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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 PART I

2 SECTION 1. The legislature finds that agricultural crimes  
3 pose a significant and growing threat to the sustainability and  
4 vitality of the State's agricultural industry. These crimes,  
5 which include theft, vandalism, trespassing, and illegal hunting  
6 on agricultural lands, not only jeopardize the livelihoods of  
7 farmers but also undermine food security, disrupt local  
8 economies, and erode public confidence in the protection of  
9 vital resources. Agriculture remains a cornerstone of the  
10 State's economy and cultural heritage, contributing to both  
11 economic diversification and community resilience. However, the  
12 increasing prevalence of agricultural crimes poses a grave risk  
13 to this essential sector.

14 Recognizing the complexity and multifaceted nature of  
15 agricultural crimes, this Act is designed to provide a  
16 comprehensive response by strengthening existing legal  
17 frameworks and establishing clearer definitions and penalties



1 for violations related to agriculture and agricultural lands.  
2 By differentiating between administrative and criminal  
3 penalties, this Act ensures that the consequences of  
4 agricultural crimes are proportionate and effective, thereby  
5 enhancing deterrence and accountability.

6       Moreover, this Act establishes an agricultural crime  
7 prevention program within the department of agriculture, which  
8 will play a pivotal role in safeguarding the State's  
9 agricultural industry through a combination of grants,  
10 educational initiatives, and administrative enforcement  
11 measures. By equipping agricultural property owners and  
12 community-based organizations with resources such as  
13 surveillance equipment, signage, and fencing, the program seeks  
14 to proactively deter criminal activity. Additionally, it will  
15 support partnerships between law enforcement, community groups,  
16 and private entities to enhance investigative and prosecutorial  
17 efforts.

18       The legislature affirms its commitment to preserving the  
19 State's agricultural legacy and protecting the individuals and  
20 communities who dedicate themselves to this critical industry.  
21 Through this Act, the State seeks to ensure the safety,



1 integrity, and sustainability of the State's agricultural lands  
2 for present and future generations.

3 Accordingly, the purpose of this Act is to:

- 4 (1) Establish an agricultural crime prevention program  
5 within the department of agriculture to provide  
6 grants, education, administrative enforcement, and  
7 other services for the benefit of the State's  
8 agricultural industry;
- 9 (2) Clarify, create, and strengthen laws regarding crimes  
10 and violations related to agriculture or agricultural  
11 lands and hunting on private agricultural lands; and
- 12 (3) Establish clear distinctions between administrative  
13 and criminal penalties.

14 PART II

15 SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
16 amended by adding a new part to be appropriately designated and  
17 to read as follows:

18 "PART . AGRICULTURAL CRIME PREVENTION PROGRAM

19 §141-A Agricultural crime prevention special fund;  
20 established. (a) There is established within the state  
21 treasury the agricultural crime prevention special fund. The



1 fund shall be administered and expended by the department of  
2 agriculture. Moneys deposited in the special fund shall be used  
3 to fulfill the purposes of this part and shall include:

- 4 (1) Fees received pursuant to section 141-B;
- 5 (2) Interest earned or accrued on moneys in the special  
6 fund;
- 7 (3) Any moneys appropriated by the legislature to the  
8 special fund; and
- 9 (4) Grants, donations, and contributions from private or  
10 public sources for the purposes of the special fund.

11 (b) The department of agriculture may use the moneys in  
12 the special fund to carry out the purposes of this part,  
13 including for the implementation and administration of the  
14 agricultural crime prevention program.

15 (c) Moneys on balance in the agricultural crime prevention  
16 special fund at the close of each fiscal year shall remain in  
17 the fund and shall not lapse to the credit of the general fund.

18 **§141-B Agricultural crime prevention program; established.**

19 (a) The department of agriculture shall establish an  
20 agricultural crime prevention program for the purpose of



1 providing grants to agricultural property owners to deter,  
2 prevent, and prosecute agricultural crimes.

3 (b) The department of agriculture may:

4 (1) Provide grants to assist agricultural property owners  
5 with procuring signage, cameras, fencing, and other  
6 protective or surveillance equipment;

7 (2) Provide signage, cameras, fencing, and other  
8 protective or surveillance equipment directly to  
9 agricultural property owners;

10 (3) Provide grants to assist community-based organizations  
11 or law enforcement agencies to develop, implement, and  
12 support programs for deterring or preventing, and  
13 where appropriate, investigating or prosecuting  
14 agricultural crimes;

15 (4) Provide staff, administration, and related support  
16 required to administer this part;

17 (5) Enter into agreements that set forth terms and  
18 conditions of the grants, accept funds or grants, and  
19 cooperate with private entities and state or county  
20 agencies to carry out the purposes of this part;



- 1           (6) Establish, determine, charge, and collect any  
2           premiums, fees, charges, costs, and expenses,  
3           including application fees, commitment fees, program  
4           fees, financing charges, or publication fees in  
5           connection with its activities under this part;
- 6           (7) Take whatever actions are necessary or appropriate to  
7           protect the State's interest in the event of  
8           bankruptcy, default, foreclosure, or noncompliance  
9           with the terms and conditions of grants provided under  
10          this part, including the ability to recapture funds if  
11          the grant recipient is found to be noncompliant with  
12          the terms and conditions of the grant agreement;
- 13          (8) Establish application, notification, contract, and  
14          other forms and procedures deemed necessary and  
15          appropriate;
- 16          (9) Utilize vendors or contract work to carry out the  
17          purposes of this part; and
- 18          (10) Take any other action that is consistent with the  
19          intent of this part.
- 20          (c) The department of agriculture shall adopt rules in  
21          accordance with chapter 91 to implement this part, including:



- 1           (1) Additional requirements and qualifications for
- 2                   determining eligibility of applicants for grants;
- 3           (2) Preferences and priorities in determining eligibility
- 4                   for grants;
- 5           (3) Conditions, consistent with the purpose of this part,
- 6                   for the awarding of grants;
- 7           (4) Requirements for the inspection at reasonable hours of
- 8                   properties, including facilities, books, and records,
- 9                   of a grant applicant or grant recipient;
- 10          (5) Requirements for the submission of progress and final
- 11                   reports by grant recipients; and
- 12          (6) Appropriate management counseling and monitoring of
- 13                   business activities for grant recipients.

14           **§141-C Agricultural crime prevention grants; standards and**  
15 **conditions.** (a) Grants made pursuant to this part shall be  
16 awarded on a competitive and annual basis. Grants made under  
17 this part shall further and promote the goals of the  
18 agricultural crime prevention program.

19           (b) Applications for grants shall be made to the  
20 department of agriculture and contain any information required



1 under this part and rules adopted thereunder. At a minimum, an  
2 applicant shall include the following:

3 (1) The name of the organization or individual applying  
4 for the grant;

5 (2) A statement that the applicant meets the criteria for  
6 the grant;

7 (3) The intended use of the grant; and

8 (4) The location of the agricultural property or community  
9 to be benefited.

10 (c) Recipients of grants made pursuant to this part shall  
11 be subject to the following conditions:

12 (1) The recipient shall not use public funds for purposes  
13 of entertainment or perquisites, including lobbying  
14 activities;

15 (2) The recipient of a grant shall comply with state laws  
16 and county ordinances;

17 (3) The recipient of a grant shall comply with any other  
18 requirements that may be prescribed by rules adopted  
19 pursuant to this part;

20 (4) The recipient of a grant shall allow the department of  
21 agriculture, the legislature, and the auditor full



1 access to records, reports, files, and other related  
2 documents so that the program, management, and fiscal  
3 practices of the grant recipient may be monitored and  
4 evaluated to assure the proper and effective  
5 expenditure of public funds;

6 (5) Each grant shall be monitored according to rules  
7 adopted pursuant to this part to ensure compliance  
8 with this part or rules adopted thereunder; and

9 (6) Any recipient who withholds or omits any material fact  
10 or deliberately misrepresents facts to the department  
11 of agriculture or who violates the terms of the  
12 recipient's contract shall be in violation of this  
13 part and, in addition to any other penalties provided  
14 by law, shall be prohibited from applying for a grant  
15 under this part for a period of five years from the  
16 date of termination."

17 PART III

18 SECTION 3. Chapter 142, Hawaii Revised Statutes, is  
19 amended by adding two new sections to part I to be appropriately  
20 designated and to read as follows:



1           "§142-A Administrative penalties. (a) Except as  
2 otherwise provided by law, the department of agriculture may  
3 set, charge, and collect administrative fines, fees, and costs  
4 for any violation of this chapter for which a penalty is not  
5 otherwise provided, including attorneys' fees and costs, or  
6 bring legal action to recover administrative fines, fees, and  
7 costs, including attorneys' fees and costs, or payment for  
8 damages or for the cost to correct damages resulting from a  
9 violation of this chapter or any rule adopted thereunder.

