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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

**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:



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- 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, unless a  
10 special use permit is granted pursuant to section  
11 205-6;
- 12 (7) Bona fide agricultural services and uses that support  
13 the agricultural activities of the fee or leasehold  
14 owner of the property and accessory to any of the  
15 above activities, regardless of whether conducted on  
16 the same premises as the agricultural activities to  
17 which they are accessory, including farm dwellings as  
18 defined in section 205-4.5(a)(4), employee housing,  
19 farm buildings, mills, storage facilities, processing  
20 facilities, photovoltaic, biogas, and other small-  
21 scale renewable energy systems producing energy solely



1 for use in the agricultural activities of the fee or  
2 leasehold owner of the property, agricultural-energy  
3 facilities as defined in section 205-4.5(a)(17),  
4 vehicle and equipment storage areas, and plantation  
5 community subdivisions as defined in section  
6 205-4.5(a)(12);

7 (8) Wind machines and wind farms;

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

14 (10) Agricultural parks;

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



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1 shall apply only to a county that has adopted  
2 ordinances regulating agricultural tourism under  
3 section 205-5;

4 (12) Agricultural tourism activities, including overnight  
5 accommodations of twenty-one days or less, for any one  
6 stay within a county; provided that this paragraph  
7 shall apply only to:

8 (A) [a] A county that includes at least three islands  
9 and that has adopted ordinances regulating  
10 agricultural tourism activities pursuant to  
11 section 205-5; and

12 (B) Private property in a county that has a resident  
13 population of greater than one hundred seventy  
14 thousand but fewer than three hundred thousand  
15 and that has adopted ordinances regulating  
16 agricultural tourism activities pursuant to  
17 section 205-5;

18 provided further that the agricultural tourism  
19 activities coexist with a bona fide agricultural  
20 activity. For the purposes of this paragraph, "bona



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- 1           fide agricultural activity" means a farming operation  
2           as defined in section 165-2;
- 3       (13)   Open area recreational facilities;
- 4       (14)   Geothermal resources exploration and geothermal  
5           resources development, as defined under section 182-1;  
6           and
- 7       (15)   Agricultural-based commercial operations, including:
- 8           (A)   A roadside stand that is not an enclosed  
9                structure, owned and operated by a producer for  
10              the display and sale of agricultural products  
11              grown in Hawaii and value-added products that  
12              were produced using agricultural products grown  
13              in Hawaii;
- 14          (B)   Retail activities in an enclosed structure owned  
15              and operated by a producer for the display and  
16              sale of agricultural products grown in Hawaii,  
17              value-added products that were produced using  
18              agricultural products grown in Hawaii, logo items  
19              related to the producer's agricultural  
20              operations, and other food items; and



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1 (C) A retail food establishment owned and operated by  
2 a producer and permitted under title 11, chapter  
3 12 of the rules of the department of health that  
4 prepares and serves food at retail using products  
5 grown in Hawaii and value-added products that  
6 were produced using agricultural products grown  
7 in Hawaii.

8 The owner of an agricultural-based commercial  
9 operation shall certify, upon request of an officer or  
10 agent charged with enforcement of this chapter under  
11 section 205-12, that the agricultural products  
12 displayed or sold by the operation meet the  
13 requirements of this paragraph.

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

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

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



1           "(a) Within the agricultural district, all lands with soil  
2 classified by the land study bureau's detailed land  
3 classification as overall (master) productivity rating class A  
4 or B and for solar energy facilities, class B or C, shall be  
5 restricted to the following permitted uses:

6           (1) Cultivation of crops, including crops for bioenergy,  
7           flowers, vegetables, foliage, fruits, forage, and  
8           timber;

9           (2) Game and fish propagation;

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

13          (4) Farm dwellings, employee housing, farm buildings, or  
14          activities or uses related to farming and animal  
15          husbandry. "Farm dwelling", as used in this  
16          paragraph, means a single-family dwelling located on  
17          and used in connection with a farm, including clusters  
18          of single-family farm dwellings permitted within  
19          agricultural parks developed by the State, or where  
20          agricultural activity provides income to the family  
21          occupying the dwelling;



