

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

**FEBRUARY 10, 2017
8:30 A.M.
CONFERENCE ROOM 312**

**HOUSE BILL NO. 505
RELATING TO AGRICULTURAL COMMERCE**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill No.505 that amends Section 205-2(d)(11 and 12) by repealing the provision requiring counties to adopt ordinances regulating agricultural tourism as a precondition for allowing agricultural tourism activities in the Agricultural District. The bill also allows agricultural commerce, rather than agricultural tourism, in the Agricultural District. The Department of Agriculture has concerns and offers comments.

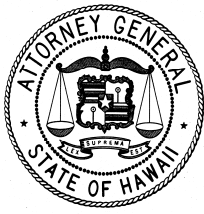
The Department of Agriculture supports allowing Hawaii's farmers the opportunity to capture additional income streams through activities that are clearly accessory and secondary to their bona fide farming operations. The purpose of HB505 is to "...allow agricultural commerce on agricultural land without undue county restrictions." The bill also allows overnight accommodations as an "agricultural commerce activity" (page 4, lines 9-10). The Department of Agriculture recommends that the term "agricultural commerce" be defined, and perhaps include a description or list of activities that are considered accessory and secondary to a working farm.



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To our knowledge, Hawaii County is the only county with an agricultural tourism ordinance in effect, so this bill may need to address what effect, if any, the amended language will have on their ordinance.

Thank you for the opportunity to comment on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 505, RELATING TO AGRICULTURAL COMMERCE.

BEFORE THE:

HOUSE COMMITTEE ON AGRICULTURE

DATE: Friday, February 10, 2017

TIME: 8:30 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Dawn T. Apuna, Deputy Attorney General

Chair Creagan and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The purposes of this bill are to repeal the requirement that counties adopt ordinances regulating agricultural tourism, and to allow "agricultural commerce" in place of "agricultural tourism" in the agricultural district.

This bill amends section 205-2(d), Hawaii Revised Statutes (HRS), which describes the allowed uses within the agricultural district. Section 205-4.5(a), HRS, more narrowly permits certain uses in the agricultural district on lands with soil classified by the Land Study Bureau's overall productivity rating class A or B. Specifically, section 205-4.5(a)(13) and (14), HRS, permit agricultural tourism and agricultural tourism activities on A and B rated agricultural lands with wording identical to that under section 205-2(d)(11) and (12), HRS. If the intent of this bill is to repeal the regulation of agricultural tourism by the counties and to replace "agricultural commerce" with "agricultural tourism" throughout the agricultural district, including on A and B agricultural lands, it should similarly amend section 205-4.5(a)(13) and (14), HRS, as follows:

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

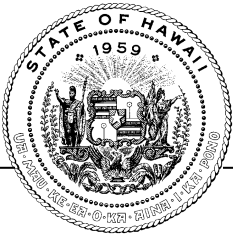
operations; ~~[and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;]~~

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

The term "agricultural commerce" is unclear and overly broad as it may include uses already provided under section 205-2(d), HRS, such as wind generated energy production for commercial use (section 205-2(d)(4), HRS), biofuel production for commercial use (section 205-2(d)(5), HRS), and agricultural-based commercial operations (section 205-2(d)(15), HRS). "Agricultural commerce" should be clearly distinguishable from all other uses under section 205-2(d), HRS. Therefore, we suggest either that "agricultural commerce" not replace the term "agricultural tourism", or that "agricultural commerce" be defined to specifically identify what types of activities are intended to be allowed. Section 205-2(d)(11), HRS, could be amended as follows:

- "(11) Agricultural ~~[tourism]~~ commerce conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural ~~[tourism]~~ commerce activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided ~~[further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;]~~ that, for the purposes of this chapter, "agricultural commerce" shall be limited to the following activities ***[insert specific activities and uses]***;"

Should this bill move forward, we respectfully recommend that the Committee include these amendments.



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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
HOUSE COMMITTEE ON AGRICULTURE
Friday, February 10, 2017
8:30 AM
State Capitol, Conference Room 312

in consideration of
HB 505
RELATING TO AGRICULTURAL COMMERCE.

Chair Creagan, Vice Chair DeCoite, and Members of the House Committee on Agriculture.

