

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

- 1           SECTION 1. The purpose of this Act is to promote and  
2 support agriculture by, among other things:
- 3           (1) Amending section 147-1, Hawaii Revised Statutes, by  
4           amending the definition of "agricultural commodity";
- 5           (2) Establishing the agriculture inspection and  
6           certification special fund under the department of  
7           agriculture;
- 8           (3) Transmitting all fees and moneys collected by the  
9           department of agriculture pursuant to chapters 144,  
10           145, 147, and 150, Hawaii Revised Statutes, and rules  
11           adopted pursuant to section 141-4, Hawaii Revised  
12           Statutes, to the agriculture inspection and  
13           certification special fund;
- 14           (4) Allowing the department to enter into agreements with  
15           government and private agencies to hire inspectors;
- 16           (5) Transferring all moneys and unpaid obligations of the  
17           certification services revolving fund on June 30,



1           2010, to the agriculture inspection and certification  
2           special fund; and

3           (6) Repealing the certification services revolving fund.

4           SECTION 2. Chapter 147, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and read as follows:

7           "§147-     Agriculture inspection and certification special  
8 fund. (a) There is established within the state treasury the  
9 agriculture inspection and certification special fund.

10           (b) The following shall be deposited into the fund:

11           (1) Fees, charges, fines, and penalties designated by law  
12           or rule for deposit into the fund;

13           (2) Federal funds received for inspecting, certifying,  
14           weighing, classifying, or grading of agricultural  
15           commodities to be exported from or shipped within the  
16           state;

17           (3) Grants and gifts;

18           (4) Funds received for food safety or food security  
19           certification seals;

20           (5) Funds received for promoting safety-certified food  
21           suppliers and services related to food safety;



1       (6) All interest earned or accrued on moneys deposited in  
2           the fund; and

3       (7) Any other moneys made available to the fund.

4       (c) The moneys in the agriculture inspection and  
5       certification special fund shall be expended by the department  
6       for:

7       (1) The licensure of commission merchants, dealers,  
8           brokers, agents, processors, and retail merchants;

9       (2) The administration, operation, and enforcement of  
10       chapter 144, part I of chapter 145, chapter 150, this  
11       chapter, and rules adopted pursuant to section 141-4;  
12       and

13       (3) The inspection, certification, weighing, or grading of  
14       agricultural commodities that are to be imported into,  
15       exported from, or shipped within the state.

16       No moneys from the general or other special or revolving  
17       funds shall be expended by the department for the  
18       administration, operation, or enforcement of chapter 144, part I  
19       of chapter 145, chapter 150, this chapter, or rules adopted  
20       pursuant to section 141-4; provided that the expenditure of  
21       moneys from the general fund for central services and  
22       departmental administrative expenses shall be permitted. Moneys



1 in the agriculture inspection and certification special fund  
2 shall be expended to cover costs of administering chapter 144,  
3 part I of chapter 145, chapter 150, this chapter, and rules  
4 adopted pursuant to section 141-4, including the costs of  
5 salaries, fringe benefits, operating expenses, equipment, motor  
6 vehicles, contracts for services, and promotional expenses."

7 SECTION 3. Section 141-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§141-4 **Weights of coffee; rules.** The department of  
10 agriculture may make rules respecting the weighing of coffee  
11 prior to its shipment to points outside the [~~State,~~] state, and  
12 providing for the certification of weights thereof. Further, a  
13 reasonable schedule of fees to defray the expense of  
14 administering this section shall be established by the  
15 department, which fees shall be collected and [~~deposited with~~]  
16 transmitted to the state director of finance [~~to the credit of~~  
17 ~~the general~~] for deposit into the agricultural inspection and  
18 certification special fund; provided that the department shall  
19 consult the appropriate industries, organizations, and agencies  
20 prior to the promulgation of the rules."

21 SECTION 4. Section 144-5, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) There shall be paid to the department for all feeds  
2 distributed or imported for use or sale in this [~~State,~~] state,  
3 inspection fees as established by the rules of the department;  
4 provided that the department shall exempt by rule the payment of  
5 inspection fees on feed not subject to specific requirements of  
6 this chapter or rules adopted under this chapter. All  
7 inspection fees collected shall be [~~deposited with~~] transmitted  
8 to the state director of finance [~~to the credit of the general~~]  
9 for deposit into the agricultural inspection and certification  
10 special fund."

11           SECTION 5. Section 145-14, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§145-14 Disposition of fees and charges.** (a) All fees,  
14 charges, expenses, and other moneys collected pursuant to this  
15 [~~chapter~~] part shall be [~~deposited with~~] transmitted to the  
16 state director of finance [~~to the credit of the general~~] for  
17 deposit into the agriculture inspection and certification  
18 special fund.