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- 1 (5) Public institutions and buildings that are necessary  
2 for agricultural practices;
- 3 (6) Public and private open area types of recreational  
4 uses, including day camps, picnic grounds, parks, and  
5 riding stables, but not including dragstrips,  
6 airports, drive-in theaters, golf courses, golf  
7 driving ranges, country clubs, and overnight camps[+],  
8 except as provided in paragraph (14);
- 9 (7) Public, private, and quasi-public utility lines and  
10 roadways, transformer stations, communications  
11 equipment buildings, solid waste transfer stations,  
12 major water storage tanks, and appurtenant small  
13 buildings such as booster pumping stations, but not  
14 including offices or yards for equipment, material,  
15 vehicle storage, repair or maintenance, treatment  
16 plants, corporation yards, or other similar  
17 structures;
- 18 (8) Retention, restoration, rehabilitation, or improvement  
19 of buildings or sites of historic or scenic interest;
- 20 (9) Agricultural-based commercial operations as described  
21 in section 205-2(d)(15);





- 1 (10) Buildings and uses, including mills, storage, and  
2 processing facilities, maintenance facilities,  
3 photovoltaic, biogas, and other small-scale renewable  
4 energy systems producing energy solely for use in the  
5 agricultural activities of the fee or leasehold owner  
6 of the property, and vehicle and equipment storage  
7 areas that are normally considered directly accessory  
8 to the above-mentioned uses and are permitted under  
9 section 205-2(d);
- 10 (11) Agricultural parks;
- 11 (12) Plantation community subdivisions, which as used in  
12 this chapter means an established subdivision or  
13 cluster of employee housing, community buildings, and  
14 agricultural support buildings on land currently or  
15 formerly owned, leased, or operated by a sugar or  
16 pineapple plantation; provided that the existing  
17 structures may be used or rehabilitated for use, and  
18 new employee housing and agricultural support  
19 buildings may be allowed on land within the  
20 subdivision as follows:



- 1 (A) The employee housing is occupied by employees or  
2 former employees of the plantation who have a  
3 property interest in the land;
- 4 (B) The employee housing units not owned by their  
5 occupants shall be rented or leased at affordable  
6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be  
8 rented or leased to agricultural business  
9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a  
11 farming operation as defined in section 165-2, for the  
12 enjoyment, education, or involvement of visitors;  
13 provided that the agricultural tourism activity is  
14 accessory and secondary to the principal agricultural  
15 use and does not interfere with surrounding farm  
16 operations; and provided further that this paragraph  
17 shall apply only to a county that has adopted  
18 ordinances regulating agricultural tourism under  
19 section 205-5;
- 20 (14) Agricultural tourism activities, including overnight  
21 accommodations of twenty-one days or less, for any one



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1 stay within a county; provided that this paragraph  
2 shall apply only to:

3 (A) [a] A county that includes at least three islands  
4 and that has adopted ordinances regulating  
5 agricultural tourism activities pursuant to  
6 section 205-5; and

7 (B) Private property in a county that has a resident  
8 population of greater than one hundred seventy  
9 thousand but fewer than three hundred thousand  
10 and that has adopted ordinances regulating  
11 agricultural tourism activities pursuant to  
12 section 205-5;

13 provided further that the agricultural tourism  
14 activities coexist with a bona fide agricultural  
15 activity. For the purposes of this paragraph, "bona  
16 fide agricultural activity" means a farming operation  
17 as defined in section 165-2;

18 (15) Wind energy facilities, including the appurtenances  
19 associated with the production and transmission of  
20 wind generated energy; provided that the wind energy  
21 facilities and appurtenances are compatible with



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

11                   For the purposes of this paragraph:

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

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



1 residues and wastes that can be used to generate  
2 energy;

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

15 As used in this paragraph:

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

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



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

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

13 (18) Construction and operation of wireless communication  
14 antennas; provided that, for the purposes of this  
15 paragraph, "wireless communication antenna" means  
16 communications equipment that is either freestanding  
17 or placed upon or attached to an already existing  
18 structure and that transmits and receives  
19 electromagnetic radio signals used in the provision of  
20 all types of wireless communications services;  
21 provided further that nothing in this paragraph shall



