

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. The legislature finds that the existing  
2 provisions in the law that are aimed at preventing the theft of  
3 agriculture products are not adequate to deter thieves from  
4 stealing agricultural products and reselling them. Although the  
5 current law requires ownership and movement certification  
6 documents for the transportation and sale of agricultural  
7 commodities over two hundred pounds or worth at least \$100,  
8 these documents are easily falsified.

9           The purpose of this Act is to deter these thefts and the  
10 profits that thieves gain from them by clarifying the current  
11 requirements and requiring proof of identification upon the sale  
12 of farm goods to the buyer.

13           SECTION 2. Section 145-22, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§145-22 Agricultural commodities; ownership and movement**  
16 **certification.** (a) Every person, upon sale of any agricultural  
17 commodity or upon transportation of lots of any agricultural  
18 commodity of more than two hundred pounds or with a value of at



1 least \$100 that is marketed for commercial purposes, shall  
2 complete a certificate describing the commodity, the amount and  
3 value of the commodity, and [~~indicating~~] shall include:

4 (1) The [~~seller, owner, buyer, or consignee,~~] seller's  
5 name, residence address, telephone number, and license  
6 plate number of any vehicle used by the seller to  
7 deliver the commodity to the place of purchase;

8 (2) The name of the farm owner and address of origin;  
9 [and]

10 (3) The name of the buyer or consignee, and  
11 destination[-]; and

12 (4) The signature of the seller and, upon sale, the  
13 signature of the buyer or consignee.

14 (b) Prior to completing the certificate, the buyer or  
15 consignee shall also require the seller to verify the seller's  
16 identity by having the seller present a valid photo  
17 identification card or license issued to the seller by a federal  
18 or state government agency. If the commodity being offered for  
19 sale has a value of \$300 or more, the seller shall also provide  
20 the buyer with a photocopy of the identification card or license  
21 of the seller.



1        (c) No prospective buyer or consignee shall purchase an  
2 agricultural commodity from a seller if the seller does not  
3 provide a copy of the ownership and movement certification and  
4 verification as required by subsections (a) and (b). Every  
5 prospective buyer or consignee shall report an attempted sale  
6 that does not meet the requirements of subsections (a) and (b)  
7 to the police.

8        (d) Two copies of the certificate shall accompany the  
9 shipment, and [a] one copy each shall be retained by [the person  
10 completing the certificate.] the seller and the buyer or  
11 consignee. One of the copies of the certificate shall be  
12 presented upon request to a state or county law enforcement  
13 officer or other officer, employee, or any other person as  
14 described in section 145-25.

15        [~~(b)~~] (e) This section shall not apply to the retail sale  
16 of an agricultural commodity to the final consumer."

17        SECTION 3. Section 145-23, Hawaii Revised Statutes, is  
18 amended to read as follows:

19        "**§145-23 Lack of proof of ownership as a violation.** The  
20 failure of any person who sells, transports, or possesses after  
21 sale or transport, agricultural commodities to maintain a  
22 certificate of ownership or other written proof of ownership of



1 the agricultural commodity, as described in section 145-22, is a  
2 violation of this part[-] and is also prima facie evidence of an  
3 offense under section 708-831(1)(e)."

4 SECTION 4. Section 708-831, Hawaii Revised Statutes, is  
5 amended by amending subsection (1) to read as follows:

6 "(1) A person commits the offense of theft in the second  
7 degree if the person commits theft:

8 (a) Of property from the person of another;

9 (b) Of property or services the value of which exceeds  
10 \$300;

11 (c) Of an aquacultural product or part thereof from  
12 premises that is fenced or enclosed in a manner  
13 designed to exclude intruders or there is  
14 [~~prominently~~] displayed on the premises a sign or  
15 signs sufficient to give notice and reading as  
16 follows: "Private Property" [↗] or "No Trespassing",  
17 or similar language, or there is a presence of a crop;

18 (d) Of agricultural equipment, supplies, or products, or  
19 part thereof, the value of which exceeds \$100 but does  
20 not exceed \$20,000, or of agricultural products that  
21 exceed twenty-five pounds, from premises that are  
22 fenced, enclosed, or secured in a manner designed to



1 exclude intruders or there is [~~prominently~~] displayed  
2 on the premises a sign or signs sufficient to give  
3 notice and reading as follows: "Private Property" [~~-~~],  
4 "No Trespassing", or similar language, or there is a  
5 presence of a crop. The sign or signs, containing  
6 letters not less than two inches in height, shall be  
7 placed along the boundary line of the land in a manner  
8 and in such position as to be clearly noticeable from  
9 outside the boundary line. Possession of agricultural  
10 products without ownership and movement certificates,  
11 when a certificate is required pursuant to chapter  
12 145, is prima facie evidence that the products are or  
13 have been stolen [~~-~~]; or

14 (e) Of agricultural commodities marketed for commercial  
15 purposes and for which the person has failed to  
16 maintain a certificate of ownership as required  
17 pursuant to section 145-22. Possession of  
18 agricultural commodities without ownership and  
19 movement certificates, when a certificate is required  
20 pursuant to section 145-22, is prima facie evidence  
21 that the products are or have been stolen."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 7. This Act shall take effect on July 1, 2012.



**Report Title:**

Agriculture; Theft in the Second Degree; Agricultural  
Commodities

**Description:**

Strengthens existing law to require proof of identification from sellers of agricultural commodities. Makes the failure to maintain required certificates while in possession of agricultural commodities prima facie evidence of the offense of theft in the second degree. Effective July 1, 2012. (HB1948 HD1)

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