19           (b) The following moneys shall be deposited into the  
20 agriculture inspection and certification special fund:

21           (1) Fees, charges, expenses, and other moneys collected  
22           under this part;



- 1        (2) Fines collected from violations of this part;
- 2        (3) Interest earned on the moneys in the special fund; and
- 3        (4) All other moneys made available to the fund."

4        SECTION 6. Section 147-1, Hawaii Revised Statutes, is  
 5 amended by amending the definition of "agricultural commodity"  
 6 to read as follows:

7        "'Agricultural commodity" means fresh fruits and fresh  
 8 vegetables of every kind and character, whether or not frozen or  
 9 packed in ice, whether produced in the [State] state or  
 10 imported, nuts, and coffee, whether cherry or parchment, or  
 11 green beans, which have been produced in the [State, ~~and~~] state,  
 12 raw unprocessed honey, whether produced in the [State] state or  
 13 imported[~~7~~], milk which has been produced in the state, poultry  
 14 eggs or poultry carcass or meat which has been produced in the  
 15 state, and any live animal included in section 142-49 or the  
 16 carcass or meat of these animals, whether produced in the state  
 17 or imported except the carcass or meat of horses or llamas."

18        SECTION 7. Section 147-10, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20        "§147-10 Income from certification and agriculture control  
 21 activities. [~~Except for fees collected by the department~~  
 22 ~~pursuant to part VII, all]~~ All fees, expenses, and penalties

1 collected by the department pursuant to this part shall be  
2 [~~deposited with~~] transmitted to the director of finance [to the  
3 ~~credit of the general]~~ for deposit into the agriculture  
4 inspection and certification special fund."

5 SECTION 8. Section 147-34, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§147-34 Inspection; certification fees. The board of  
8 agriculture may designate any appropriately-certified employee  
9 or agent of the department as an inspector to classify and  
10 inspect fresh and processed flowers and foliage for quality and  
11 condition and to determine if containers, packing materials, and  
12 methods of packing meet the minimum requirements established.  
13 In addition the inspector may classify and inspect flowers and  
14 foliage for quality and condition at the request of persons  
15 having a financial interest in the commodities [~~in order~~] to  
16 ascertain and to certify to those persons the grade,  
17 classification, quality, or condition thereof and other  
18 pertinent facts. The department may fix, assess, and collect or  
19 cause to be collected fees for those certification services when  
20 they are performed by the employees of the department. The fees  
21 shall be on a uniform basis and in an amount reasonably  
22 necessary to cover the cost of certification services provided



1 at the request of persons having a financial interest. [~~Except~~  
2 ~~for fees collected by the department pursuant to part VII, all]~~  
3 All fees collected by the department pursuant to this part shall  
4 be [~~deposited with]~~ transmitted to the [~~state]~~ director of  
5 finance [~~to the credit of the general]~~ for deposit into the  
6 agriculture inspection and certification special fund."

7 SECTION 9. Section 147-64, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§147-64 **Deposit of moneys.** [~~Except for fees collected by~~  
10 ~~the department pursuant to part VII, all]~~ All fees, charges,  
11 expenses, civil penalties, and other moneys collected by the  
12 department under this part or any rules prescribed by the  
13 department pursuant to this part shall be [~~deposited with]~~  
14 transmitted to the [~~state]~~ director of finance [~~to the credit of~~  
15 ~~the general]~~ for deposit into the agriculture inspection and  
16 certification special fund."

17 SECTION 10. Section 147-74, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§147-74 **Grading standards and regulations** [~~-~~]; fees. (a)  
20 Subject to chapter 91, the department of agriculture may make  
21 rules with respect to:





- 1 (1) Sale and transportation for sale of eggs for human  
2 consumption;
- 3 (2) Specific grades or standards of quality, condition and  
4 size or weight classes which shall conform when  
5 practical to those established by the United States  
6 Department of Agriculture as local conditions will  
7 permit;
- 8 (3) Inspection and classification;
- 9 (4) Assessment and collection of fees for requested  
10 certification as to grade, standard of quality,  
11 condition, and size of weight classes;
- 12 (5) Labeling of containers of imported and locally produced  
13 eggs and marking of individual imported eggs as to  
14 origin;
- 15 (6) Seller's invoice for sale of eggs;
- 16 (7) Records of imported shell eggs of foreign origin;
- 17 (8) Methods of determining egg quality, which shall not  
18 include recandling or any other method applied to eggs  
19 in interstate commerce which is discriminatory or  
20 impairs that commerce in any way or requires a cost  
21 increase of eggs in interstate commerce; and



1 (9) Enforcement of this part and of the rules adopted under  
2 this part.

3 (b) Any fees collected pursuant to subsection (a) (4) shall  
4 be transmitted to the director of finance for deposit into the  
5 agriculture inspection and certification special fund."