10           (b) For any administrative violation of this chapter or  
11 any rule adopted thereunder, unless provided otherwise by law,  
12 the fine shall be as follows:

13           (1) For a first violation, or any violation not preceded  
14 within a five-year period for the same violation, a  
15 fine of not more than \$200;

16           (2) For a second violation within five years of a previous  
17 violation, a fine of not more than \$500; and

18           (3) For a third or subsequent violation within five years  
19 of a previous violation, a fine of not more than  
20 \$1,000.



1 Each day or instance of violation shall constitute a separate  
2 violation.

3 (c) The board of agriculture may impose applicable fines  
4 by order in addition to any other administrative or judicial  
5 remedy provided by this chapter or any rule adopted thereunder.

6 (d) For any judicial proceeding to recover a fine, fee, or  
7 cost imposed under this section, the chairperson of the board of  
8 agriculture need only show that:

9 (1) Notice was given and a hearing was held or the time  
10 granted for requesting a hearing has expired without  
11 receiving a request;

12 (2) The fine, fee, or cost was imposed; and

13 (3) The fine, fee, or cost remains unpaid.

14 (e) In addition to any other administrative or judicial  
15 remedy provided in this chapter or any rule adopted thereunder,  
16 the department of agriculture may impound, seize, confiscate,  
17 destroy, quarantine, sell, auction, or dispose of any animal,  
18 animal product, container, crate, or any other item under the  
19 jurisdiction of this chapter in the best interest of the State.

20 (f) Any criminal action against a person for any violation  
21 of this chapter or any rule adopted thereunder shall not



1 preclude the State from pursuing civil legal action to recover  
2 administrative fines, fees, or costs or damages against the  
3 person. Any civil legal action to recover administrative fines,  
4 fees, or costs or damages for a violation of this chapter or any  
5 rule adopted thereunder shall not preclude the State from  
6 pursuing any appropriate criminal action against that person.  
7 Unless otherwise provided, all fines, fees, costs, and damages  
8 recovered by the department of agriculture pursuant to this  
9 section shall be deposited in the animal industry special fund  
10 established under section 142-3.6.

11 **§142-B Habitual agricultural crime.** (a) A person commits  
12 the offense of habitual agricultural crime if the person is a  
13 habitual agricultural crime perpetrator and commits a criminal  
14 offense under this chapter.

15 (b) For the purposes of this section, "habitual  
16 agricultural crime perpetrator" means a person who, within five  
17 years of the instant offense, has any combination of three or  
18 more prior convictions for criminal offenses under this chapter  
19 or one or more prior convictions under this section. The  
20 convictions shall be for separate incidents on separate dates.  
21 The prosecution shall not be required to prove any state of mind



1 with respect to the person's status as a habitual agricultural  
2 crime perpetrator. Proof that the person has the requisite  
3 minimum prior convictions shall be sufficient to establish this  
4 element.

5 (c) Habitual agricultural crime is a class C felony.

6 (d) For a conviction under this section, the sentence  
7 shall be either:

8 (1) An indeterminate term of imprisonment of five years;  
9 provided that the minimum term of imprisonment shall  
10 be not less than one year; or

11 (2) A term of probation of five years, with conditions to  
12 include but not be limited to one year of  
13 imprisonment; provided that probation shall only be  
14 available for a first conviction under this section."

15 SECTION 4. Chapter 142, Hawaii Revised Statutes, is  
16 amended by adding five new sections to part II to be  
17 appropriately designated and to read as follows:

18 **"§142-C Definitions.** As used in this part:

19 "Brand" means a design that is permanently impressed on the  
20 hide of an animal by burning with acid, a chemical compound, or  
21 a hot iron.



1       "Mark" means a design that is cut into or from the ear,  
2 dewlap, or other part of an animal.

3       §142-D Specialized unit of brand inspectors;  
4 establishment; duties. (a) There is established within the  
5 department of agriculture a specialized unit of brand  
6 inspectors, whose duty shall be to carry out enforcement of this  
7 part and related rules adopted under this chapter, as authorized  
8 under this chapter and directed by the chairperson of the board  
9 of agriculture. The chairperson of the board of agriculture may  
10 staff the unit as needed to fulfill its duties.

11       (b) Brand inspectors shall be provided with suitable  
12 badges or insignia of office by the department of agriculture  
13 and shall have the power to:

- 14       (1) Initiate civil or administrative investigations;  
15       (2) Institute, serve, and execute warrants;  
16       (3) Issue citations;  
17       (4) Seize contraband or other related articles;  
18       (5) Educate; and  
19       (6) Use any other means of enforcement authorized under  
20       this chapter,



1 to enforce this part and related rules adopted under this  
2 chapter.

3 (c) Whenever a brand inspector deems it necessary to enter  
4 private property, including any land, building, vehicle, vessel,  
5 or aircraft, for the purposes of enforcing this part, the brand  
6 inspector may apply to the district court in which the property  
7 is located for a warrant to enter the property. The district  
8 court may issue a warrant authorizing the brand inspector to  
9 enter the property and seize, capture, confiscate, or remove any  
10 animals, equipment, records, or other articles used or intended  
11 for use in the commission or attempt to commit a violation of  
12 this part or related rules adopted under this chapter.

13 **§142-E Inspection before slaughter.** No person shall allow  
14 livestock to enter a processing establishment that slaughters or  
15 processes livestock meat and meat products unless the department  
16 of agriculture has conducted a prior examination and inspection  
17 to verify the correct brand pursuant to this part and confirm  
18 the livestock ownership movement certificate pursuant to section  
19 142-49.

20 **§142-F Brand inspection special fund.** (a) There is  
21 established in the state treasury the brand inspection special



1 fund. The special fund shall be administered and expended by  
2 the department of agriculture. Moneys deposited into the  
3 special fund shall be used for the implementation and  
4 administration of the specialized unit of brand inspectors and  
5 shall include:

- 6       (1) Fees, fines, and penalties received pursuant to this  
7             part;  
8       (2) Interest earned or accrued on moneys in the special  
9             fund;  
10       (3) Any moneys appropriated by the legislature to the  
11            special fund; and  
12       (4) Grants, donations, and contributions from private or  
13            public sources for the purposes of the special fund."

14       SECTION 5. Section 142-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       "**§142-2 Rules.** Subject to chapter 91 the department of  
17 agriculture may make and amend rules for the inspection,  
18 quarantine, disinfection, or destruction, either upon  
19 introduction into the State or at any time or place within the  
20 State, of animals and the premises and effects used in  
21 connection with the animals. Included therein may be rules



1 governing the control and eradication of transmissible diseases  
2 of animals and the transportation of animals between the  
3 different islands of the State and along the highways thereof,  
4 the registration and inspection of brands or marks on livestock,  
5 as well as rules requiring the owner or captain of any vessel or  
6 aircraft arriving in the State with animals aboard and the  
7 managers or agents of trucking and air and water transportation  
8 companies carrying animals within the State to report on the  
9 number and class of animals carried, names of owners and  
10 consignees, the places to and from which the animals are  
11 shipped, the manner of handling the animals, the number of  
12 deaths or injuries to animals occurring in transit or while  
13 being loaded or unloaded together with the causes of the deaths  
14 or injuries, and all other matters which may be deemed necessary  
15 by the department for a full and complete record of the shipping  
16 and handling of animals. The department may also prohibit the  
17 importation into the State from any foreign country or other  
18 parts of the United States or the movement from one island  
19 within the State to another island therein or to one locality  
20 from another locality on the same island, of animals known to be  
21 or suspected of being infected with a contagious, infectious, or



1 communicable disease or known to have been exposed to any of  
2 those diseases."

3 SECTION 6. Section 142-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§142-3 Department, general duties[-] and powers. (a)

6 The department of agriculture shall have charge, direction, and  
7 control of all matters relating to the inspection of animals,  
8 including brand inspection, and the prevention and eradication  
9 of contagious, infectious, and communicable diseases among  
10 animals and of all matters relating to animal industry within  
11 this chapter.

