

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO TRUTH-IN-ADVERTISING.

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

1           SECTION 1. Farmers' markets play an important role in  
2 Hawaii's communities by establishing and maintaining connections  
3 between consumers and local farms. Moreover, the consumption of  
4 locally-produced agricultural products, when practicable,  
5 contributes significantly towards the goal set forth by the  
6 Hawaii 2050 Sustainability Plan to "increase production and  
7 consumption of local foods and products, particularly  
8 agriculture."

9           However, there have been instances where outdoor markets  
10 purporting to be farmers' markets primarily sell nonagricultural  
11 goods. The proliferation of nonagricultural merchants at  
12 farmers' markets falsely advertises to the public the nature of  
13 the market and makes it difficult for those individuals who may  
14 be seeking to change their lifestyles by supporting local farms.

15           The purpose of this Act is to protect consumers by ensuring  
16 truth-in-advertising associated with the "farmers' market"  
17 title, in order to advance the State toward long-term  
18 agricultural goals in sustainability.



1 SECTION 2. Section 145-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Farmers' market operator" means any person or entity who  
5 owns, operates, or organizes an outdoor market and represents  
6 that the outdoor market is a farmers' market."

7 SECTION 3. Section 145-2, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§145-2 Licenses.** No person shall act as a commission  
10 merchant, dealer, broker, agent, processor, [~~or~~] retail  
11 merchant, or farmers' market operator without having obtained a  
12 license as prescribed by rules of the department.

13 In addition to the general requirements applicable to all  
14 classes of applications as prescribed by rule, the following  
15 requirements shall apply to each class of application noted:

16 (1) Commission merchants and brokers: Each application  
17 shall include a schedule of commissions and charges  
18 for services, and the designated commissions and  
19 charges shall not be changed or varied for the license  
20 period except by written contract between the parties.

21 In addition, each application shall be accompanied by  
22 the surety bond required by section 145-4.



1           (2) Agents: Each application shall include the name and  
2           address of each commission merchant, dealer, or broker  
3           represented or sought to be represented by the agent,  
4           the written indorsement or nomination of the  
5           commission merchant, dealer, or broker, and such  
6           additional information as the department may consider  
7           proper or necessary. The department shall thereupon  
8           issue to the applicant a license entitling the  
9           applicant to conduct the business described in the  
10          application at the place named in the application for  
11          a year from the date thereof, or until the same is  
12          revoked for cause; provided that the license of an  
13          agent shall expire upon the date of expiration of the  
14          license of the principal for whom the agent acts. The  
15          department may also issue to each agent a card or  
16          cards which shall bear the signature of the agent,  
17          separate cards being required for each principal. Any  
18          agent shall show the card or cards upon the request of  
19          any interested person. Any agent who displays a void  
20          or expired license card shall be punished as provided  
21          in section 145-12.



1       (3) Farmers' market operator: Each application shall  
2       certify that greater than fifty per cent of the  
3       vendors in the farmers' market primarily sell food,  
4       farm produce, or flowers prepared, grown, or produced  
5       in Hawaii. Any farmers' market operator who fails to  
6       ensure that greater than fifty per cent of the vendors  
7       in the farmers' market primarily sell food, farm  
8       produce, or flowers prepared, grown, or produced in  
9       Hawaii shall be subject to administrative penalties  
10      pursuant to section 145-10.

11       Fraud or misrepresentation in making any application shall  
12 ipso facto work a revocation of any license granted thereunder.  
13 All indicia of the possession of a license shall be at all times  
14 the property of the State and each licensee shall be entitled to  
15 the possession thereof only for the duration of the license.

16       For filing the application for license, each applicant  
17 shall pay a fee as prescribed by the department.

18       Should any commission merchant, dealer, broker, agent,  
19 processor, [~~or~~] retail merchant, or farmers' market operator  
20 refuse, fail, or neglect to apply for the renewal of a  
21 preexisting license within thirty days after the expiration  
22 thereof, a penalty of forty per cent shall apply to and be added



1 to the original fee as prescribed by the department, and shall  
2 be paid by the applicant before the renewal license may be  
3 issued.

4 Any person who has applied for and obtained a license  
5 within the classification of commission merchant, in the manner  
6 and upon payment of the fee set forth, may apply for and secure  
7 a license in the other classifications without payment of  
8 further fee, and upon further complying with those provisions of  
9 this part regulating the licensing of the other particular  
10 classification involved. All licenses held by any licensee  
11 under this section shall automatically expire on the expiration  
12 date for the particular license for which the license fee was  
13 paid."

14 SECTION 4. Section 145-9, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§145-9 Complaints and investigations.** The department of  
17 agriculture may receive verified complaints from any producer  
18 against any commission merchant, dealer, broker, agent,  
19 processor, [~~or~~] retail merchant, or farmers' market operator or  
20 any person assuming or attempting to act as such and upon  
21 receipt of the verified complaint may make any and all necessary  
22 investigations relative to the complaint. In conducting any



1 investigation, the department or its authorized agent may  
 2 examine any ledgers, books, accounts, memoranda, and other  
 3 documents, farm produce, scales, measures, and any other  
 4 articles and things used in connection with the business of the  
 5 person of whom the complaint has been made."

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

9 SECTION 6. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

DOA; Farmers' Markets; License; Locally Produced

**Description:**

Establishes a farmers' market operator license to ensure that greater than 50% of vendors in farmers' markets sell food, farm produce, or flowers prepared, grown, or produced in Hawaii.

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