The Office of Planning (OP) opposes HB 505. HB 505 would amend the provisions for agricultural tourism as a permissible use in the State Agricultural District in Hawaii Revised Statutes (HRS) § 205-2(d), as follows: (1) in paragraph (11), replacing agricultural “tourism” with agricultural “commerce” and removing the requirement for county adoption of an ordinance regulating agricultural tourism; and (2) in paragraph (d)(12), replacing agricultural “tourism” (that includes overnight stays) with agricultural “commerce”.

The term, agricultural commerce, is not defined and is so broad that it will be subject to interpretation, and exacerbate enforcement problems for the counties in their efforts to regulate and manage non-agricultural uses in the State Agricultural District. It is also unclear how agricultural commerce is distinguishable from existing provisions for “agricultural-based commercial operations” in paragraph (d)(15). In addition, the bill does not amend the paragraphs in § 205-4.5(a) for agricultural tourism on lands rated ‘A’ and ‘B’ by the Land Study Bureau, which would further complicate the regulatory environment for land use in the State Agricultural District.

OP respectfully requests that this measure be held. Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
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FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission
Before the
House Committee on Agriculture
Friday February 10, 2017
8:30 AM
State Capitol, Conference Room 312

In consideration of
HB 0505
RELATING TO AGRICULTURAL COMMERCE

Chair Creagan, Vice Chair DeCoite, and members of the Committee on Agriculture:

The Land Use Commission provides the following comments on HB0505, which would amend the provisions for agricultural tourism as a permissible use within the State Agricultural District in section 205-2(d), Hawai'i Revised Statutes (HRS) by replacing the term "agricultural tourism" with "agricultural commerce."

The term "agricultural commerce" is not defined, leaving it open to interpretation and would make county regulatory enforcement of non-agricultural uses within the State Agricultural District even more difficult. Additionally, section 205-2(d)(15), HRS, already allows for "agricultural-based commercial operations" within the State Agricultural District. Without a good definition of what is specifically meant by "agricultural commerce" it is unclear whether such possible uses are different and distinguishable from those already allowed under section 205-2(d)(15), HRS.

Thank you for the opportunity to testify on this matter.



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February 10, 2017

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 505
RELATING TO AGRICULTURAL COMMERCE

Room 312
8:30 AM

Aloha Chair Creagan, Vice-Chair DeCoite, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFB strongly opposes HB 505, repealing the conditions required in statute and replacing agritourism with agricultural commerce.

The measure currently in statute was suggested by Farm Bureau as agritourism expanded and questions arose regarding its place in the ag district. The requirement for county ordinances was inserted as we saw the evolution of agritourism and differences in views across Counties of what was acceptable in the Ag District. HFB believes agritourism is a zoning issue and a function within the scope of home rule. We oppose its repeal as it will overstep county jurisdiction.

Agritourism can evolve into agritainment. Both represent the intersection of entertainment and agriculture. The original intent of agritourism was that it be accessory and secondary to an agricultural operation. We have all seen operations where this intent is taken to the extreme and it is obvious that income from the tourist experience exceeds that from actual sale of agricultural products. Those will evolve to agritainment as the major portion of income is obtained from the sale of an experience rather than product.

Agricultural commerce is already the business that is permitted in the ag district. We do not believe that the proposed changes are in the interest of agriculture. Its' unintended consequence will open the door to abuse.

A good example is the permitting of bed and breakfast or TVA operations. It currently is allowed only in a county with three islands, addressing the objection of other counties.

It emphasizes the need for county jurisdiction in this area. Additional traffic, unknown visitors in an industry already struggling with ag crime are just some of the issues that counties need to address.

We strongly support agritourism as originally intended as it represents an excellent revenue enhancement opportunity for our farmers and an educational opportunity for the public. Fostering viability of these farmers will significantly contribute to the State's goal of increased self sufficiency. Loosing focus on production and expanding the entertainment aspect of agritourism will reduce production and is counterproductive to the purpose of the ag district.

We respectfully request your **opposition** of this measure in favor of home rule.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 2, 2017 5:11 PM
To: AGRtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB505 on Feb 10, 2017 08:30AM*

HB505

Submitted on: 2/2/2017

Testimony for AGR on Feb 10, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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