12 (b) In the performance of its duties under this chapter,  
13 the department of agriculture may:

14 (1) Conduct investigations, collect data, and require  
15 reports from owners of animals, including livestock  
16 animals, as may be necessary to conduct inspections or  
17 facilitate its decisions;

18 (2) Enter upon private property, including agricultural  
19 lands, as may be necessary in making any investigation  
20 or inspection required or authorized by this chapter;  
21 provided that the entry shall not constitute a cause



- 1           of action in favor of the owner of the land, except  
2           for damages resulting from wilful acts or negligence  
3           by the department or its employees acting in the  
4           course of their official duties;
- 5           (3) Establish and assess fees pursuant to chapter 91 to  
6           cover a portion of the department's costs in carrying  
7           out the implementation and administration of any  
8           programs established or authorized under this chapter;
- 9           (4) Recover expenses incurred in taking any action  
10           required by the owner of the animals, including  
11           livestock, in the same manner that debts are  
12           recoverable by law;
- 13           (5) Assess and collect administrative penalties for  
14           violation of this chapter, any rule adopted  
15           thereunder, or order issued by the department of  
16           agriculture or board of agriculture pursuant to this  
17           chapter;
- 18           (6) Place liens, as needed, on the owner's property, to be  
19           collected as delinquent taxes against lands and  
20           property, if the owner neglects to pay any costs,  
21           expenses, or penalties chargeable to the owner under



- 1           this chapter, or any rule, order, or condition  
2           adopted, issued, or required under this chapter;  
3       (7) With the assistance of the attorney general, institute  
4           and pursue all court actions that may be necessary to  
5           obtain the enforcement of any order issued by the  
6           board of agriculture or department of agriculture in  
7           carrying out this chapter;  
8       (8) Cooperate, advise, consult, contract, or enter into  
9           cooperative agreements with the United States  
10           government, or any of its agencies, other state  
11           agencies, or the county governments, or any of its  
12           agencies; and  
13       (9) Take any and all other actions as may be necessary to  
14           carry out this chapter."

15           SECTION 7. Section 142-3.6, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "**§142-3.6 Animal industry special fund.** There is  
18 established the animal industry special fund to be administered  
19 by the board of agriculture. Moneys received by the board of  
20 agriculture from:



- 1           (1) The use or rental of the division of animal industry's  
2           properties or facilities, including the animal  
3           quarantine property or facilities pursuant to section  
4           142-3.5;
- 5           (2) Revenue from fees for diagnostic, surveillance, and  
6           other work by the animal industry division veterinary  
7           laboratory and animal disease control branch; ~~and~~
- 8           (3) Fines, fees, costs and damages recovered by the  
9           department of agriculture under section 142-A; and
- 10          ~~(3)~~ (4) Appropriations or other moneys made available,  
11          shall be deposited into the special fund. All  
12          interest earned or accrued on moneys deposited in the  
13          special fund shall become part of the special fund.  
14          Moneys in the special fund shall be expended to cover  
15          costs of the division of animal industry, including  
16          the costs of salaries, fringe benefits, operating  
17          expenses, equipment, motor vehicles, contract with any  
18          qualified person or entity for livestock handling  
19          services, improvements to laboratory capabilities and  
20          operations, and operating and maintenance of the  
21          animal industry facilities; provided that moneys in



1 the special fund may be used to fund the department's  
2 resource management and planning programs. A reserve  
3 shall be maintained in the special fund to cover  
4 contingency costs, including accrued vacation leave,  
5 unemployment insurance, and workers' compensation."

6 SECTION 8. Section 142-4, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§142-4 Entry of animals without inspection prohibited.**

9 (a) No animal shall be allowed to enter the State except after  
10 inspection by the department of agriculture and the issuance of  
11 a permit by the department to the consignee or owner; provided  
12 that no fees for inspection shall be charged, nor delays caused,  
13 concerning the landing of any domestic animal for which a  
14 certificate of health has been issued as prescribed by the  
15 Federal Cattle Contagious Disease Act. Every carrier, owner, or  
16 handler bringing animals into the State shall be required to  
17 present these animals to the department of agriculture for  
18 inspection.

19 (b) Any person who fails to present an animal pursuant to  
20 subsection (a) shall be assessed an administrative penalty of  
21 not more than \$1,000 for each violation. Each animal that



1 enters the State without inspection shall constitute a separate  
2 violation."

3 SECTION 9. Section 142-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§142-8 Notification of arrival.** (a) The captain of any  
6 vessel or aircraft transporting any live animal to any port in  
7 this State shall immediately upon arrival in the State notify  
8 the department of agriculture. No animal so transported, nor  
9 any portion of the food or water nor any effects connected  
10 therewith or provided for the animal's use during transit, shall  
11 be removed from the wharf or airport until the department has  
12 inspected and passed the same. The department, at the owner's  
13 or shipper's expense, may require that the animal be moved to a  
14 more suitable location for inspection.

15 (b) A person who violates this section shall be guilty of  
16 a misdemeanor."

17 SECTION 10. Section 142-12, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§142-12 Penalties.** (a) Any person violating any  
20 provision of this chapter or any rule adopted pursuant [~~thereto,~~  
21 ~~for which action a penalty is not otherwise provided,~~ is guilty



1 ~~of a misdemeanor and, upon conviction thereof,~~ to this chapter  
2 that is designated as a petty misdemeanor shall be ~~[punished]~~  
3 sentenced as follows:

4 (1) For the first ~~[conviction, by]~~ offense, or any offense  
5 not preceded within a five-year period for an offense  
6 under the same section, a fine of not ~~[more]~~ less than  
7 ~~[\$1,000]~~ \$250 or ~~[by]~~ imprisonment of not ~~[more]~~ less  
8 than ~~[one year,]~~ three consecutive days, or both~~[-];~~

9 (2) For ~~[a second conviction within one year]~~ an offense  
10 that occurs within five years of a previous  
11 conviction~~[-, by]~~ for an offense under the same  
12 section, a fine of not less than \$500 ~~[nor more than~~  
13 ~~\$1,000]~~ or ~~[by]~~ imprisonment of not ~~[more]~~ less than  
14 ~~[one year,]~~ ten days, or both~~[-];~~ and

15 (3) For ~~[a third conviction]~~ an offense that occurs within  
16 five years of ~~[the first conviction, by]~~ two or more  
17 prior convictions for an offense under the same  
18 section, a fine of ~~[not less than]~~ \$1,000 or ~~[by]~~  
19 imprisonment of ~~[one year,]~~ thirty days, or both.

20 (b) Any person~~[-, carrier, or handler who has been~~  
21 ~~convicted of a violation]~~ violating any provision of this



1 chapter [~~more than three times within a five-year period or~~  
2 ~~whose violation poses a grave or serious health threat to the~~  
3 ~~State's citizens, animal industry, wildlife, or domestic~~  
4 ~~animals, shall be guilty of a class C felony and upon~~  
5 ~~conviction]~~ or any rule adopted pursuant to this chapter that is  
6 designated as a misdemeanor shall be [~~punished~~] sentenced as  
7 follows:

- 8 (1) For the first conviction, [~~by~~] or any offense not  
9 preceded within a five-year period for an offense  
10 under the same section, a fine of not [~~more~~] less than  
11 [\$5,000] \$500 or [~~by~~] imprisonment of not [~~more~~] less  
12 than five [~~years,~~] consecutive days, or both[~~-~~];
- 13 (2) For [~~a second conviction~~] an offense that occurs  
14 within five years of a previous conviction[~~, by~~] for  
15 an offense under the same section, a fine of not less  
16 than [~~\$3,000 nor more than \$5,000 or by~~] \$1,000 or  
17 imprisonment of not [~~more~~] less than [~~five years,~~  
18 thirty days, or both[~~-~~]; and
- 19 (3) For [~~a third or subsequent conviction~~] an offense that  
20 occurs within five years of [~~the first conviction, by~~  
21 two or more prior convictions for an offense under the



1            same section, a fine of [~~not less than \$5,000 or by~~  
2            \$2,000 or imprisonment of [~~not more than five years,~~  
3            one year, or both.

4            (c) [~~In addition to the penalties in subsection (a) or (b)~~  
5 ~~and for the first conviction, the department of agriculture may~~  
6 ~~impound, seize, confiscate, destroy, quarantine, sell, auction,~~  
7 ~~or dispose of any animal, animal product, container, crate, or~~  
8 ~~any other item under the jurisdiction of this chapter in the~~  
9 ~~best interest of the State.] Any provision of this chapter or  
10 any rule adopted pursuant to this chapter that is not  
11 specifically designated as a petty misdemeanor, misdemeanor, or  
12 felony, shall be enforced via civil or administrative means.~~

13            (d) [~~Persons found to be in possession of any~~ Any animal,  
14 fodder, fittings, or other personal effects [~~contrary to~~] seized  
15 in relation to an offense under this chapter, including any  
16 vehicles used in the commission of the offense, shall be [~~found~~  
17 ~~guilty and upon conviction shall be punished in accordance with~~  
18 ~~this section.] subject to forfeiture under chapter 712A."~~

19            SECTION 11. Section 142-18, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           **"§142-18 Disposal of tuberculous animals.** (a) The owner  
2 of all cattle reacting to the tuberculin test shall, subject to  
3 section 142-16, cause them to be segregated immediately and,  
4 within a reasonable time thereafter, to be delivered for  
5 slaughter at such time and place as may be designated by the  
6 department of agriculture. The slaughter shall be under the  
7 direct supervision of the department and in accordance with the  
8 meat inspection regulations of the United States Department of  
9 Agriculture.

10           (b) Any person who fails to segregate tuberculous animals  
11 or deliver them for slaughter shall be guilty of a misdemeanor."

