
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that there are many
2 examples across the country of agricultural tourism incorporated
3 within productive farms and ranches. For example, several sites
4 in Napa valley in northern California are well-known
5 agricultural tourism destinations. Agricultural tourism serves
6 as a means to provide not only additional income for farmers and
7 ranchers but also serves as a learning experience for many
8 people who do not have a connection to agriculture.

9 The purpose of this Act is to repeal the state prohibition
10 on agricultural tourism activities in the absence of bona fide
11 farming operations and to permit short-term rentals in
12 agricultural districts in a county with a population greater
13 than two hundred and fifty thousand people, but less than five
14 hundred thousand people; provided that the county has adopted an
15 ordinance specifically allowing for such activity.

16 SECTION 2. Section 141-9, Hawaii Revised Statutes, is
17 amended by amending its title and subsection (a) to read as
18 follows:

SB2341 HD1 HMS 2012-3089



1 "~~§141-9~~ **Energy feedstock program.** (a) There is
2 established within the department of agriculture an energy
3 feedstock program that shall:

4 (1) Maintain cognizance of actions taken by industry and
5 by federal, state, county, and private agencies in
6 activities relating to the production of energy
7 feedstock, and promote and support worthwhile energy
8 feedstock production activities in the State;

9 (2) Serve as an information clearinghouse for energy
10 feedstock production activities;

11 (3) Coordinate development projects to investigate and
12 solve biological and technical problems involved in
13 raising selected species with commercial energy
14 generating potential;

15 (4) Actively seek federal funding for energy feedstock
16 production activities;

17 (5) Undertake activities required to develop and expand
18 the energy feedstock production industry; and

19 (6) Perform other functions and activities as may be
20 assigned by law, including monitoring the compliance
21 provisions under section ~~[205-4.5(a)(15)].~~ 205-

22 4.5(a)(16)."



1 SECTION 3. 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 husbandry
8 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)~~], 205-4.5(a)(16), for public, private,
16 and commercial use;

17 (6) Solar energy facilities; provided that:

18 (A) This paragraph shall apply only to land with soil
19 classified by the land study bureau's detailed
20 land classification as overall (master)
21 productivity rating class B, C, D₁ or E; and



1 (B) Solar energy facilities placed within land with
2 soil classified as overall productivity rating
3 class B or C shall not occupy more than ten per
4 cent of the acreage of the parcel, or twenty
5 acres of land, whichever is lesser;

6 (7) Bona fide agricultural services and uses that support
7 the agricultural activities of the fee or leasehold
8 owner of the property and accessory to any of the
9 above activities, regardless of whether conducted on
10 the same premises as the agricultural activities to
11 which they are accessory, including farm dwellings as
12 defined in section 205-4.5(a)(4), employee housing,
13 farm buildings, mills, storage facilities, processing
14 facilities, agricultural-energy facilities as defined
15 in section [~~205-4.5(a)(16)~~], 205-4.5(a)(17), vehicle
16 and equipment storage areas, roadside stands for the
17 sale of products grown on the premises, and plantation
18 community subdivisions as defined in section
19 205-4.5(a)(12);

20 (8) Wind machines and wind farms;

21 (9) Small-scale meteorological, air quality, noise, and
22 other scientific and environmental data collection and

1 monitoring facilities occupying less than one-half
2 acre of land; provided that these facilities shall not
3 be used as or equipped for use as living quarters or
4 dwellings;

5 (10) Agricultural parks;

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

16 (12) Agricultural tourism activities, including overnight
17 accommodations of twenty-one days or less, for any one
18 stay within a county with a population greater than
19 two hundred and fifty thousand people, but less than
20 five hundred thousand people; provided that this
21 paragraph shall apply only to a county that has



1 adopted ordinances regulating agricultural tourism
2 under section 205-5; and

3 ~~[(12)]~~ (13) Open area recreational facilities.