6 SECTION 11. Section 147-97, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "~~§147-97~~ **Disposition of fees.** All fees collected under  
9 this part shall be ~~[paid into a special fund established by the~~  
10 ~~department of agriculture and shall be expended for the purposes~~  
11 ~~of this part.]~~ transmitted to the director of finance for  
12 deposit into the agriculture inspection and certification  
13 special fund."

14 SECTION 12. Section 147-102, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~[+] §147-102~~ **Certification and audit services.** The  
17 department of agriculture shall fix, assess, and collect fees  
18 for certification or audit services provided by temporary  
19 inspectors employed under this ~~[part, -]~~ chapter. The fees shall  
20 be in amounts necessary to cover all costs of the administration  
21 and provision of the certification or audit services provided  
22 under this ~~[part, -]~~ chapter; provided that the department of



1 agriculture shall establish charges for traveling expenses and  
2 extraordinary services when the performance of the services  
3 involves unusual cost. The fees and charges established by the  
4 department of agriculture shall not be subject to chapter 91 [-]  
5 and, upon collection, shall be transmitted to the director of  
6 finance for deposit into the agriculture inspection and  
7 certification special fund. The department of agriculture may  
8 employ temporary inspectors to assist in providing certification  
9 or audit service under parts I, III, IV, VIII, and IX, and those  
10 temporary inspectors shall be exempt from chapter 76."

11 SECTION 13. Section 147-112, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+] §147-112 [-] Cooperative agreements and contracts to  
14 provide auditing and certification services. The department may  
15 enter into cooperative agreements with the United States  
16 Department of Agriculture or other agreements and contracts with  
17 private parties or other governmental agencies for the purposes  
18 of:

19 (1) Auditing and certifying that applicants are following  
20 good agricultural handling, processing, and  
21 manufacturing practices; [and]



1        (2) Hiring and paying travel and other expenses for  
2                    inspectors to perform the certification and audit  
3                    services required under this chapter;

4        ~~[(2)]~~ (3) Maintaining food safety, security, and product  
5                    traceability[-]; and

6        (4) Establishing and maintaining an Internet food safety  
7                    promotional and reporting system."

8        SECTION 14. Section 147-114, Hawaii Revised Statutes, is  
9 amended to read as follows:

10        "~~[(4)]~~ §147-114 ~~[(4)]~~ Fees and deposit of moneys. (a) The  
11 department shall fix, assess, and collect fees for the audit and  
12 certification services provided under this part ~~[-]~~, including  
13 fees for hiring inspectors to perform the services. The fees  
14 shall be as established under cooperative agreement with the  
15 United States Department of Agriculture or other governmental  
16 agencies or, if not applicable, as established by rule under  
17 section 147-7. The department ~~[may]~~ shall also charge an amount  
18 necessary to cover all costs of traveling expenses and  
19 extraordinary services when the performance of the services  
20 involves unusual cost in their performance.

21        (b) ~~[Except for fees collected by the department pursuant~~  
22 ~~to part VII, all]~~ All fees and expenses collected by the

1 department pursuant to this part shall be [~~deposited with~~  
2 transmitted to the director of finance [~~to the credit of the~~  
3 general] for deposit into the agriculture inspection and  
4 certification special fund."

5 SECTION 15. Section 147-126, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) [~~Except for fees collected by the department pursuant~~  
8 ~~to part VII, all~~] All fees and expenses collected by the  
9 department pursuant to this part shall be [~~deposited with~~  
10 transmitted to the director of finance [~~to the credit of the~~  
11 general] for deposit into the agriculture inspection and  
12 certification special fund."

13 SECTION 16. Section 147-101, Hawaii Revised Statutes, is  
14 repealed.

15 [~~"§147-101 Certification services revolving fund. There~~  
16 ~~is established a certification services revolving fund for use~~  
17 ~~by the department of agriculture to support certification or~~  
18 ~~audit services established under parts I, III, IV, VIII, and IX.~~  
19 ~~Moneys in the fund may be expended for materials, salaries,~~  
20 ~~equipment, training, travel, and other costs related to~~  
21 ~~providing certification or audit services. Notwithstanding~~  
22 ~~section 147-10, 147-34, 147-64, 147-114 and 147-126, moneys~~



1 ~~derived from the certification or audit services provided by~~  
2 ~~temporary inspectors employed under this part or from charges~~  
3 ~~for traveling expenses or extraordinary services shall be~~  
4 ~~deposited into the fund."]~~

5 SECTION 17. (a) The repeal of section 147-101, Hawaii  
6 Revised Statutes, shall not rescind any fees authorized or  
7 imposed under that section that would have been deposited into  
8 the certification services revolving fund. From July 1, 2010,  
9 the fees under those sections shall be deposited into the  
10 agriculture inspection and certification special fund.

