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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

- 1           SECTION 1. 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)(16), for public, private, and commercial  
16          use;
- 17          (6) Solar energy facilities; provided that:



1 (A) This paragraph shall apply only to land with soil  
2 classified by the land study bureau's detailed  
3 land classification as overall (master)  
4 productivity rating class B, C, D, or E; and  
5 (B) Solar energy facilities placed within land with  
6 soil classified as overall productivity rating  
7 class B or C shall not occupy more than ten per  
8 cent of the acreage of the parcel, or twenty  
9 acres of land, whichever is lesser;

10 (7) Bona fide agricultural services and uses that support  
11 the agricultural activities of the fee or leasehold  
12 owner of the property and accessory to any of the  
13 above activities, regardless of whether conducted on  
14 the same premises as the agricultural activities to  
15 which they are accessory, including farm dwellings as  
16 defined in section 205-4.5(a)(4), employee housing,  
17 farm buildings, mills, storage facilities, processing  
18 facilities, photovoltaic, biogas, and other small-  
19 scale renewable energy systems producing energy solely  
20 for use in the agricultural activities of the fee or  
21 leasehold owner of the property, agricultural-energy  
22 facilities as defined in section 205-4.5(a)(17),



1 vehicle and equipment storage areas, and plantation  
2 community subdivisions as defined in section  
3 205-4.5(a)(12);

4 (8) Wind machines and wind farms;

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

11 (10) Agricultural parks;

12 (11) 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           (12) Agricultural tourism activities, including overnight  
2 accommodations of twenty-one days or less, for any one  
3 stay within a county; provided that this paragraph  
4 shall apply only to a county that includes at least  
5 three islands and has adopted ordinances regulating  
6 agricultural tourism activities pursuant to section  
7 205-5; provided further that the agricultural tourism  
8 activities coexist with a bona fide agricultural  
9 activity. For the purposes of this paragraph, "bona  
10 fide agricultural activity" means a farming operation  
11 as defined in section 165-2;

12           (13) Open area recreational facilities;

13 ~~+~~ (14) ~~+~~ Geothermal resources exploration and geothermal  
14 resources development, as defined under section 182-1;  
15 and

16 ~~+~~ (15) ~~+~~ Agricultural-based commercial operations, including:

17           (A) A roadside stand that is not an enclosed  
18 structure, owned and operated by a producer for  
19 the display and sale of agricultural products  
20 grown in Hawaii and value-added products that  
21 were produced using agricultural products grown  
22 in Hawaii;



1 (B) Retail activities in an enclosed structure owned  
2 and operated by a producer for the display and  
3 sale of agricultural products grown in Hawaii,  
4 value-added products that were produced using  
5 agricultural products grown in Hawaii, logo items  
6 related to the producer's agricultural  
7 operations, and other food items; and

8 (C) A retail food establishment owned and operated by  
9 a producer and permitted under [+]title 11, [+]  
10 chapter 12 of the rules of the department of  
11 health that prepares and serves food at retail  
12 using products grown in Hawaii and value-added  
13 products that were produced using agricultural  
14 products grown in Hawaii.

15 The owner of an agricultural-based commercial  
16 operation shall certify, upon request of an officer or  
17 agent charged with enforcement of this chapter under  
18 section 205-12, that the agricultural products  
19 displayed or sold by the operation meet the  
20 requirements of this paragraph. Agricultural-based  
21 commercial operations as identified in this paragraph  
22 shall not be further limited or restricted by the land



1           use commission or by county ordinance, rule, or  
2           regulation.

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

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

8           SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

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

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

17           (2) Game and fish propagation;

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

21           (4) Farm dwellings, employee housing, farm buildings, or  
22           activities or uses related to farming and animal



1 husbandry. "Farm dwelling", as used in this  
2 paragraph, means a single-family dwelling located on  
3 and used in connection with a farm, including clusters  
4 of single-family farm dwellings permitted within  
5 agricultural parks developed by the State, or where  
6 agricultural activity provides income to the family  
7 occupying the dwelling;

8 (5) Public institutions and buildings that are necessary  
9 for agricultural practices;

10 (6) Public and private open area types of recreational  
11 uses, including day camps, picnic grounds, parks, and  
12 riding stables, but not including dragstrips,  
13 airports, drive-in theaters, golf courses, golf  
14 driving ranges, country clubs, and overnight camps;

15 (7) Public, private, and quasi-public utility lines and  
16 roadways, transformer stations, communications  
17 equipment buildings, solid waste transfer stations,  
18 major water storage tanks, and appurtenant small  
19 buildings such as booster pumping stations, but not  
20 including offices or yards for equipment, material,  
21 vehicle storage, repair or maintenance, treatment



- 1 plants, corporation yards, or other similar  
2 structures;
- 3 (8) Retention, restoration, rehabilitation, or improvement  
4 of buildings or sites of historic or scenic interest;
- 5 (9) Agricultural-based commercial operations as described  
6 in section [+]205-2(d)(15)[+], which shall not be  
7 further limited or restricted by the land use  
8 commission or by county ordinance, rule, or  
9 regulation;
- 10 (10) Buildings and uses, including mills, storage, and  
11 processing facilities, maintenance facilities,  
12 photovoltaic, biogas, and other small-scale renewable  
13 energy systems producing energy solely for use in the  
14 agricultural activities of the fee or leasehold owner  
15 of the property, and vehicle and equipment storage  
16 areas that are normally considered directly accessory  
17 to the above-mentioned uses and are permitted under  
18 section 205-2(d);
- 19 (11) Agricultural parks;
- 20 (12) Plantation community subdivisions, which as used in  
21 this chapter means an established subdivision or  
22 cluster of employee housing, community buildings, and