1           be construed to permit the construction of any new  
2           structure that is not deemed a permitted use under  
3           this subsection;

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

17          (20) Solar energy facilities that do not occupy more than  
18          ten per cent of the acreage of the parcel, or twenty  
19          acres of land, whichever is lesser or for which a  
20          special use permit is granted pursuant to section 205-  
21          6; provided that this use shall not be permitted on



1 lands with soil classified by the land study bureau's  
2 detailed land classification as overall (master)  
3 productivity rating class A unless the solar energy  
4 facilities are:

5 (A) Located on a paved or unpaved road in existence  
6 as of December 31, 2013, and the parcel of land  
7 upon which the paved or unpaved road is located  
8 has a valid county agriculture tax dedication  
9 status or a valid agricultural conservation  
10 easement;

11 (B) Placed in a manner that still allows vehicular  
12 traffic to use the road; and

13 (C) Granted a special use permit by the commission  
14 pursuant to section 205-6;

15 (21) Solar energy facilities on lands with soil classified  
16 by the land study bureau's detailed land  
17 classification as overall (master) productivity rating  
18 B or C for which a special use permit is granted  
19 pursuant to section 205-6; provided that:

20 (A) The area occupied by the solar energy facilities  
21 is also made available for compatible





1 agricultural activities at a lease rate that is  
2 at least fifty per cent below the fair market  
3 rent for comparable properties;

4 (B) Proof of financial security to decommission the  
5 facility is provided to the satisfaction of the  
6 appropriate county planning commission prior to  
7 date of commencement of commercial generation;  
8 and

9 (C) Solar energy facilities shall be decommissioned  
10 at the owner's expense according to the following  
11 requirements:

12 (i) Removal of all equipment related to the  
13 solar energy facility within twelve months  
14 of the conclusion of operation or useful  
15 life; and

16 (ii) Restoration of the disturbed earth to  
17 substantially the same physical condition as  
18 existed prior to the development of the  
19 solar energy facility.



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1           For the purposes of this paragraph, "agricultural  
2           activities" means the activities described in  
3           paragraphs (1) to (3); or

4           (22) Geothermal resources exploration and geothermal  
5           resources development, as defined under section  
6           182-1."

7           SECTION 3. Section 205-5, Hawaii Revised Statutes, is  
8           amended by amending subsection (c) to read as follows:

9           "(c) Unless authorized by special permit issued pursuant  
10          to this chapter, only the following uses shall be permitted  
11          within rural districts:

- 12          (1) Low density residential uses;
- 13          (2) Agricultural uses;
- 14          (3) Golf courses, golf driving ranges, and golf-related  
15          facilities;
- 16          (4) Public, quasi-public, and public utility facilities;
- 17          [and]
- 18          (5) Geothermal resources exploration and geothermal  
19          resources development, as defined under section 182-  
20          1[-]; and



1        (6) Agricultural tourism activities, including overnight  
 2        accommodations of twenty-one days or less for any one  
 3        stay on private property within a county that has a  
 4        resident population of greater than one hundred  
 5        seventy thousand but fewer than three hundred  
 6        thousand; provided that the county has adopted  
 7        ordinances regulating agricultural tourism activities  
 8        pursuant to this section.

9        In addition, the minimum lot size for any low density  
 10       residential use shall be one-half acre and there shall be but  
 11       one dwelling house per one-half acre, except as provided for in  
 12       section 205-2."

13       SECTION 4. This Act does not affect rights and duties that  
 14       matured, penalties that were incurred, and proceedings that were  
 15       begun before its effective date.

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

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

19

INTRODUCED BY: Richard Lopez

JAN 28 2015



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**Report Title:**

Overnight Camping; Agricultural and Rural Districts

**Description:**

Allows as a permissible use in agricultural and rural districts on the island of Hawaii overnight camping on private property.

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