12           SECTION 12. Section 142-20, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           **"§142-20 Premises from which tuberculous cattle removed to**  
15 **be disinfected.** (a) Any premises upon which have been kept  
16 animals affected with tuberculosis shall be disinfected promptly  
17 after the removal of the animals and in a manner satisfactory to  
18 the department of agriculture and at the expense of the owner.

19           (b) Violation of this section shall be a misdemeanor."

20           SECTION 13. Section 142-23.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) Any person who violates [~~the provisions of~~  
2 subsection (a) [~~of this section~~] shall be [~~fined not more than~~  
3 \$1,000 or imprisoned not more than one year, or both.] guilty of  
4 a misdemeanor."

5           SECTION 14. Section 142-41, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§142-41 Brands to be registered and recorded**[~~, ete~~]. (a)  
8 Every owner of livestock in the State shall have the owner's  
9 brand or mark, in order to secure its validity and  
10 individuality, recorded in a separate book kept for that purpose  
11 by the department of agriculture to be known as the "Hawaii  
12 Brand Book". No brand or mark shall be recorded [~~which~~] that  
13 may be similar or approximate in design to any brand or mark  
14 [~~which~~] that has been previously recorded. No record shall be  
15 made of any earmark, except only as supplemental identification  
16 of a brand. Numerals from 1 to 9 and 0, not used in combination  
17 or with symbols, as a brand, shall not be subject to preemptive  
18 use but shall be the common property of all persons.

19           (b) The department of agriculture shall establish, by rule  
20 adopted pursuant to chapter 91, a fee for each application [~~for~~  
21 registration shall be established by rule adopted pursuant to



1 ~~chapter 91.]~~ to register a brand or mark. The application may  
2 be made directly to the department, through its duly authorized  
3 agents, or through any duly authorized police officer. The  
4 chief of police of the respective counties shall authorize  
5 police officers to receive applications for registration of  
6 brands under this section. All moneys [~~se~~] received under this  
7 section shall be [~~paid to the director of finance.~~] deposited  
8 with the director of finance who shall transmit the moneys to  
9 the brand inspection special fund pursuant to section 142-F. A  
10 signed and dated receipt shall be issued for each paid  
11 application. All applications shall be promptly forwarded to  
12 the department.

13 (c) If it is determined that the application seeks the  
14 registration of a brand [~~which~~] that either has not already been  
15 recorded by another person or is not similar in design to any  
16 other previously recorded brand [~~which~~] that has not expired,  
17 then a certificate showing that [~~such~~] the brand or mark has  
18 been duly recorded shall be issued forthwith to the applicant.  
19 [~~No record shall be made of any earmark, except only as~~  
20 ~~supplemental identification of a brand. Numerals from 1 to 9~~  
21 ~~and 0, not used in combination or with symbols, as a brand,~~



1 ~~shall not be subject to preemptive use but shall be the common~~  
2 ~~property of all persons.]~~

3 (d) It shall be unlawful for any person to use any brand  
4 that has not been duly registered pursuant to this section and  
5 any rule adopted thereunder. Any person who violates this  
6 subsection shall be fined not more than \$200. Each instance a  
7 brand is used in violation of this subsection shall constitute a  
8 separate violation."

9 SECTION 15. Section 142-47, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§142-47 Obliterating brand; penalty.** Any person who  
12 alters, removes, or obliterates any brand or mark, on any  
13 animal, by placing another brand or mark over the same, or  
14 otherwise, [~~although without felonious intent,~~] shall be fined  
15 not more than [~~\$200~~] \$500 for every brand or mark so  
16 obliterated."

17 SECTION 16. Section 142-48, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§142-48 [Felonious] Prohibited branding; penalty.**  
20 [~~Whoever wilfully and feloniously brands, or otherwise marks,~~]  
21 Any person who intentionally or knowingly places their own brand



1 or mark on any kine, horse, mule, sheep, goat, or other cattle  
2 belonging to another [~~, with one's mark,~~] or [with] places the  
3 brand or mark of [~~another not~~] anyone other than the animal's  
4 owner [~~of the animal so branded or marked,~~] with the intent to  
5 convert it to one's own use[~~7~~] or to the use of another, shall  
6 be [~~imprisoned not more than one year, or fined not more~~] guilty  
7 of a class C felony and, in addition to any other penalties  
8 imposed by the court, be fined not less than [~~\$200~~] \$1,000 for  
9 each kine, horse, mule, sheep, goat or other cattle thus branded  
10 or marked."

11 SECTION 17. Section 142-49, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§142-49 Livestock ownership and movement certification.**

14 (a) Every owner, upon sale or transportation of livestock,  
15 including cattle, horses, sheep, goats, pigs, bison, or llamas,  
16 shall complete a certificate describing the animal or animals  
17 including sex, breed, age, and brand and indicating the seller  
18 or owner, buyer or consignee, and origin and destination. Two  
19 copies of the certificate shall accompany the shipment, one copy  
20 shall be given to the department of agriculture, and a copy  
21 shall be retained by the owner. One of the copies of the



1 certificate shall be presented upon request to a [law  
2 ~~enforcement officer~~] brand inspector or other officer or  
3 employee as described in section 142-29.

4 (b) Any person who violates this section shall be assessed  
5 an administrative penalty up to \$500 per animal moved without a  
6 certificate."

7 SECTION 18. Section 142-61, Hawaii Revised Statutes, is  
8 amended by amending subsection (i) to read as follows:

9 "(i) Any person who constructs or maintains an  
10 electrically charged fence or fence with electrically charged  
11 attachments not conforming to the requirements of this section  
12 shall be [~~fined no more than \$500, or imprisoned no more than~~  
13 ~~one year, or both.~~] guilty of a misdemeanor."

14 SECTION 19. Section 142-62, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§142-62 Breaking, etc., of fence; penalty.** If any person  
17 maliciously and designedly opens a gateway, or breaks a fence,  
18 so as to allow any animal ingress or egress, so that it may  
19 commit a trespass, or maliciously and designedly drives or leads  
20 any animal into another locality where it may commit a trespass,  
21 the person shall, for every offense, be [~~fined not more than~~



1 ~~\$100, or imprisoned not more than one year.] guilty of a petty~~

2 misdemeanor."

3 SECTION 20. Section 142-68, Hawaii Revised Statutes, is

4 amended to read as follows:

5 "**§142-68 Fine for continued trespassing by animals.** In

6 case cattle, horses, mules, asses, sheep, swine, or goats

7 trespass on any land, the owner of the animals, if known, shall

8 be notified by the owner or occupier of the land trespassed

9 upon, and if the owner of the animals does not remove them

10 within twenty-four hours, if the animals are trespassing on a

11 homesite, garden, or truck farm, or within forty-eight hours, if

12 the animals are trespassing on any other type of land, the owner

13 of the animals shall be [~~subject to penalties as provided in~~

14 ~~section 142-12.] guilty of a misdemeanor."~~

15 SECTION 21. Section 142-72, Hawaii Revised Statutes, is

16 amended to read as follows:

17 "**§142-72 Procedure, if owner believes impounding illegal.**

18 If the owner of any animal taken up for trespass has reason to

19 believe that the taking up or impounding of the animal was

20 illegal, or if the owner regards the claim for damages or

21 expenses as excessive, the owner may have the owner's animal



1 returned to the owner upon the [~~owner's~~] owner delivering to the  
2 landowner or to the pound keeper[~~, if the animal has been~~  
3 ~~impounded,~~] a certificate from any district judge of the  
4 circuit[~~7~~] where the animal was impounded in, stating that the  
5 owner has deposited with the judge the amount claimed by the  
6 landowner, together with the pound fees, if any, or a good and  
7 sufficient bond for the same and the costs of an action before  
8 the judge."

9 SECTION 22. Section 142-74, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) If any dog, while on private property without the  
12 consent of the owner of that property, injures or destroys any  
13 sheep, cattle, goat, hog, fowl, or other property belonging to  
14 any person other than the owner of the dog, the owner of the dog  
15 shall be liable in damages to the person injured for the value  
16 of the property so injured or destroyed. The owner of the dog  
17 shall confine or destroy the dog, and if the owner of the dog  
18 neglects or refuses to do so, the owner of the dog, in the event  
19 of any further damage being done to the person or property of  
20 any person by the dog, in addition to paying the person injured  
21 for the damage, shall be guilty of a misdemeanor and pay the



1 costs of the trial [~~together with the penalty imposed under~~  
2 ~~section 142-12~~], and it shall be lawful for any other person to  
3 destroy the dog."

4 SECTION 23. Section 142-91, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§142-91 Destruction of animals ferae naturae.** (a) No  
7 person shall shoot or otherwise destroy any animal ferae naturae  
8 or its progeny within ten years of the introduction of the  
9 species into the State.

10 (b) Nothing in this section shall be construed to prohibit  
11 the destruction of such animals as shall be proved to be common  
12 nuisances.

13 (c) Any person who violates this section shall be guilty  
14 of a misdemeanor."

