
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 legislature further finds that there are agricultural
10 tourism opportunities in areas such as the Hamakua coast on the
11 island of Hawaii, upcountry Maui, and the north and west sides
12 of Kauai. Additional economic activity in those areas will also
13 benefit neighboring communities. Although the legislature finds
14 that agricultural tourism can be a profitable marketing tool for
15 the agricultural industry, the legislature recognizes that each
16 county may have differing priorities regarding land use,
17 particularly regarding permissible uses on agricultural lands.
18 The intent of this Act is to enable the counties to make their



1 own determinations regarding the allowance of certain activities
2 on, or uses of, land in agricultural districts.

3 The purpose of this Act is to repeal the state prohibition
4 on agricultural tourism activities in the absence of bona fide
5 farming operations and to permit short-term rentals in
6 agricultural districts; provided that the county has adopted an
7 ordinance specifically allowing for such activity.

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

10 "(d) Agricultural districts shall include:

- 11 (1) Activities or uses as characterized by the cultivation
12 of crops, crops for bioenergy, orchards, forage, and
13 forestry;
- 14 (2) Farming activities or uses related to animal husbandry
15 and game and fish propagation;
- 16 (3) Aquaculture, which means the production of aquatic
17 plant and animal life within ponds and other bodies of
18 water;
- 19 (4) Wind generated energy production for public, private,
20 and commercial use;



- 1 (5) Biofuel production, as described in section
- 2 205-4.5(a)(15), for public, private, and commercial
- 3 use;
- 4 (6) Solar energy facilities; provided that:
- 5 (A) This paragraph shall apply only to land with soil
- 6 classified by the land study bureau's detailed
- 7 land classification as overall (master)
- 8 productivity rating class B, C, D or E; and
- 9 (B) Solar energy facilities placed within land with
- 10 soil classified as overall productivity rating
- 11 class B or C shall not occupy more than ten per
- 12 cent of the acreage of the parcel, or twenty
- 13 acres of land, whichever is lesser;
- 14 (7) Bona fide agricultural services and uses that support
- 15 the agricultural activities of the fee or leasehold
- 16 owner of the property and accessory to any of the
- 17 above activities, regardless of whether conducted on
- 18 the same premises as the agricultural activities to
- 19 which they are accessory, including farm dwellings as
- 20 defined in section 205-4.5(a)(4), employee housing,
- 21 farm buildings, mills, storage facilities, processing
- 22 facilities, agricultural-energy facilities as defined



1 in section 205-4.5(a)(16), vehicle and equipment
2 storage areas, roadside stands for the sale of
3 products grown on the premises, and plantation
4 community subdivisions as defined in section
5 205-4.5(a)(12);

6 (8) Wind machines and wind farms;

7 (9) Small-scale meteorological, air quality, noise, and
8 other scientific and environmental data collection and
9 monitoring facilities occupying less than one-half
10 acre of land; provided that these facilities shall not
11 be used as or equipped for use as living quarters or
12 dwellings;

13 (10) Agricultural parks;

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



- 1 ordinances regulating agricultural tourism under
2 section 205-5; [~~and~~]
- 3 (12) Open area recreational facilities[-]; and
- 4 (13) Activities or uses for short-term rentals of thirty-
5 one days or less, for any one stay within a county;
6 provided that the appropriate county has adopted an
7 ordinance that specifically authorizes such use.

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

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

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

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

19 (1) Cultivation of crops, including crops for bioenergy,
20 flowers, vegetables, foliage, fruits, forage, and
21 timber;

22 (2) Game and fish propagation;



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



1 major water storage tanks, and appurtenant small
2 buildings such as booster pumping stations, but not
3 including offices or yards for equipment, material,
4 vehicle storage, repair or maintenance, treatment
5 plants, corporation yards, or other similar
6 structures;

7 (8) Retention, restoration, rehabilitation, or improvement
8 of buildings or sites of historic or scenic interest;

9 (9) Roadside stands for the sale of agricultural products
10 grown on the premises;

11 (10) Buildings and uses, including mills, storage, and
12 processing facilities, maintenance facilities, and
13 vehicle and equipment storage areas that are normally
14 considered directly accessory to the above-mentioned
15 uses and are permitted under section 205-2(d);

16 (11) Agricultural parks;

17 (12) Plantation community subdivisions, which as used in
18 this chapter means an established subdivision or
19 cluster of employee housing, community buildings, and
20 agricultural support buildings on land currently or
21 formerly owned, leased, or operated by a sugar or
22 pineapple plantation; provided that the existing



