

---

---

# A BILL FOR AN ACT

RELATING TO AGRICULTURAL COMMODITIES.

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

1 SECTION 1. Section 145-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§145-22 Agricultural commodities; ownership and movement**  
4 **certification.** (a) Every person, upon sale of any agricultural  
5 commodity or upon transportation of lots of any agricultural  
6 commodity of more than two hundred pounds or with a value of at  
7 least \$100 that is marketed for commercial purposes, shall  
8 complete a certificate [~~describing~~] that describes the commodity  
9 and the amount and value of the commodity, and [~~indicating~~]  
10 includes:

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

15 (2) The name of the farm owner and address of origin;  
16 [~~and~~]

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



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

3       (b) Prior to completing the certificate, the buyer or  
4       consignee shall also require the seller to verify the seller's  
5       identity by having the seller present a valid photo  
6       identification card or license issued to the seller by a federal  
7       or state government agency. If the commodity being offered for  
8       sale has a value of \$300 or more, the seller shall also provide  
9       the buyer with a photocopy of the identification card or license  
10       of the seller.

11       (c) No prospective buyer or consignee shall purchase an  
12       agricultural commodity from a seller if the seller does not  
13       provide a copy of the ownership and movement certification and  
14       verification of identity as required by subsections (a) and (b).  
15       Every prospective buyer or consignee shall report an attempted  
16       sale that does not meet the requirements of subsections (a) and  
17       (b) to the police.

18       (d) Two copies of the certificate shall accompany the  
19       shipment, and [a] one copy each shall be retained by [~~the person~~  
20       ~~completing the certificate.~~] the seller and the buyer or  
21       consignee. One of the copies of the certificate shall be  
22       presented upon request to a state or county law enforcement



1 officer or other officer, employee, or any other person [as  
2 ~~described in section 145-25.~~] authorized and designated by the  
3 board of agriculture to investigate and enforce this chapter and  
4 all rules adopted by the department pursuant to this chapter.

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

7 SECTION 2. Section 145-23, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§145-23 Lack of proof of ownership as a violation.** The  
10 failure of any person who sells, transports, or possesses after  
11 sale or transport, agricultural commodities to maintain a  
12 certificate of ownership or other written proof of ownership of  
13 the agricultural commodity, as described in section 145-22, is a  
14 violation of this part[-] and is also prima facie evidence of an  
15 offense under section 708-831(1)(e)."

16 SECTION 3. Section 145-25, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§145-25 Enforcement; [~~citation and summons.~~] criminal**  
19 **penalties.** Violations of this part or any rule adopted pursuant  
20 thereto [~~may be enforced by citation and summons issued by:~~]  
21 shall be criminal offenses as follows:



- 1           (1) ~~[Any state or county law enforcement officer, or]~~ A  
2           violation in which the value of the agricultural  
3           commodity exceeds \$100 shall be a class C felony; and  
4           (2) ~~[Any officer or employee of the department of~~  
5           ~~agriculture, or any other person, authorized and~~  
6           ~~designated by the board of agriculture to investigate~~  
7           ~~and enforce this chapter and all rules adopted by the~~  
8           ~~department pursuant thereto.]~~ A violation in which the  
9           value of the agricultural commodity is \$100 or less  
10           shall be a misdemeanor."

11           SECTION 4. Section 145-27, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "~~[§145-27]~~ **Authorization to seize and hold**  
14 **commodities; disposition.** (a) ~~[In addition to the issuance of~~  
15 ~~a citation and summons, upon]~~ Upon reasonable belief that ~~[the]~~  
16 a person is in unlawful possession of agricultural commodities a  
17 law enforcement officer or other officer or employee ~~[as~~  
18 ~~described in section 145-25]~~ shall be authorized to hold the  
19 agricultural commodity for not longer than forty-eight hours to  
20 investigate and ascertain the ownership of the agricultural  
21 commodity. If the lawful owner is determined and located, the



1 agricultural, aquacultural, or horticultural commodity shall be  
2 released to the lawful owner.

3 (b) If for any reason the agricultural commodity is not  
4 released to the lawful owner after being in the custody of the  
5 law enforcement officer or other officer or employee [~~as~~  
6 ~~described in section 145-25~~] for forty-eight hours, or less in  
7 the case of highly perishable commodities, the commodity may be  
8 sold at fair market value to any retailer, wholesaler, or packer  
9 of the commodity. All of the proceeds derived from the sale  
10 shall be held by the law enforcement officer or other officer or  
11 employee [~~as described in section 145-25~~] for not longer than  
12 six months, during which time the lawful owner of the commodity  
13 may submit satisfactory proof of ownership and obtain possession  
14 of the proceeds. The owner may be held responsible for any  
15 costs and expenses that may be incurred by the law enforcement  
16 officer or other officer or employee [~~as described in section~~  
17 ~~145-25~~]. Any proceeds of sale not recovered within six months  
18 for lack of a claim or for insufficient proof shall be treated  
19 as unclaimed property of the State.