15 SECTION 24. Section 142-93, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§142-93 Harboring mongoose; penalty.** Any person  
18 harboring, feeding, or in any way caring for a mongoose, except  
19 upon and according to the terms of a written permit [~~which~~] that  
20 may be granted therefor by the department of agriculture, in its  
21 discretion, to scientists, scientific institutions,



1 associations, or colleges, or to officers, boards, or  
2 commissions of the State or any county, shall be [~~penalized~~  
3 ~~pursuant to section 142-12.~~] guilty of a misdemeanor."

4 SECTION 25. Section 142-95, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§142-95 Rabbits, Belgian hares, to be kept off ground;**  
7 **penalty.** (a) Any person who breeds, raises or keeps rabbits or  
8 Belgian hares shall keep them off the ground.

9 (b) Any person who violates this section shall be [~~fined~~  
10 ~~not more than \$100 or imprisoned not more than six months, or~~  
11 ~~both.~~] guilty of a petty misdemeanor."

12 PART IV

13 SECTION 26. Section 145-5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§145-5 Reports of consignment sales.** Every commission  
16 merchant shall make a written report to the producer for farm  
17 produce handled on consignment [~~in~~] on behalf of said producer  
18 [~~which shall be~~], within [~~such~~] the time and [~~in such detail~~]  
19 manner as may be prescribed by the department. Making a false  
20 or incorrect report shall constitute a misdemeanor under section  
21 145-12."



1 SECTION 27. Section 145-12, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§145-12 [Misdemeanor.] Criminal penalties.~~ [Any] Unless  
4 otherwise provided, any person who violates this chapter shall  
5 be guilty of a misdemeanor and shall be fined not more than  
6 ~~[\$1,000]~~ \$2,000 or imprisoned not more than one year, or both."

7 SECTION 28. Section 145-22, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) Every person, upon sale of any agricultural commodity  
11 or upon transportation of lots of any agricultural commodity [~~of~~  
12 ~~more than two hundred pounds or with a value of at least \$100~~  
13 ~~that is marketed for commercial purposes]~~, shall complete and  
14 retain a certificate describing the commodity, the amount and  
15 value of the commodity, and shall include:

16 (1) The seller's name, residence address, telephone  
17 number, and license plate number of any vehicle used  
18 by the seller to deliver the commodity to the place of  
19 purchase;

20 (2) The name of the farm owner and address of origin;



1 (3) The name of the buyer or consignee, and destination;  
2 and

3 (4) The signature of the seller and, upon sale, the  
4 signature of the buyer or consignee."

5 2. By amending subsection (e) to read:

6 "(e) ~~[This]~~ A failure to comply with any requirement under  
7 this section shall constitute a criminal offense pursuant to  
8 section 145-25; provided that this section shall not apply to  
9 the retail sale of an agricultural commodity to the final  
10 consumer."

11 SECTION 29. Section 145-24, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~§~~145-24~~]~~ **Authorization to inspect.** (a) Every law  
14 enforcement officer or other officer or employee [~~as described~~  
15 ~~in section 145-25]~~ having [~~probable cause]~~ reason to believe  
16 based upon specific and articulable facts that the possession,  
17 sale, or transportation of agricultural commodities is unlawful,  
18 may take reasonable steps to detain the person having  
19 possession, selling, or transporting the agricultural  
20 commodities and request from the person being detained proof of  
21 ownership of the commodities.



1        (b) For the purposes of this section, "officer or  
2 employee" has the same meaning as defined in section 145-27."

3        SECTION 30. Section 145-25, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        **"§145-25 Enforcement; criminal penalties.** ~~[Violations]~~ In  
6 addition to any civil or administrative penalties or remedies,  
7 violations of this part or any rule adopted pursuant thereto  
8 shall be criminal offenses and shall be sentenced as follows:

9        (1) ~~[A violation]~~ Any offense in which the value of the  
10 agricultural commodity exceeds \$100 shall be a class C  
11 felony; and

12        (2) ~~[A violation]~~ Any offense in which the value of the  
13 agricultural commodity is \$100 or less shall be a  
14 misdemeanor."

15        SECTION 31. Section 145-23, Hawaii Revised Statutes, is  
16 repealed.

17        ~~["§145-23 Lack of proof of ownership as a violation. The~~  
18 ~~failure of any person who sells, transports, or possesses after~~  
19 ~~sale or transport, agricultural commodities to maintain a~~  
20 ~~certificate of ownership or other written proof of ownership of~~  
21 ~~the agricultural commodity, as described in section 145-22, is a~~



1 ~~violation of this part and also prima facie evidence of an~~  
2 ~~offense under section 708-831(1)(c)."]~~

3 PART V

4 SECTION 32. Section 146-22, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§146-22 Reports.** Every person who slaughters a calf,  
7 heifer, cow, steer, or bull, whether wild or domesticated, at  
8 any place other than a duly licensed slaughterhouse shall comply  
9 with section 146-21 and~~[, in addition thereto, shall forthwith]~~  
10 report ~~[such]~~ the slaughtering to the officer in charge of  
11 recording brands. ~~[Such]~~ The report shall include a description  
12 of the animal slaughtered, including its sex and a full  
13 description of each and every brand on the animal, the date and  
14 place of slaughter, and the name of the person from whom, and  
15 date when, the animal was acquired. If any of the described  
16 brands on the animal appear to be obliterated, as described in  
17 section 142-47, or to be ~~[felonious,]~~ prohibited, as described  
18 in section 142-48, the person discovering the obliterated or  
19 prohibited brand shall make a report of the obliterated or  
20 ~~[felonious]~~ prohibited brand to any branding inspector, as



1 provided by law, and the appropriate law enforcement agency  
2 ~~[pursuant to rules adopted by the department of agriculture.]~~"

3 PART VI

4 SECTION 33. Section 183D-5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§183D-5 Penalties.** (a) Any person violating section  
7 183D-21, 183D-25, 183D-33, or 183D-63 or any rule adopted under  
8 this chapter shall be guilty of a petty misdemeanor, and upon  
9 conviction thereof, shall be ~~[punished]~~ sentenced as follows~~[+]~~,  
10 without possibility of probation or suspension of sentence:

11 (1) For a first ~~[conviction, by]~~ offense, or any offense  
12 not preceded within a five-year period by a conviction  
13 for an offense under the same section, a mandatory  
14 fine of not less than \$100, or imprisonment of not  
15 ~~[more]~~ less than ~~[thirty]~~ three consecutive days, or  
16 both;

17 (2) For ~~[a second conviction]~~ an offense that occurs  
18 within five years of a previous conviction~~[, by]~~ for  
19 an offense under the same section, a mandatory fine of  
20 not less than \$500, or ~~[by]~~ imprisonment of not ~~[more]~~  
21 less than ~~[thirty]~~ ten days, or both~~[, and]~~; provided



1           that all firearms used in the commission of the  
2           violations shall be considered contraband to be  
3           forfeited to and disposed of by the State; and  
4           (3) For [~~a third or subsequent conviction~~] an offense that  
5           occurs within five years of [~~the first~~] two or more  
6           convictions[~~, by~~] for offenses under the same section,  
7           a mandatory fine of [~~not less than~~] \$1,000, or [~~by~~]  
8           imprisonment of [~~not more than~~] thirty days, or both[~~,~~  
9           ~~and~~]; provided that all firearms used in the  
10          commission of the violations shall be considered  
11          contraband to be forfeited to and disposed of by the  
12          State.

13          (b) Any person violating section 183D-66, 183D-25.5,  
14          [~~183D-26, 183D-27,~~] 183D-32, 183D-62, or 183D-64 shall be guilty  
15          of a misdemeanor, and upon conviction thereof, shall be  
16          [~~punished~~] sentenced as follows:

17          (1) For a [~~first conviction by~~] offense, or any offense  
18          not preceded within a five-year period by a conviction  
19          for an offense under the same section, a mandatory  
20          fine of not less than \$200, or [~~by~~] imprisonment of  
21          not [~~more than one year,~~] less than five days, or both



1           ~~[and]; provided that~~ all animal parts, products, or  
2 items containing prohibited animal parts or products  
3 involved in the commission of the violations shall be  
4 considered contraband to be forfeited to and disposed  
5 of by the State;

6           (2) For ~~[a second conviction]~~ an offense that occurs  
7 within five years of a previous conviction~~[, by]~~ for  
8 an offense under the same section, a mandatory fine of  
9 not less than \$1,000, or ~~[by]~~ imprisonment of not  
10 ~~[more than one year,]~~ less than thirty days, or both~~[,~~  
11 ~~and]; provided that~~ all firearms, animal parts,  
12 products, or items containing prohibited animal parts  
13 or products used in the commission of the violations  
14 shall be considered contraband to be forfeited to and  
15 disposed of by the State; and

16           (3) For ~~[a third or subsequent conviction]~~ an offense that  
17 occurs within five years of ~~[the first]~~ two or more  
18 previous convictions~~[, by]~~ for offenses under the same  
19 section, a mandatory fine of not less than \$2,000, or  
20 ~~[by]~~ imprisonment of not ~~[more than one year,]~~ less  
21 than ninety days, or both~~[, and]; provided that~~ all



1 firearms, animal parts, products, or items containing  
2 prohibited animal parts or products used in the  
3 commission of the violations shall be considered  
4 contraband to be forfeited to and disposed of by the  
5 State.

