee's  
5 services, as for example, to interchange employees;

6 (2) In which one employer acts directly or indirectly in  
7 the interest of the other employer or employers in  
8 relation to the employee; or

9 (3) In which two or more employers are not completely  
10 disassociated with respect to the employment of a  
11 particular employee and may be deemed to share control  
12 of the employee, directly or indirectly, by reason of  
13 the fact that one employer controls, is controlled by,  
14 or is under common control of the other employer.

15 "Leased employee" means an employee under a professional  
16 employment organization arrangement who is assigned to a  
17 particular client company on a substantially full-time basis for  
18 at least one year.

19 "Qualified business" means any corporation, partnership,  
20 joint venture, nonprofit cooperative, limited liability company,  
21 or sole proprietorship authorized to do business in the State  
22 that is qualified under section 141-C, subject to the state



1 corporate or individual income tax under chapter 235, and is  
2 engaged in an eligible business activity as defined in this  
3 part.

4 "Taxes due the State" means income taxes due under chapter  
5 235.

6 **§141-C Eligibility; qualified business; sale of property**  
7 **or services.** (a) Any business firm, newly formed or already  
8 operating, may be eligible to be designated a qualified business  
9 for purposes of this part if the business:

10 (1) Begins the operation of an agricultural production  
11 processing project in any agricultural district after  
12 the effective date of this Act;

13 (2) During each taxable year has at least fifty per cent  
14 of its establishments' gross receipts attributable to  
15 the active conduct of agricultural product processing;  
16 and

17 (3) Either:

18 (A) Increases its average annual number of full-time  
19 employees employed at the business' establishment  
20 or establishments within the agricultural  
21 district by at least five per cent by the end of  
22 the first year of operation, and by at least ten



1 per cent by the end of each of the fourth, fifth,  
2 sixth, and seventh years of operation, and for  
3 businesses eligible for tax credits extending  
4 past the seventh year, at least maintains that  
5 higher level of employment during each subsequent  
6 taxable year; provided that the percentage  
7 increase shall be based upon the employee count  
8 at the beginning of the initial year of operation  
9 as a qualified business; or

10 (B) Increases its gross sales of agricultural,  
11 products processed within the State by two per  
12 cent annually.

13 (c) Each qualified business firm shall submit annually to  
14 the department an approved form prescribed and provided by the  
15 department that provides the information necessary for the  
16 department to determine if it may certify the applicability of  
17 the tax credits and exemptions provided in this part for the  
18 business firm.

19 (d) The form referred to in subsection (c) shall be prima  
20 facie evidence of the eligibility of a business for the purposes  
21 of this section.



1           (e) The processed agricultural product may be sold at an  
2 establishment of a qualified business; however, the transfer of  
3 title to the buyer of the processed agricultural product may  
4 take place anywhere within the State.

5           (f) For any fiscal year, a business may use its average  
6 annual number of full-time employees as of December 31 to meet  
7 the requirements of subsection (a)(3).

8           **§141-D State business tax credit.** (a) The department  
9 shall certify annually to the department of taxation the  
10 applicability of the tax credit provided in this chapter for a  
11 qualified business against any taxes due the State. Except for  
12 the general excise tax, the credit shall be eighty per cent of  
13 the tax due for the first tax year, seventy per cent of the tax  
14 due for the second tax year, sixty per cent of the tax due for  
15 the third year, fifty per cent of the tax due the fourth year,  
16 forty per cent of the tax due the fifth year, thirty per cent of  
17 the tax due the sixth year, and twenty per cent of the tax due  
18 the seventh year. For qualified businesses, the credit shall  
19 continue after the seventh year at the rate of twenty per cent  
20 of the tax due for each of the subsequent three tax years. Any  
21 tax credit not usable shall not be applied to future tax years.



1           (b) When a partnership is eligible for a tax credit under  
2 this section, each partner shall be eligible for the tax credit  
3 provided for in this section on the partner's income tax return  
4 in proportion to the amount of income received by the partner  
5 from the partnership. Any qualified business having taxable  
6 income from business activity, both qualified and not qualified  
7 under this part, shall allocate and apportion its taxable income  
8 attributable to the conduct of business. Tax credits provided  
9 for in this section shall only apply to taxable income of a  
10 qualified business attributable to the conduct of business  
11 pursuant to this part.

12           (c) In addition to any tax credit authorized under this  
13 section, any qualified business shall be entitled to a tax  
14 credit against any taxes due the State in an amount equal to a  
15 percentage of unemployment taxes paid. The amount of the credit  
16 shall be equal to eighty per cent of the unemployment taxes paid  
17 during the first year, seventy per cent of the taxes paid during  
18 the second year, sixty per cent of the taxes paid during the  
19 third year, fifty per cent of the taxes paid during the fourth  
20 year, forty per cent of the taxes paid during the fifth year,  
21 thirty per cent of the taxes paid during the sixth year, and  
22 twenty per cent of the taxes paid during the seventh year. For



1 qualified businesses, the credit shall continue after the  
2 seventh year in an amount equal to twenty per cent of the taxes  
3 paid during each of the subsequent three tax years.