20 (c) Any commodity that remains unsold after being offered  
21 for sale pursuant to this section may be donated to a nonprofit  
22 charitable organization or destroyed at the discretion of the



1 law enforcement officer or other officer or employee [~~as~~  
2 ~~described in section 145-25~~].

3 (d) For the purposes of this section, "officer or  
4 employee" means any officer or employee of the department of  
5 agriculture, or any other person, authorized and designated by  
6 the board of agriculture to investigate and enforce this chapter  
7 and all rules adopted by the department pursuant thereto."

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

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

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

13 (b) Of property or services the value of which exceeds  
14 \$300;

15 (c) Of an aquacultural product or part thereof from  
16 premises that is fenced or enclosed in a manner  
17 designed to exclude intruders or where there is  
18 prominently displayed on the premises a sign or signs  
19 sufficient to give notice and reading [~~as follows~~]

20 "Private Property"; [~~or~~]

21 (d) Of agricultural equipment, supplies, or products, or  
22 part thereof, the value of which exceeds \$100 but does



1 not exceed \$20,000, or of agricultural products that  
 2 exceed twenty-five pounds, from premises that are  
 3 fenced, enclosed, or secured in a manner designed to  
 4 exclude intruders or where there is prominently  
 5 displayed on the premises a sign or signs sufficient  
 6 to give notice and reading [~~as follows:~~] "Private  
 7 Property" [~~The~~]; provided that the sign or signs,  
 8 containing letters not less than two inches in height,  
 9 shall be placed along the boundary line of the land in  
 10 a manner and in such position as to be clearly  
 11 noticeable from outside the boundary line. Possession  
 12 of agricultural products without ownership and  
 13 movement certificates, when a certificate is required  
 14 pursuant to chapter 145, is prima facie evidence that  
 15 the products are or have been stolen[~~-~~]; or

16 (e) Of agricultural commodities marketed for commercial  
 17 purposes and for which the person has failed to  
 18 maintain a certificate of ownership as required  
 19 pursuant to section 145-22. Possession of  
 20 agricultural commodities without ownership and  
 21 movement certificates, when a certificate is required



1           pursuant to section 145-22, is prima facie evidence  
2           that the products are or have been stolen."

3           SECTION 6. Section 145-26, Hawaii Revised Statutes, is  
4 repealed.

5           ~~["§145-26] Form of citation and summons. (a) In issuing~~  
6 ~~citations and summons for violations of this part, state and~~  
7 ~~county law enforcement officers shall use the summons and~~  
8 ~~complaint citation books issued by the judiciary for violations~~  
9 ~~of the traffic code.~~

10           ~~(b) Citations issued by officers and employees as~~  
11 ~~described in section 145-25(2) shall use citation and summons~~  
12 ~~forms that shall warn the person to appear and answer the charge~~  
13 ~~against the person at a place and at a time within thirty days~~  
14 ~~after the citation.~~

15           ~~The citation and summons shall be in a form that allows a~~  
16 ~~carbon copy to be provided to the accused. The district courts~~  
17 ~~may provide for the disposition of the original and any other~~  
18 ~~copies. Every citation and summons shall be consecutively~~  
19 ~~numbered and each carbon copy shall bear the number of its~~  
20 ~~respective original." ]~~

21           SECTION 7. Section 145-28, Hawaii Revised Statutes, is  
22 repealed.





1           ["~~§145-28~~ ~~Administration of oath.~~ When a complaint is  
2 made by officers and employees as described in section 145-25(2)  
3 to any prosecuting officer of the violation of this part or of  
4 any rules adopted pursuant thereto, the officer or employee who  
5 issued the citation and summons shall subscribe to it under oath  
6 administered by another official of the department whose name  
7 has been submitted to the prosecuting officer and who has been  
8 designated by the chairperson of the board of agriculture to  
9 administer the oaths."]

10           SECTION 8. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

13           SECTION 9. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 10. This Act shall take effect on January 20,  
16 2020.



**Report Title:**

Agricultural Commodities; Criminal Penalties

**Description:**

Requires proof of identification from sellers of agricultural commodities. Establishes criminal penalties for failure to maintain a certificate of ownership or other written proof of ownership of agricultural commodities. Makes theft of agricultural commodities an offense of theft in the second degree and establishes lack of ownership or movement certificates as prima facie evidence of the theft. Effective January 20, 2020. (SB2354 HD1)

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