6 (c) Any person who violates section 183D-52 shall be  
7 guilty of a misdemeanor, and upon conviction thereof, shall be  
8 ~~[punished]~~ sentenced as follows:

9 (1) For a first ~~[conviction, by]~~ offense, or any offense  
10 not preceded within a five-year period by a conviction  
11 for an offense under the same section, a mandatory  
12 fine of not less than \$10,000 and payment of any costs  
13 incurred in the eradication of any deer and the deer's  
14 progeny that has been possessed, transferred,  
15 transported, or released after transport, or ~~[by]~~  
16 imprisonment of not more than one year, or both;

17 (2) For ~~[a second conviction]~~ an offense that occurs  
18 within five years of a previous conviction~~[, by]~~ for  
19 an offense under the same section, a mandatory fine of  
20 not less than \$15,000 and payment of any costs  
21 incurred in the eradication of any deer and the deer's



1 progeny that has been possessed, transferred,  
2 transported, or released after transport, or [~~by~~]  
3 imprisonment of not more than one year, or both; and  
4 (3) For [~~a third or subsequent conviction~~] an offense that  
5 occurs within five years of [~~the first~~] two or more  
6 previous convictions[~~, by~~] for offenses under the same  
7 section, a mandatory fine of not less than \$25,000 and  
8 payment of any costs incurred in the eradication of  
9 any deer and the deer's progeny that has been  
10 possessed, transferred, transported, or released after  
11 transport, or [~~by~~] imprisonment of not more than one  
12 year, or both.

13 (d) Any person who violates section 183D-26 or 183D-27  
14 shall be guilty of a class C felony, and upon conviction  
15 thereof, shall be sentenced as follows, without possibility of  
16 probation or suspension of sentence:

17 (1) For a first offense, or any offense not preceded  
18 within ten years of a previous conviction for an  
19 offense under the same section, a mandatory fine of  
20 not less than \$1,000 or imprisonment of not less than  
21 thirty days, or both; provided that all firearms,



1 hunting animals, vehicles, animal parts, products, or  
2 items containing prohibited animal parts or products  
3 involved in the commission of the violations shall be  
4 considered contraband to be forfeited to and disposed  
5 of by the State;

6 (2) For an offense that occurs within ten years of a  
7 previous conviction for an offense under the same  
8 section, a fine of not less than \$2,000, or  
9 imprisonment of not less than ninety days, or both;  
10 provided that all firearms, hunting animals, vehicles,  
11 animal parts, products, or items containing prohibited  
12 animal parts or products used in the commission of the  
13 violations shall be considered contraband to be  
14 forfeited to and disposed of by the State; and

15 (3) For an offense that occurs within ten years of two or  
16 more previous convictions for offenses under the same  
17 section, a fine of \$5,000, and:

18 (A) An indeterminate term of imprisonment of five  
19 years; provided that the minimum term of  
20 imprisonment shall not be less than one year; or



1           (B) A term of probation of five years, with  
2           conditions to include but not be limited to one  
3           year of imprisonment;  
4           provided that all firearms, hunting animals, vehicles,  
5           animal parts, products, or items containing prohibited  
6           animal parts or products used in the commission of the  
7           violations shall be considered contraband to be  
8           forfeited to and disposed of by the State.

9           ~~[(d)]~~ (e) Any person who violates section 183D-35,  
10 183D-36, 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be  
11 guilty of a petty misdemeanor, and upon conviction thereof,  
12 shall be fined not less than \$100 or imprisoned not more than  
13 thirty days, or both.

14           ~~[(e)]~~ (f) In addition to any other penalty imposed under  
15 this section, a mandatory fine of \$100 shall be levied for each  
16 bird illegally taken under this chapter and a mandatory fine of  
17 \$500 shall be levied for each mammal illegally taken under this  
18 chapter.

19           ~~[(f)]~~ (g) Any person who is convicted of violating any of  
20 the game laws of the State shall immediately have the person's  
21 hunting license forfeited and any person convicted for a second



1 offense shall not be granted a license to hunt for a period of  
2 three years after the date of the second conviction.

3       ~~(g)~~ (h) The environmental court, in lieu of the actual  
4 cash payment of any mandatory fine, may allow the defendant to  
5 perform the community service as directed by the department of  
6 land and natural resources at the rate of one hour of service  
7 for every \$10 of mandatory fine imposed.

8       ~~(h)~~ (i) Any criminal action against a person for any  
9 violation of this chapter shall not be deemed to preclude the  
10 State from pursuing civil legal action to recover administrative  
11 fines and costs against that person. Any civil legal action  
12 against a person to recover administrative fines and costs for  
13 any violation of subtitle 4 of title 12 or any rule adopted  
14 thereunder shall not be deemed to preclude the State from  
15 pursuing any criminal action against that person."

16       SECTION 34. Section 183D-26, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       "**§183D-26 Hunting on private lands prohibited**~~[-]~~; **written**  
19 **authorization required.** (a) No person shall intentionally or  
20 knowingly enter or remain upon any land or premises belonging  
21 to, held~~[r]~~ by, or occupied by another, for the purpose of



1 hunting or to take any kind of wildlife including game without  
2 first having obtained [~~permission from~~] written authorization  
3 signed by the owner or a duly appointed agent [~~, if the owner is~~  
4 ~~the occupier or holder, or if the owner has let another occupy~~  
5 ~~or hold the same, without having first obtained the permission~~  
6 ~~of the occupier or holder thereof, or the duly appointed agent~~  
7 ~~of the occupier or holder.~~] of the owner.

8 (b) No person to whom written authorization has been  
9 granted to enter or remain upon any land or premises belonging  
10 to, held by, or occupied by another for the purpose of hunting  
11 or taking any kind of wildlife shall allow any other person to  
12 carry, display, or use the written authorization in any way.  
13 Every person to whom a written authorization has been granted  
14 shall physically possess the written authorization when hunting  
15 and shall show the written authorization upon the demand of any  
16 officer authorized to enforce the game laws of the State.

17 (c) For the purposes of this section, the fact that the  
18 defendant is found upon any land or premises belonging to, held  
19 by, or occupied by another shall be prima facie evidence that  
20 the defendant knew that the defendant had entered or remained



1 upon the land or premises belonging to, held by, or occupied by  
2 another.

3 (d) Any property used in the commission of an offense  
4 under this section, or that facilitated or assisted in the  
5 offense, including firearms, hunting animals, and vehicles,  
6 shall be subject to forfeiture under chapter 712A.

7 ~~[(b)]~~ (e) No prosecution shall be brought under this  
8 section, except upon the sworn complaint of the owner, occupier,  
9 or holder of the land or premises, or a duly appointed agent~~[7]~~  
10 of the owner, occupier, or holder, or if the owner, occupier, or  
11 holder is either a corporation or a partnership, then the  
12 complaint shall be sworn to by an officer of the corporation or  
13 by one of the members of the partnership."

14 SECTION 35. Section 183D-27, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§183D-27 Night hunting on private lands; prohibition.**

17 (a) Notwithstanding section 183D-26, no person shall ~~[take or~~  
18 ~~pursue any game bird, game mammal, wild bird, or wild mammal at~~  
19 ~~night on privately owned lands,]~~ intentionally or knowingly  
20 enter or remain upon any land or premises belonging to, held by,  
21 or occupied by another at night for the purpose of pursuing,



1 hunting, taking, or attempting to pursue, hunt, or take any kind  
2 of wildlife, including game, thereupon, except as authorized by  
3 the department pursuant to section 183D-61. For the purpose of  
4 this section, "night" means the period between [~~one-half hour~~  
5 ~~after sunset and one-half hour before sunrise.] seven o'clock~~  
6 p.m. and six o'clock a.m.

7 (b) For purposes of this section, the fact that the  
8 defendant is found upon any land or premises belonging to, held  
9 by, or occupied by another shall be prima facie evidence that  
10 the defendant knew that they had entered the land or premises  
11 belonging to, held by, or occupied by another.

12 (c) Any property used in the commission of an offense  
13 under this section, or that facilitated or assisted in the  
14 offense, including firearms, hunting animals, and vehicles,  
15 shall be subject to forfeiture under chapter 712A.

16 (d) No prosecution shall be brought under this section,  
17 except upon the sworn complaint of the owner, occupier, or  
18 holder of the land or premises, or a duly appointed agent of the  
19 owner, occupier, or holder, or if the owner, occupier, or holder  
20 is either a corporation or a partnership, then the complaint



1 shall be sworn to by an officer of the corporation or by one of  
2 the members of the partnership."