4 (d) Tax credits provided for in subsection (c) shall only  
5 apply to the unemployment tax paid on employees employed at the  
6 qualified business' establishment or establishments. Any tax  
7 credit not usable shall not be applied to future tax years.

8 **§141-E State general excise exemptions.** The department  
9 shall certify annually to the department of taxation that any  
10 qualified business is exempt from the payment of general excise  
11 taxes on the gross proceeds from an eligible business activity  
12 as defined in this part; provided that agricultural businesses  
13 other than those engaged in the production of genetically-  
14 engineered agricultural products shall not be exempt from the  
15 payment of general excise taxes on the gross proceeds of  
16 agricultural retail sales. The exemption shall extend for a  
17 period not to exceed four years; provided that if a force  
18 majeure event occurs, then the period of time shall be tolled  
19 until the force majeure event ceases.

20 **§141-F Force majeure event.** If the qualified agricultural  
21 product processing operation is:





1           (1) Wholly or partially prevented from maintaining  
2                   eligibility requirements under section 141-C; or  
3           (2) Interrupted,  
4 by reason of or through any force majeure event, then the  
5 business shall not be disqualified under this part. The  
6 business shall remain eligible for all tax incentives under this  
7 part during any period of time while experiencing conditions  
8 under paragraph (1) or (2) caused by a force majeure event, and  
9 the eligibility periods for both the tax credits and general  
10 excise tax exemption shall be extended by an equivalent period  
11 of time. The business shall be as prompt and diligent as  
12 practicable in providing the department with notice of a force  
13 majeure event or of any situation that may lead to a force  
14 majeure event.

15           **§141-G Agricultural product processing program fee.** There  
16 shall be imposed and collected from all qualified agricultural  
17 product processing businesses a graduated annual fee of \$500 for  
18 the first year of participating in this program, \$750 for the  
19 second year, and \$1000 per year thereafter, to be used to fund  
20 the operation of the program. Fees collected shall be deposited  
21 into the agricultural product processing program special fund  
22 pursuant to section 141-H.



1           **§141-H Agricultural product processing program special**  
2 **fund.** (a) There is established in the state treasury the  
3 agricultural product processing program special fund, into which  
4 shall be deposited:

- 5           (1) All agricultural product processing program fees  
6           assessed and collected, pursuant to section 141-G;  
7           (2) Appropriations by the legislature for the agricultural  
8           product processing program;  
9           (3) Gifts, grants, and other funds accepted by the  
10           department for the agricultural product processing  
11           program; and  
12           (4) All interest and other revenue derived from proceeds  
13           in the special fund.

14           (b) Moneys in the agricultural product processing program  
15 special fund shall be used by the department for the  
16 administration and promotion of the agricultural product  
17 processing program.

18           **§141-I Joint ventures; special purpose revenue bonds.** (a)  
19 A qualified agriculture product processing business may form a  
20 joint venture with other entities or businesses that are not  
21 qualified under this part for purposes of financing capital  
22 projects for the qualified agriculture product processing



1 business; provided that the tax credits and general excise tax  
2 exemptions shall only apply to the qualified agriculture product  
3 processing business to the extent provided under this part.

4 (b) Qualified businesses and joint ventures engaged in  
5 business pursuant to and in compliance with this part shall be  
6 qualified to participate in special purpose revenue bond issues  
7 pursuant to chapter 39A.

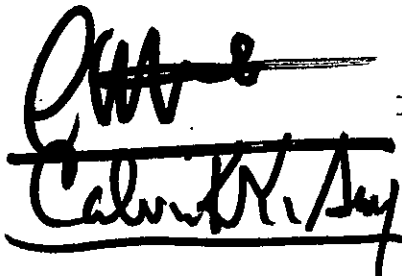
8 §141-J Rules. The department shall adopt, amend, or  
9 repeal rules under chapter 91 necessary to implement the  
10 provisions of this part."

11 SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
12 amended by designating sections 141-1 to 141-9 as part I,  
13 entitled "General Provisions".


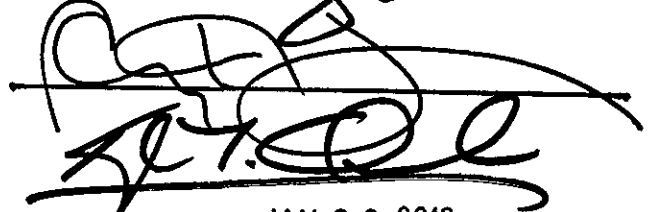
14 SECTION 3. In codifying the new sections added by section  
15 1 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

18 SECTION 4. This Act shall take effect on July 1, 2010.

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Calvin K. King

INTRODUCED BY:



**Report Title:**

Agriculture; Product Processing

**Description:**

Establishes agricultural product processing incentive program to assist agriculturalist in processing agricultural products grown in the State.

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