11 (b) On the effective date of this Act:

12 (1) All moneys in the certification services revolving fund  
13 on June 30, 2010, shall be transferred to the  
14 agriculture inspection and certification special fund;

15 (2) All unpaid obligations of the certification services  
16 revolving fund on June 30, 2010, shall become payable  
17 from the agriculture inspection and certification  
18 special fund; and

19 (3) The certification services revolving fund shall cease  
20 to exist.

21 SECTION 18. (a) Between July 1, 2020, and September 30,  
22 2010, the department of agriculture shall adopt new or amend



1 existing rules to impose or increase fees authorized to be  
2 charged under section 141-4, chapter 144, part I of chapter 145,  
3 chapter 150, chapter 147, Hawaii Revised Statutes, and rules  
4 adopted pursuant to section 141-4, Hawaii Revised Statutes,  
5 without regard to the public notice and public hearing  
6 requirements of section 91-3, Hawaii Revised Statutes, the small  
7 business impact review requirements or chapter 201M, Hawaii  
8 Revised Statutes or the limit on fee increases under section 92-  
9 28, Hawaii Revised Statutes. The department shall set the fees  
10 through a two-tiered increase at amounts intended to generate  
11 sufficient revenues to pay the operation and maintenance costs  
12 of implementing the agriculture inspection and certification  
13 programs of chapter 141, chapter 144, part I of chapter 145,  
14 chapter 147, chapter 150, Hawaii Revised Statutes, and rules  
15 adopted pursuant to section 141-4, Hawaii Revised Statutes, and  
16 central services and departmental administrative expense  
17 assessments of section 36-27 and section 36-30, Hawaii Revised  
18 Statutes.

19 (b) If, by September 30, 2010, the department of  
20 agriculture has not complied with subsection (a), then the fee  
21 charged for each inspection or certification conducted under  
22 authority of section 141-4, chapter 144, part I of chapter 145,



1 chapter 147, chapter 150, Hawaii Revised Statutes, and rules  
2 adopted pursuant to section 141-4, Hawaii Revised Statutes,  
3 shall be \$65 per hour or as established under cooperative  
4 agreement with the United States Department of Agriculture or  
5 other governmental agencies commencing October 1, 2010, and the  
6 fee charged for licensure of or license renewal for a commission  
7 merchant, dealer, broker, agent, processor, or retail merchant  
8 shall be:

- 9 (1) \$80 for commission merchant, dealer, broker, agent, or  
10 processor;  
11 (2) \$20 for a retail merchant, and  
12 (3) \$10 for each branch store;  
13 commencing October 1, 2010.

14 (c) Any subsequent amendments to the rules adopted or  
15 amended pursuant to subsection (a) or the fee established under  
16 subsection (b) shall be subject to all applicable provisions of  
17 chapter 91, chapter 201M, and section 92-28, Hawaii Revised  
18 Statutes.

19 SECTION 19. Notwithstanding section 2 of this Act, there  
20 is appropriated out the general revenues of the State of Hawaii  
21 the sum of \$ or so much thereof as may be necessary  
22 for fiscal year 2010-2011 for deposit into the agriculture





1 inspection and certification special fund to cover the costs of  
2 the agriculture inspection and certification program of the  
3 department of agriculture; provided that funding shall cease  
4 when the collection into the agriculture inspection and  
5 certification special fund becomes sufficient to carry out the  
6 purposes of this Act.

7       There is appropriated out of the agriculture inspection and  
8 certification special fund established by chapter 147, Hawaii  
9 Revised Statutes, the sum of \$                   for fiscal year 2010-  
10 2011 for the purposes of the agricultural inspection and  
11 certification program. The sum appropriated shall be expended  
12 by the department of agriculture for the purposes of this Act.

13       SECTION 20. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15       SECTION 21. This Act shall take effect on July 1, 2020.



**Report Title:**

Agricultural Commodity, Inspection and Certification

**Description:**

Amends the definition of "agricultural commodity" to include milk, eggs, poultry, and livestock of the bovine, swine, sheep, or goat species and the carcasses or meat of those species. Establishes the Agriculture Inspection and Certification Special Fund under the Department of Agriculture for the inspection, certification, weighing, or grading of agricultural commodities that are to be imported into, exported from, or shipped within the state. Deposits all fees, civil penalties, and other moneys collected by DOA into the Special Fund. Allows DOA to enter into agreements with government and private agencies to hire and pay inspectors to perform certification and audit services, maintain food safety, and establish and maintain an Internet food safety promotional and reporting system. Repeals the Certification Services Revolving Fund. Requires the establishment or increase of certain fees to cover the operation and maintenance costs of agriculture inspection and certification programs, and central services and departmental administrative expense assessments. Appropriates funds for DOA's agriculture inspection and certification program. Effective July 1, 2020. (SB2527 HD1)

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