3 SECTION 36. Section 183D-28, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall establish a hunter education  
6 program to provide instruction in hunter safety, principles of  
7 conservation, the duties and prohibitions relating to hunting on  
8 private lands, and sportsmanship. Upon successful completion of  
9 the program, the department shall issue to the graduate a hunter  
10 education certificate which shall be valid for the life of the  
11 person. This certification shall be rescinded by judicial  
12 action upon the conviction of a wildlife [~~and/or~~] or firearms  
13 violation[~~+~~], or both. No person shall be eligible for a  
14 hunting license unless the person possesses a valid hunter  
15 education certificate or meets the requirements for exemption  
16 provided in subsection (b) (2), and is either:

- 17 (1) Born after December 31, 1971; or  
18 (2) Born before January 1, 1972, and has never been issued  
19 a hunting license in the State."

20 PART VII



1 SECTION 37. Chapter 708, Hawaii Revised Statutes, is  
2 amended by adding a new section to part III to be appropriately  
3 designated and to read as follows:

4 "§708-A Criminal trespass on agricultural land. (1) A  
5 person commits the offense of criminal trespass on agricultural  
6 land if the person enters or remains unlawfully on agricultural  
7 land without the permission of the owner of the land, the  
8 owner's agent who is authorized by the owner to give the  
9 permission, or the person in lawful possession of the land, and  
10 the agricultural land:

11 (a) Is fenced, enclosed, or secured in a manner designed  
12 to exclude intruders or marked by a structure or  
13 barrier, including a cattle grid, cattle grate, or  
14 other obstacle, used to secure livestock;

15 (b) Has a sign or signs displayed on unenclosed cultivated  
16 or uncultivated agricultural lands reading as  
17 follows: "Agricultural Land - No Trespassing." The  
18 sign or signs, containing letters not less than two  
19 inches in height, shall be placed at reasonable  
20 intervals not less than three signs to a mile along  
21 the boundary line of the land and at roads and trails



1 entering the land in a manner and position as to be  
2 clearly noticeable from outside the boundary line; or  
3 (c) At the time of entry, is fallow or has a visible  
4 presence of livestock-raising, such as cattle, horses,  
5 water troughs, shelters, or paddocks, or a crop:  
6 (i) Under cultivation;  
7 (ii) In the process of being harvested; or  
8 (iii) That has been harvested.

9 (2) Subsection (1) shall not apply to:

10 (a) A process server who enters or remains in or upon the  
11 land or premises of another, unless the land or  
12 premises are secured with a fence and locked gate, for  
13 the purpose of making a good faith attempt to perform  
14 the process server's legal duties and to serve process  
15 upon any of the following:

16 (i) An owner or occupant of the land or premises;  
17 (ii) An agent of the owner or occupant of the land or  
18 premises; or  
19 (iii) A lessee of the land or premises.

20 For the purposes of this paragraph, "process server"  
21 means any person authorized under the Hawaii rules of



1 civil procedure, district court rules of civil  
2 procedure, Hawaii family court rules, or section  
3 353C-10 to serve process; or

4 (b) A professional land surveyor, or assistant under the  
5 direct supervision of the professional land surveyor,  
6 who enters or remains in or upon the land or premises  
7 of another for the purpose of performing land  
8 surveying at the request of the landowner of, or  
9 person with an interest in, the real property to be  
10 surveyed.

11 (3) Except as provided in subsection (5), criminal  
12 trespass on agricultural land is a misdemeanor, and any person  
13 who violates this section shall be sentenced as follows without  
14 possibility of probation or suspension of sentence:

15 (a) For a first offense or any offense not preceded within  
16 five years of a previous conviction for an offense  
17 under this section:

18 (i) A term of imprisonment of not less than three  
19 consecutive days; and

20 (ii) A fine of not less than \$500;



1        (b) For an offense that occurs within five years of a  
2        previous conviction for an offense under this section:

3        (i) A term of imprisonment of not less than thirty  
4        days; and

5        (ii) A fine of not less than \$1,000; and

6        (c) For an offense that occurs within five years of two or  
7        more previous convictions for offenses under this  
8        section:

9        (i) A term of imprisonment of not less than ninety  
10       days; and

11       (ii) A fine of \$2,000.

12       (4) Any person who violates this section while in  
13 possession of a dangerous instrument shall be guilty of a class  
14 C felony. For the purposes of this subsection, "dangerous  
15 instrument" has the same meaning as defined in section 707-700.

16       (5) Any fines imposed in connection with the offense under  
17 this section shall be deposited with the state director of  
18 finance who shall transmit the fines to the agricultural crime  
19 prevention special fund established pursuant to section 141-A.

20       (6) For the purposes of this section:



1       "Agricultural land" means any land used primarily for a  
2 farming operation; provided that the term shall include land  
3 used for farm buildings and dwellings and roads and irrigation  
4 infrastructure associated with the agricultural land.

5 "Agricultural land" includes both state- and county-owned  
6 agricultural land and privately owned agricultural land.

7       "Fallow" means land associated with agricultural production  
8 that is left unseeded or unplanted for one or more growing  
9 seasons.

10       "Farming operation" means a commercial agricultural or  
11 aquacultural facility or pursuit conducted, in whole or in part,  
12 including the care and production of livestock and livestock  
13 products, poultry and poultry products, apiary products, and  
14 plant and animal production for nonfood uses; the planting,  
15 cultivating, harvesting, and processing of crops; and the  
16 farming or ranching of any plant or animal species in a  
17 controlled salt, brackish, or freshwater environment."

18       SECTION 38. Section 708-814, Hawaii Revised Statutes, is  
19 amended by amending subsection (1) to read as follows:

20       "(1) A person commits the offense of criminal trespass in  
21 the second degree if:



1 (a) The person knowingly enters or remains unlawfully in  
2 or upon premises that are enclosed in a manner  
3 designed to exclude intruders or are fenced;

4 (b) The person enters or remains unlawfully in or upon  
5 commercial premises after a reasonable warning or  
6 request to leave by the owner or lessee of the  
7 commercial premises, the owner's or lessee's  
8 authorized agent, or a police officer; provided that  
9 this paragraph shall not apply to any conduct or  
10 activity subject to regulation by the National Labor  
11 Relations Act.

12 For the purposes of this paragraph, "reasonable  
13 warning or request" means a warning or request  
14 communicated in writing at any time within a one-year  
15 period inclusive of the date the incident occurred,  
16 which may be evidenced by a copy of the previously  
17 issued written warning or request, whether or not the  
18 copy is posted at the premises or retained by the  
19 county police department, and which may contain but is  
20 not limited to the following information:



- 1           (i) A warning statement advising the person that the  
2           person's presence is no longer desired on the  
3           property for a period of one year from the date  
4           of the notice, that a violation of the warning  
5           will subject the person to arrest and prosecution  
6           for trespassing pursuant to this subsection, and  
7           that criminal trespass in the second degree is a  
8           petty misdemeanor;
- 9           (ii) The legal name, any aliases, and a photograph, if  
10           practicable, or a physical description, including  
11           but not limited to sex, racial extraction, age,  
12           height, weight, hair color, eye color, or any  
13           other distinguishing characteristics of the  
14           person warned;
- 15           (iii) The name of the person giving the warning along  
16           with the date and time the warning was given; and
- 17           (iv) The signature of the person giving the warning,  
18           the signature of a witness or police officer who  
19           was present when the warning was given and, if  
20           possible, the signature of the violator;



- 1       ~~[(c) The person enters or remains unlawfully on~~  
2             ~~agricultural lands without the permission of the owner~~  
3             ~~of the land, the owner's agent, or the person in~~  
4             ~~lawful possession of the land, and the agricultural~~  
5             ~~lands:~~
- 6             ~~(i) Are fenced, enclosed, or secured in a manner~~  
7             ~~designed to exclude intruders;~~
- 8             ~~(ii) Have a sign or signs displayed on the unenclosed~~  
9             ~~cultivated or uncultivated agricultural land~~  
10            ~~sufficient to give notice and reading as follows:~~  
11            ~~"Private Property" or "Government Property - No~~  
12            ~~Trespassing". The sign or signs, containing~~  
13            ~~letters no less than two inches in height, shall~~  
14            ~~be placed at reasonable intervals no less than~~  
15            ~~three signs to a mile along the boundary line of~~  
16            ~~the land and at roads and trails entering the~~  
17            ~~land in a manner and position as to be clearly~~  
18            ~~noticeable from outside the boundary line; or~~
- 19            ~~(iii) At the time of entry, are fallow or have a~~  
20            ~~visible presence of livestock or a crop:~~
- 21            ~~(A) Under cultivation;~~



1                   ~~(B) In the process of being harvested; or~~  
2                   ~~(C) That has been harvested;~~  
3       ~~(d)]~~ (c) The person enters or remains unlawfully on  
4                   unimproved or unused lands without the permission of  
5                   the owner of the land, the owner's agent~~[r]~~ who is  
6                   authorized to give the permission, or the person in  
7                   lawful possession of the land, and the lands:  
8                   (i) Are fenced, enclosed, or secured in a manner  
9                   designed to exclude the general public; or  
10                  (ii) Have a sign or signs displayed on the unenclosed,  
11                   unimproved, or unused land sufficient to give  
12                   reasonable notice and reads as follows: "Private  
13                   Property - No Trespassing", "Government Property  
14                   - No Trespassing", or a substantially similar  
15                   message; provided that the sign or signs shall  
16                   contain letters no less than two inches in height  
17                   and shall be placed at reasonable intervals no  
18                   less than three signs to a mile along the  
19                   boundary line of the land and at roads and trails  
20                   entering the land in a manner and position as to



1                   be clearly noticeable from outside the boundary  
2                   line.

