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# A BILL FOR AN ACT

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RELATING TO WASTE OR DISPOSAL FACILITIES.

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

1       SECTION 1. The legislature finds that the search for a new  
2 landfill for the city and county of Honolulu cannot be  
3 prioritized over the protection of Oahu's freshwater aquifers.  
4 In 2021, approximately twenty thousand gallons of jet fuel  
5 leaked from the Red Hill bulk fuel storage facility and  
6 contaminated the Pearl Harbor-Hickam water system that serves  
7 ninety-three thousand military and civilian customers. The leak  
8 also affected the Honolulu board of water supply, and the city  
9 and county has shut down three wells that supply fourteen  
10 million gallons of water a day to urban Honolulu. The Honolulu  
11 board of water supply is in search of new wells that can supply  
12 urban Honolulu, which may not be ready until 2025. To protect  
13 and preserve freshwater, a new landfill cannot be built inland  
14 of underground injection control lines.

15       The legislature further finds that prime agricultural land  
16 should be protected, preserved, and reserved for agricultural



1 and related uses. Therefore, a new landfill should not be  
2 located on those agricultural lands.

3 The legislature also finds that the city and county of  
4 Honolulu is required to relocate the Waimanalo Gulch sanitary  
5 landfill by 2028. The department of environmental services of  
6 the city and county of Honolulu proposed six potential sites  
7 upon which to relocate the landfill, and all sites were rejected  
8 by the landfill advisory committee because of concerns that  
9 locating a landfill above freshwater aquifers may damage the  
10 State's water sources. Section 183C-4(b), Hawaii Revised  
11 Statutes, prohibits waste or disposal facilities in a  
12 conservation district, except in emergency circumstances where  
13 it may be necessary to mitigate significant risks to public  
14 health and safety. Furthermore, section 342H-52(b), Hawaii  
15 Revised Statutes, prohibits the construction, modification, or  
16 expansion of a waste or disposal facility within a one-half mile  
17 buffer zone between the edge of the waste or waste activity and  
18 the nearest residential, school, or hospital property line.

19 The purpose of this Act is to:

20 (1) Prohibit landfill units on land in an agricultural  
21 district having soil classified by the land study



bureau's detailed land classification as overall  
(master) productivity rating class A in a county with  
a population greater than five hundred thousand;

(2) Beginning July 1, 2025, narrow the existing  
prohibition on the construction, modification, or  
expansion of waste or disposal facilities within a  
one-half mile buffer zone of residential, school, or  
hospital property lines to apply specifically to  
landfill units or components of landfill units; and

(3) Beginning July 1, 2025, prohibit the construction,  
modification, or expansion of a landfill unit, or any  
component of a landfill unit, inland of an underground  
injection control line in a county with a population  
greater than five hundred thousand, with certain  
exemptions.

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

"(d) Agricultural districts shall include:

(1) Activities or uses as characterized by the cultivation  
of crops, crops for bioenergy, orchards, forage, and  
forestry;



(2) Farming activities or uses related to animal husbandry and game and fish propagation;

(3) Aquaculture, which means the production of aquatic plant and animal life within ponds and other bodies of water;

(4) Wind-generated energy production for public, private, and commercial use;

(5) Biofuel production, as described in section 205-4.5(a)(16), for public, private, and commercial use;

(6) Solar energy facilities; provided that:

(A) This paragraph shall apply only to land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class B, C, D, or E; and

(B) Solar energy facilities placed within land with soil classified as overall productivity rating class B or C shall not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser, unless a



1 special use permit is granted pursuant to  
2 section 205-6;

- 3 (7) Bona fide agricultural services and uses that support  
4 the agricultural activities of the fee or leasehold  
5 owner of the property and accessory to any of the  
6 above activities, regardless of whether conducted on  
7 the same premises as the agricultural activities to  
8 which they are accessory, including farm dwellings as  
9 defined in section 205-4.5(a) (4), employee housing,  
10 farm buildings, mills, storage facilities, processing  
11 facilities, photovoltaic, biogas, and other  
12 small-scale renewable energy systems producing energy  
13 solely for use in the agricultural activities of the  
14 fee or leasehold owner of the property,  
15 agricultural-energy facilities as defined in  
16 section 205-4.5(a) (17), vehicle and equipment storage  
17 areas, and plantation community subdivisions as  
18 defined in section 205-4.5(a) (12);
- 19 (8) Wind machines and wind farms;
- 20 (9) Small-scale meteorological, air quality, noise, and  
21 other scientific and environmental data collection and



1 monitoring facilities occupying less than one-half  
2 acre of land; provided that these facilities shall not  
3 be used as or equipped for use as living quarters or  
4 dwellings;

5 (10) Agricultural parks;

6 (11) Agricultural tourism conducted on a working farm, or a  
7 farming operation as defined in section 165-2, for the  
8 enjoyment, education, or involvement of visitors;  
9 provided that the agricultural tourism activity is  
10 accessory and secondary to the principal agricultural  
11 use and does not interfere with surrounding farm  
12 operations; ~~and~~ provided further that this paragraph  
13 shall apply only to a county that has adopted  
14 ordinances regulating agricultural tourism under  
15 section 205-5;

