

JAN 27 2016

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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. The legislature finds that during the last  
2 several decades, population growth and migration to Hawaii have  
3 resulted in urban encroachment into rural areas traditionally  
4 reserved for agricultural activity. This intrusion brings  
5 inevitable conflict when new neighbors face dust, pesticide use,  
6 noise, and other activity typical of farming operations. State  
7 legislatures across the nation have responded by giving farmers  
8 a basic "right to farm" without the fear of lawsuits brought by  
9 offended neighbors.

10           In 2001, Hawaii joined the rest of the country by passing  
11 the Hawaii Right to Farm Act. As one judge remarked while  
12 dismissing a lawsuit against a pig farmer, "pork production  
13 generates odors which cannot be prevented, and so long as the  
14 human race consumes pork, someone must tolerate the smell."  
15 However, right-to-farm laws do not give farmers complete freedom  
16 to do as they please. Farmers must operate in a legal and



1 reasonable manner to be eligible for the law's protection and  
2 must follow best management practices.

3       The legislature also finds that despite being one of the  
4 State's most important economic sectors, Hawaii farmers continue  
5 to face an onslaught of problems that challenge their right to  
6 farm as well as their long-term viability and sustainability.  
7 Article XI, section 3, of the Hawaii State Constitution mandates  
8 that "The State shall conserve and protect agricultural lands,  
9 promote diversified agriculture, increase agricultural self-  
10 sufficiency and assure the availability of agriculturally  
11 suitable lands." This policy sets forth the State's  
12 responsibility to oversee and implement laws and rules to guide  
13 the success and development of Hawaii's agricultural community.  
14 In contrast, no county charter appropriately provides a county  
15 role in regulating agriculture, nor does any county government  
16 dedicate a department with financial resources and qualified  
17 agricultural and scientific professionals necessary to fulfill  
18 that role.

19       The legislature instead finds that the Hawaii department of  
20 agriculture, the United States Department of Agriculture, the  
21 United States Food and Drug Administration, and the United



1 States Environmental Protection Agency are the governmental  
2 entities responsible for the oversight of agriculture in Hawaii,  
3 as well as of agricultural imports and exports. The Hawaii  
4 Right to Farm Act, the United States Department of Agriculture's  
5 Plant Protection Act, and other state and federal mandates  
6 provide consistent policies that apply to all farmers doing  
7 business in Hawaii, regardless of the crop or commodity being  
8 grown. Hawaii farmers have made great strides over the years,  
9 and state laws and administrative rules ensure uniformity and  
10 consistency, reflect changes in the agricultural industry, and  
11 encourage investment in infrastructure and technology.

12 The legislature further finds that technology plays an  
13 ever-increasing role in agriculture. It can be found in the  
14 methodology and equipment that have made farmers more  
15 successful, sustainable, and better stewards of the land and  
16 resources. Technology permits farmers to use resources more  
17 efficiently and to better manage inputs, allowing them to grow  
18 more high-quality crops with increasing efficiency and success.  
19 The use of these technologies strengthens the State socially,  
20 economically, and environmentally by creating local job



1 opportunities, enhancing food security, and making more  
2 efficient use of land, labor, water, and necessary inputs.

3 The purpose of this Act is to protect farmers' right to  
4 farm and to promote lawful and proven agricultural activities  
5 that are consistent with long-standing state and federal laws,  
6 rules, and regulations.

7 SECTION 2. Section 165-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§165-4 Right to farm. (a) No court, official, public  
10 servant, or public employee shall declare any farming operation  
11 a nuisance for any reason if the farming operation has been  
12 conducted in a manner consistent with generally accepted  
13 agricultural and management practices. There shall be a  
14 rebuttable presumption that a farming operation does not  
15 constitute a nuisance.

16 (b) No law, ordinance, or resolution of any unit of local  
17 government shall be enacted that abridges the right of farmers  
18 and ranchers to employ agricultural practices not prohibited by  
19 federal or state law, rules, or regulations."

20 SECTION 3. New statutory material is underscored.



# S.B. NO. 3046

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Benjamin R. Inouye*  
*David M. Alan*  
*Clarence W. Fishman*

*[Signature]*



# S.B. NO. 3046

**Report Title:**

Right to Farm; Counties

**Description:**

Amends Hawaii's Right to Farm Act to ensure that counties cannot enact laws, ordinances, or resolutions to limit the rights of farmers and ranchers to engage in agricultural practices.

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