3                   For the purposes of this paragraph, "unimproved  
4                   or unused lands" means any land upon which there is no  
5                   improvement; construction of any structure, building,  
6                   or facility; or alteration of the land by grading,  
7                   dredging, or mining that would cause a permanent  
8                   change in the land or that would change the basic  
9                   natural condition of the land. Land remains  
10                  "unimproved or unused land" under this paragraph  
11                  notwithstanding minor improvements, including the  
12                  installation or maintenance of utility poles, signage,  
13                  and irrigation facilities or systems; minor  
14                  alterations undertaken for the preservation or prudent  
15                  management of the unimproved or unused land, including  
16                  the installation or maintenance of fences, trails, or  
17                  pathways; maintenance activities, including forest  
18                  plantings and the removal of weeds, brush, rocks,  
19                  boulders, or trees; and the removal or securing of  
20                  rocks or boulders undertaken to reduce risk to  
21                  downslope properties; or



1       ~~(e)~~ (d) The person enters or remains unlawfully in or  
2           upon any area of a housing project that is closed to  
3           the public pursuant to section 356D-6.7 and meets the  
4           signage requirements of section 356D-6.7, or the  
5           person enters or remains unlawfully in or upon any  
6           property that is subject to section 356D-6.7 and meets  
7           the signage requirements of section 356D-6.7 after a  
8           reasonable warning or request to leave by the housing  
9           authority or law enforcement officer, as defined in  
10          section 710-1000, based upon an alleged violation of  
11          law or administrative rule, notwithstanding any  
12          invitation or authorization provided to the person by  
13          a tenant of that housing project or a member of that  
14          tenant's household.

15                As used in this paragraph:

16                "Housing authority" means a property manager,  
17                resident manager, tenant monitors, security guards, or  
18                others officially designated by the Hawaii public  
19                housing authority, for the housing project.

20                "Housing project" means a public housing project,  
21                or elder or elderly housing as defined in



1 section 356D-1, or state low-income housing project as  
2 defined in section 356D-51.

3 "Reasonable warning or request" means a warning  
4 or request communicated in writing at any time within  
5 a one-year period inclusive of the date the incident  
6 occurred, which may contain but is not limited to the  
7 following information:

8 (i) A warning statement advising the person that  
9 for a period of one year from the date of  
10 the notice, the person's presence is no  
11 longer desired in or on the areas of the  
12 subject housing project that are closed to  
13 the public, that a violation of the warning  
14 will subject the person to arrest and  
15 prosecution for trespassing pursuant to this  
16 subsection, and that criminal trespass in  
17 the second degree is a petty misdemeanor;

18 (ii) The legal name, any aliases, and a  
19 photograph, if practicable, or a physical  
20 description, including but not limited to  
21 sex, racial extraction, age, height, weight,



1 hair color, eye color, or any other  
2 distinguishing characteristics of the person  
3 warned;

4 (iii) The name of the person giving the warning  
5 along with the date and time the warning was  
6 given;

7 (iv) The signature of the person giving the  
8 warning and, if possible, the signature of  
9 the violator; and

10 (v) The name and signature of a witness or law  
11 enforcement officer, as defined in section  
12 710-1000, who was present when the warning  
13 was given."

14 SECTION 39. Section 708-820, Hawaii Revised Statutes, is  
15 amended by amending subsection (2) to read as follows:

16 "(2) Criminal property damage in the first degree is a  
17 class B felony[-]; provided that any person convicted of  
18 violating subsection (1) (d) shall be sentenced to a term of  
19 imprisonment of not less than one hundred eighty days, without  
20 possibility of probation or suspension of sentence."



1 SECTION 40. Section 708-821, Hawaii Revised Statutes, is  
2 amended by amending subsection (2) to read as follows:

3 "(2) Criminal property damage in the second degree is a  
4 class C felony[-]; provided that any person convicted of  
5 violating subsection (1)(c) shall be sentenced to a term of  
6 imprisonment of not less than ninety days, without possibility  
7 of probation or suspension of sentence."

8 SECTION 41. Section 708-822, Hawaii Revised Statutes, is  
9 amended by amending subsection (2) to read as follows:

10 "(2) Criminal property damage in the third degree is a  
11 misdemeanor[-]; provided that any person convicted of violating  
12 subsection (1)(c) shall be sentenced to a term of imprisonment  
13 of not less than thirty days, without possibility of probation  
14 or suspension of sentence."

15 PART VIII

16 SECTION 42. Section 712A-4, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§712A-4 Covered offenses.** Offenses for which property is  
19 subject to forfeiture under this chapter are:

20 (a) All offenses that specifically authorize forfeiture;



- 1 (b) Murder; kidnapping; labor trafficking; unlicensed sale
- 2 of liquor; unlicensed manufacture of liquor; gambling;
- 3 criminal property damage; robbery; bribery; extortion;
- 4 theft; unauthorized entry into motor vehicle;
- 5 burglary; money laundering; trademark counterfeiting;
- 6 insurance fraud; promoting a dangerous, harmful, or
- 7 detrimental drug; commercial promotion of marijuana;
- 8 methamphetamine trafficking; manufacturing of a
- 9 controlled substance with a child present; promoting
- 10 child abuse; promoting prostitution; sex trafficking;
- 11 commercial sexual exploitation of a minor; habitual
- 12 commercial sexual exploitation; or electronic
- 13 enticement of a child that is chargeable as a felony
- 14 offense under state law;
- 15 (c) The manufacture, sale, or distribution of a controlled
- 16 substance in violation of chapter 329, promoting
- 17 detrimental drugs or intoxicating compounds, promoting
- 18 pornography, promoting pornography for minors, or
- 19 commercial sexual exploitation near schools or public
- 20 parks, which is chargeable as a felony or misdemeanor



1 offense, but not as a petty misdemeanor, under state  
2 law; [~~and~~]

3 (d) The attempt, conspiracy, solicitation, coercion, or  
4 intimidation of another to commit any offense for  
5 which property is subject to forfeiture[-] and

6 (e) Criminal trespass or vandalism on agricultural land as  
7 defined in section 708-A."

8 PART IX

9 SECTION 43. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2025-2026 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2026-2027 to carry out the purposes of this Act and for the  
14 hiring of necessary staff, including:

- 15 (1) full-time equivalent ( FTE) grant chief  
16 positions, to assist with the awarding of grants  
17 pursuant to section 141-B, Hawaii Revised Statutes;
- 18 (2) full-time equivalent ( FTE) supervising brand  
19 inspector positions; and
- 20 (3) full-time equivalent ( FTE) brand inspector  
21 positions for each county.



1 The sums appropriated shall be expended by the department  
2 of agriculture for the purposes of this Act.

3 PART X

4 SECTION 44. This Act does not affect rights and duties  
5 that matured, penalties that were incurred, and proceedings that  
6 were begun before its effective date.

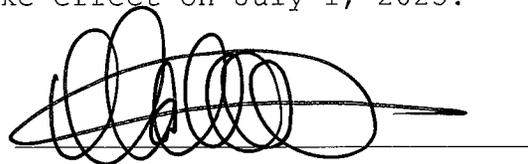
7 SECTION 45. In codifying the new sections added by  
8 sections 2, 3, 4, and 37 of this Act, the revisor of statutes  
9 shall substitute appropriate section numbers for the letters  
10 used in designating the new sections in this Act.

11 SECTION 46. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 47. This Act shall take effect on July 1, 2025.

14

INTRODUCED BY:



JAN 21 2025



# H.B. NO. 859

**Report Title:**

DOA; Agricultural Crime; Branding; Inspectors; Agricultural Crime Prevention Program; Appropriations

**Description:**

Establishes an agricultural crime prevention program within the Department of Agriculture to provide grants, education, administrative enforcement, and other services for the benefit of the State's agricultural industry. Clarifies, creates, and strengthens laws regarding crimes and violations related to agriculture or agricultural lands and hunting on private agricultural lands. Establishes clear distinctions between administrative and criminal penalties. Appropriates funds.

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