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

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

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

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

15 (1) Cultivation of crops, including crops for bioenergy,
16 flowers, vegetables, foliage, fruits, forage, and
17 timber;

18 (2) Game and fish propagation;

19 (3) Raising of livestock, including poultry, bees, fish,
20 or other animal or aquatic life that are propagated
21 for economic or personal use;



- 1 (4) Farm dwellings, employee housing, farm buildings, or
2 activities or uses related to farming and animal
3 husbandry. "Farm dwelling", as used in this
4 paragraph, means a single-family dwelling located on
5 and used in connection with a farm, including clusters
6 of single-family farm dwellings permitted within
7 agricultural parks developed by the State, or where
8 agricultural activity provides income to the family
9 occupying the dwelling;
- 10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;
- 12 (6) Public and private open area types of recreational
13 uses, including day camps, picnic grounds, parks, and
14 riding stables, but not including dragstrips,
15 airports, drive-in theaters, golf courses, golf
16 driving ranges, country clubs, and overnight camps;
- 17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 including offices or yards for equipment, material,



- 1 vehicle storage, repair or maintenance, treatment
2 plants, corporation yards, or other similar
3 structures;
- 4 (8) Retention, restoration, rehabilitation, or improvement
5 of buildings or sites of historic or scenic interest;
- 6 (9) Roadside stands for the sale of agricultural products
7 grown on the premises;
- 8 (10) Buildings and uses, including mills, storage, and
9 processing facilities, maintenance facilities, and
10 vehicle and equipment storage areas that are normally
11 considered directly accessory to the above-mentioned
12 uses and are permitted under section 205-2(d);
- 13 (11) Agricultural parks;
- 14 (12) Plantation community subdivisions, which as used in
15 this chapter means an established subdivision or
16 cluster of employee housing, community buildings, and
17 agricultural support buildings on land currently or
18 formerly owned, leased, or operated by a sugar or
19 pineapple plantation; provided that the existing
20 structures may be used or rehabilitated for use, and
21 new employee housing and agricultural support



1 buildings may be allowed on land within the
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or
4 former employees of the plantation who have a
5 property interest in the land;

6 (B) The employee housing units not owned by their
7 occupants shall be rented or leased at affordable
8 rates for agricultural workers; or

9 (C) The agricultural support buildings shall be
10 rented or leased to agricultural business
11 operators or agricultural support services;

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



1 (14) Agricultural tourism activities, including overnight
2 accommodations of twenty-one days or less, for any one
3 stay within a county with a population greater than
4 two hundred and fifty thousand people, but less than
5 five hundred thousand people; provided that this
6 paragraph shall apply only to a county that has
7 adopted ordinances regulating agricultural tourism
8 under section 205-5;

9 [~~(14)~~] (15) Wind energy facilities, including the
10 appurtenances associated with the production and
11 transmission of wind generated energy; provided that
12 the wind energy facilities and appurtenances are
13 compatible with agriculture uses and cause minimal
14 adverse impact on agricultural land;

15 [~~(15)~~] (16) Biofuel processing facilities, including the
16 appurtenances associated with the production and
17 refining of biofuels that is normally considered
18 directly accessory and secondary to the growing of the
19 energy feedstock; provided that biofuels processing
20 facilities and appurtenances do not adversely impact
21 agricultural land and other agricultural uses in the
22 vicinity.



1 For the purposes of this paragraph:

2 "Appurtenances" means operational infrastructure
3 of the appropriate type and scale for economic
4 commercial storage and distribution, and other similar
5 handling of feedstock, fuels, and other products of
6 biofuels processing facilities.

7 "Biofuel processing facility" means a facility
8 that produces liquid or gaseous fuels from organic
9 sources such as biomass crops, agricultural residues,
10 and oil crops, including palm, canola, soybean, and
11 waste cooking oils; grease; food wastes; and animal
12 residues and wastes that can be used to generate
13 energy;

14 [~~(16)~~] (17) Agricultural-energy facilities, including
15 appurtenances necessary for an agricultural-energy
16 enterprise; provided that the primary activity of the
17 agricultural-energy enterprise is agricultural
18 activity. To be considered the primary activity of an
19 agricultural-energy enterprise, the total acreage
20 devoted to agricultural activity shall be not less
21 than ninety per cent of the total acreage of the
22 agricultural-energy enterprise. The agricultural-



1 energy facility shall be limited to lands owned,
2 leased, licensed, or operated by the entity conducting
3 the agricultural activity.

4 As used in this paragraph:

5 "Agricultural activity" means any activity
6 described in paragraphs (1) to (3) of this subsection.

7 "Agricultural-energy enterprise" means an
8 enterprise that integrally incorporates an
9 agricultural activity with an agricultural-energy
10 facility.