1 structures may be used or rehabilitated for use, and
2 new employee housing and agricultural support
3 buildings may be allowed on land within the
4 subdivision as follows:

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

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

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

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



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

3 (14) Wind energy facilities, including the appurtenances
4 associated with the production and transmission of
5 wind generated energy; provided that the wind energy
6 facilities and appurtenances are compatible with
7 agriculture uses and cause minimal adverse impact on
8 agricultural land;

9 (15) Biofuel processing facilities, including the
10 appurtenances associated with the production and
11 refining of biofuels that is normally considered
12 directly accessory and secondary to the growing of the
13 energy feedstock; provided that biofuels processing
14 facilities and appurtenances do not adversely impact
15 agricultural land and other agricultural uses in the
16 vicinity.

17 For the purposes of this paragraph:

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for economic
20 commercial storage and distribution, and other similar
21 handling of feedstock, fuels, and other products of
22 biofuels processing facilities.



1 "Biofuel processing facility" means a facility
2 that produces liquid or gaseous fuels from organic
3 sources such as biomass crops, agricultural residues,
4 and oil crops, including palm, canola, soybean, and
5 waste cooking oils; grease; food wastes; and animal
6 residues and wastes that can be used to generate
7 energy;

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

20 As used in this paragraph:

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



1 "Agricultural-energy enterprise" means an
2 enterprise that integrally incorporates an
3 agricultural activity with an agricultural-energy
4 facility.

5 "Agricultural-energy facility" means a facility
6 that generates, stores, or distributes renewable
7 energy as defined in section 269-91 or renewable fuel
8 including electrical or thermal energy or liquid or
9 gaseous fuels from products of agricultural activities
10 from agricultural lands located in the State.

11 "Appurtenances" means operational infrastructure
12 of the appropriate type and scale for the economic
13 commercial generation, storage, distribution, and
14 other similar handling of energy, including equipment,
15 feedstock, fuels, and other products of agricultural-
16 energy facilities;

17 (17) Construction and operation of wireless communication
18 antennas; provided that, for the purposes of this
19 paragraph, "wireless communication antenna" means
20 communications equipment that is either freestanding
21 or placed upon or attached to an already existing
22 structure and that transmits and receives



1 electromagnetic radio signals used in the provision of
2 all types of wireless communications services;
3 provided further that nothing in this paragraph shall
4 be construed to permit the construction of any new
5 structure that is not deemed a permitted use under
6 this subsection;

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

20 (19) Solar energy facilities that do not occupy more than
21 ten per cent of the acreage of the parcel, or twenty
22 acres of land, whichever is lesser; provided that this



1 use shall not be permitted on lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating
4 class A[-]; or

5 (20) Short-term rentals of thirty-one days or less, for any
6 one stay within a county; provided that the
7 appropriate county has adopted an ordinance that
8 specifically authorizes such use."

9 SECTION 4. Section 205-5, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Within agricultural districts, uses compatible to the
12 activities described in section 205-2 as determined by the
13 commission shall be permitted; provided that accessory
14 agricultural uses and services described in sections 205-2 and
15 205-4.5 may be further defined by each county by zoning
16 ordinance. Each county shall adopt ordinances setting forth
17 procedures and requirements, including provisions for
18 enforcement, penalties, and administrative oversight, for the
19 review and permitting of agricultural tourism uses and
20 activities as an accessory use on a working farm, or farming
21 operation as defined in section 165-2[-] ~~provided that~~
22 ~~agricultural tourism activities shall not be permissible in the~~



1 ~~absence of a bona fide farming operation]~~. Ordinances shall
2 include but not be limited to:

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

14 Each county may require an environmental assessment under
15 chapter 343 as a condition to any agricultural tourism use and
16 activity. Other uses may be allowed by special permits issued
17 pursuant to this chapter. The minimum lot size in agricultural
18 districts shall be determined by each county by zoning
19 ordinance, subdivision ordinance, or other lawful means;
20 provided that the minimum lot size for any agricultural use
21 shall not be less than one acre, except as provided herein. If
22 the county finds that unreasonable economic hardship to the



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

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.



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 short-term rentals of thirty-one days or less, for any one stay within a county; provided that the appropriate county has adopted an ordinance that specifically authorizes such use in agricultural districts.
(SD1)

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