1 agricultural support buildings on land currently or  
2 formerly owned, leased, or operated by a sugar or  
3 pineapple plantation; provided that the existing  
4 structures may be used or rehabilitated for use, and  
5 new employee housing and agricultural support  
6 buildings may be allowed on land within the  
7 subdivision as follows:

8 (A) The employee housing is occupied by employees or  
9 former employees of the plantation who have a  
10 property interest in the land;

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

14 (C) The agricultural support buildings shall be  
15 rented or leased to agricultural business  
16 operators or agricultural support services;

17 (13) Agricultural tourism conducted on a working farm, or a  
18 farming operation as defined in section 165-2, for the  
19 enjoyment, education, or involvement of visitors;  
20 provided that the agricultural tourism activity is  
21 accessory and secondary to the principal agricultural  
22 use and does not interfere with surrounding farm



1 operations; and provided further that this paragraph  
2 shall apply only to a county that has adopted  
3 ordinances regulating agricultural tourism under  
4 section 205-5;

5 (14) Agricultural tourism activities, including overnight  
6 accommodations of twenty-one days or less, for any one  
7 stay within a county; provided that this paragraph  
8 shall apply only to a county that includes at least  
9 three islands and has adopted ordinances regulating  
10 agricultural tourism activities pursuant to section  
11 205-5; provided further that the agricultural tourism  
12 activities coexist with a bona fide agricultural  
13 activity. For the purposes of this paragraph, "bona  
14 fide agricultural activity" means a farming operation  
15 as defined in section 165-2;

16 (15) Wind energy facilities, including the appurtenances  
17 associated with the production and transmission of  
18 wind generated energy; provided that the wind energy  
19 facilities and appurtenances are compatible with  
20 agriculture uses and cause minimal adverse impact on  
21 agricultural land;



1           (16) Biofuel processing facilities, including the  
2                    appurtenances associated with the production and  
3                    refining of biofuels that is normally considered  
4                    directly accessory and secondary to the growing of the  
5                    energy feedstock; provided that biofuel processing  
6                    facilities and appurtenances do not adversely impact  
7                    agricultural land and other agricultural uses in the  
8                    vicinity.

9                    For the purposes of this paragraph:

10                    "Appurtenances" means operational infrastructure  
11                    of the appropriate type and scale for economic  
12                    commercial storage and distribution, and other similar  
13                    handling of feedstock, fuels, and other products of  
14                    biofuel processing facilities.

15                    "Biofuel processing facility" means a facility  
16                    that produces liquid or gaseous fuels from organic  
17                    sources such as biomass crops, agricultural residues,  
18                    and oil crops, including palm, canola, soybean, and  
19                    waste cooking oils; grease; food wastes; and animal  
20                    residues and wastes that can be used to generate  
21                    energy;



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

13                As used in this paragraph:

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

16                "Agricultural-energy enterprise" means an  
17                enterprise that integrally incorporates an  
18                agricultural activity with an agricultural-energy  
19                facility.

20                "Agricultural-energy facility" means a facility  
21                that generates, stores, or distributes renewable  
22                energy as defined in section 269-91 or renewable fuel



1 including electrical or thermal energy or liquid or  
2 gaseous fuels from products of agricultural activities  
3 from agricultural lands located in the State.

4 "Appurtenances" means operational infrastructure  
5 of the appropriate type and scale for the economic  
6 commercial generation, storage, distribution, and  
7 other similar handling of energy, including equipment,  
8 feedstock, fuels, and other products of agricultural-  
9 energy facilities;

10 (18) Construction and operation of wireless communication  
11 antennas; provided that, for the purposes of this  
12 paragraph, "wireless communication antenna" means  
13 communications equipment that is either freestanding  
14 or placed upon or attached to an already existing  
15 structure and that transmits and receives  
16 electromagnetic radio signals used in the provision of  
17 all types of wireless communications services;  
18 provided further that nothing in this paragraph shall  
19 be construed to permit the construction of any new  
20 structure that is not deemed a permitted use under  
21 this subsection;



- 1       (19) Agricultural education programs conducted on a farming  
2       operation as defined in section 165-2, for the  
3       education and participation of the general public;  
4       provided that the agricultural education programs are  
5       accessory and secondary to the principal agricultural  
6       use of the parcels or lots on which the agricultural  
7       education programs are to occur and do not interfere  
8       with surrounding farm operations. For the purposes of  
9       this section, "agricultural education programs" means  
10      activities or events designed to promote knowledge and  
11      understanding of agricultural activities and practices  
12      conducted on a farming operation as defined in section  
13      165-2;
- 14      (20) Solar energy facilities that do not occupy more than  
15      ten per cent of the acreage of the parcel, or twenty  
16      acres of land, whichever is lesser; provided that this  
17      use shall not be permitted on lands with soil  
18      classified by the land study bureau's detailed land  
19      classification as overall (master) productivity rating  
20      class A; or



1    [+] (21) [+] Geothermal resources exploration and geothermal  
2                   resources development, as defined under section  
3                   182-1."

4           SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Zoning; Agricultural Districts; County Zoning; Agricultural-based Commercial Operations

**Description:**

Prohibits the land use commission and counties from restricting agricultural-based commercial operations that are authorized under sections 205-2(d)(15) and 205-4.5(a)(9), Hawaii Revised Statutes, in agricultural districts. Effective July 1, 2050. (SD1)

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