11 "Agricultural-energy facility" means a facility
12 that generates, stores, or distributes renewable
13 energy as defined in section 269-91 or renewable fuel
14 including electrical or thermal energy or liquid or
15 gaseous fuels from products of agricultural activities
16 from agricultural lands located in the State.

17 "Appurtenances" means operational infrastructure
18 of the appropriate type and scale for the economic
19 commercial generation, storage, distribution, and
20 other similar handling of energy, including equipment,
21 feedstock, fuels, and other products of agricultural-
22 energy facilities;



1 [~~(17)~~] (18) Construction and operation of wireless
2 communication antennas; provided that, for the
3 purposes of this paragraph, "wireless communication
4 antenna" means communications equipment that is either
5 freestanding or placed upon or attached to an already
6 existing structure and that transmits and receives
7 electromagnetic radio signals used in the provision of
8 all types of wireless communications services;
9 provided further that nothing in this paragraph shall
10 be construed to permit the construction of any new
11 structure that is not deemed a permitted use under
12 this subsection;

13 [~~(18)~~] (19) Agricultural education programs conducted on a
14 farming operation as defined in section 165-2, for the
15 education and participation of the general public;
16 provided that the agricultural education programs are
17 accessory and secondary to the principal agricultural
18 use of the parcels or lots on which the agricultural
19 education programs are to occur and do not interfere
20 with surrounding farm operations. For the purposes of
21 this section, "agricultural education programs" means
22 activities or events designed to promote knowledge and



1 understanding of agricultural activities and practices
2 conducted on a farming operation as defined in section
3 165-2; or

4 [~~(19)~~] (20) Solar energy facilities that do not occupy more
5 than ten per cent of the acreage of the parcel, or
6 twenty acres of land, whichever is lesser; provided
7 that this use shall not be permitted on lands with
8 soil classified by the land study bureau's detailed
9 land classification as overall (master) productivity
10 rating class A."

11 SECTION 5. Section 205-5, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Within agricultural districts, uses compatible to the
14 activities described in section 205-2 as determined by the
15 commission shall be permitted; provided that accessory
16 agricultural uses and services described in sections 205-2 and
17 205-4.5 may be further defined by each county by zoning
18 ordinance. Each county shall adopt ordinances setting forth
19 procedures and requirements, including provisions for
20 enforcement, penalties, and administrative oversight, for the
21 review and permitting of agricultural tourism uses and
22 activities as an accessory use on a working farm, or farming



1 operation as defined in section 165-2 [~~provided that~~
2 ~~agricultural tourism activities shall not be permissible in the~~
3 ~~absence of a bona fide farming operation~~]. Ordinances shall
4 include but not be limited to:

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

16 Each county may require an environmental assessment under
17 chapter 343 as a condition to any agricultural tourism use and
18 activity. Other uses may be allowed by special permits issued
19 pursuant to this chapter. The minimum lot size in agricultural
20 districts shall be determined by each county by zoning
21 ordinance, subdivision ordinance, or other lawful means;
22 provided that the minimum lot size for any agricultural use



1 shall not be less than one acre, except as provided herein. If
2 the county finds that unreasonable economic hardship to the
3 owner or lessee of land cannot otherwise be prevented or where
4 land utilization is improved, the county may allow lot sizes of
5 less than the minimum lot size as specified by law for lots
6 created by a consolidation of existing lots within an
7 agricultural district and the resubdivision thereof; provided
8 that the consolidation and resubdivision do not result in an
9 increase in the number of lots over the number existing prior to
10 consolidation; and provided further that in no event shall a lot
11 which is equal to or exceeds the minimum lot size of one acre be
12 less than that minimum after the consolidation and resubdivision
13 action. The county may also allow lot sizes of less than the
14 minimum lot size as specified by law for lots created or used
15 for plantation community subdivisions as defined in section
16 205-4.5(a)(12), for public, private, and quasi-public utility
17 purposes, and for lots resulting from the subdivision of
18 abandoned roadways and railroad easements."

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2112.



Report Title:

Zoning; Agricultural Tourism

Description:

Repeals the prohibition on agricultural tourism activities in the absence of a bona fide farming operation. Repeals the prohibition on ordinances that allow overnight accommodations in agricultural districts. Authorizes agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county with a population greater than two hundred and fifty thousand people, but less than five hundred thousand people; provided that the county has adopted ordinances regulating agricultural tourism. Effective July 1, 2112. (SB2341 HD1)

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