16 (12) Agricultural tourism activities, including overnight  
17 accommodations of twenty-one days or less, for any one  
18 stay within a county; provided that this paragraph  
19 shall apply only to a county that includes at least  
20 three islands and has adopted ordinances regulating  
21 agricultural tourism activities pursuant to



1 section 205-5; provided further that the agricultural  
2 tourism activities coexist with a bona fide  
3 agricultural activity. For the purposes of this  
4 paragraph, "bona fide agricultural activity" means a  
5 farming operation as defined in section 165-2;

6 (13) Open area recreational facilities;

7 (14) Geothermal resources exploration and geothermal  
8 resources development, as defined under section 182-1;

9 (15) Agricultural-based commercial operations registered in  
10 Hawaii, including:

11 (A) A roadside stand that is not an enclosed  
12 structure, owned and operated by a producer for  
13 the display and sale of agricultural products  
14 grown in Hawaii and value-added products that  
15 were produced using agricultural products grown  
16 in Hawaii;

17 (B) Retail activities in an enclosed structure owned  
18 and operated by a producer for the display and  
19 sale of agricultural products grown in Hawaii,  
20 value-added products that were produced using  
21 agricultural products grown in Hawaii, logo items



1 related to the producer's agricultural  
2 operations, and other food items;

3 (C) A retail food establishment owned and operated by  
4 a producer and permitted under chapter 11-50,  
5 Hawaii administrative rules, that prepares and  
6 serves food at retail using products grown in  
7 Hawaii and value-added products that were  
8 produced using agricultural products grown in  
9 Hawaii;

10 (D) A farmers' market, which is an outdoor market  
11 limited to producers selling agricultural  
12 products grown in Hawaii and value-added products  
13 that were produced using agricultural products  
14 grown in Hawaii; and

15 (E) A food hub, which is a facility that may contain  
16 a commercial kitchen and provides for the  
17 storage, processing, distribution, and sale of  
18 agricultural products grown in Hawaii and  
19 value-added products that were produced using  
20 agricultural products grown in Hawaii.





1 The owner of an agricultural-based commercial  
2 operation shall certify, upon request of an officer or  
3 agent charged with enforcement of this chapter under  
4 section 205-12, that the agricultural products  
5 displayed or sold by the operation meet the  
6 requirements of this paragraph;

7 (16) Hydroelectric facilities as described in  
8 section 205-4.5(a) (23); and

9 (17) Composting and co-composting operations; provided that  
10 operations that process their own green waste and do  
11 not require permits from the department of health  
12 shall use the finished composting product only on the  
13 operation's own premises to minimize the potential  
14 spread of invasive species.

15 Agricultural districts shall not include golf courses and golf  
16 driving ranges, except as provided in section 205-4.5(d). No  
17 landfill unit, as defined in section 342H-52, shall be located  
18 on land within the agricultural district that has soil  
19 classified by the land study bureau's detailed land  
20 classification as overall (master) productivity rating class A  
21 in a county with a population greater than five hundred



1 thousand. Agricultural districts include areas that are not  
2 used for, or that are not suited to, agricultural and ancillary  
3 activities by reason of topography, soils, and other related  
4 characteristics."

5 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) Uses not expressly permitted in subsection (a),  
8 including landfill units, as defined in section 342H-52, located  
9 on land within the agricultural district that has soil  
10 classified by the land study bureau's detailed land  
11 classification as overall (master) productivity rating class A  
12 in a county with a population greater than five hundred  
13 thousand, shall be prohibited, except the uses permitted as  
14 provided in sections 205-6 and 205-8, and construction of  
15 single-family dwellings on lots existing before June 4, 1976.  
16 Any other law to the contrary notwithstanding, no subdivision of  
17 land within the agricultural district with soil classified by  
18 the land study bureau's detailed land classification as overall  
19 (master) productivity rating class A or B shall be approved by a  
20 county unless those A and B lands within the subdivision are  
21 made subject to the restriction on uses as prescribed in this



1 section and to the condition that the uses shall be primarily in  
2 pursuit of an agricultural activity.

3 Any deed, lease, agreement of sale, mortgage, or other  
4 instrument of conveyance covering any land within the  
5 agricultural subdivision shall expressly contain the restriction  
6 on uses and the condition, as prescribed in this section, that  
7 these restrictions and conditions shall be encumbrances running  
8 with the land until [~~such time that~~] the land is reclassified to  
9 a land use district other than an agricultural district.

10 If the foregoing requirement of encumbrances running with  
11 the land jeopardizes the owner or lessee in obtaining mortgage  
12 financing from any of the mortgage lending agencies set forth in  
13 the following paragraph, and the requirement is the sole reason  
14 for failure to obtain mortgage financing, then the requirement  
15 of encumbrances shall, insofar as [~~such~~] the mortgage financing  
16 is jeopardized, be conditionally waived by the appropriate  
17 county enforcement officer; provided that the conditional waiver  
18 shall become effective only in the event that the property is  
19 subjected to foreclosure proceedings by the mortgage lender.

20 The mortgage lending agencies referred to in the preceding  
21 paragraph are the Federal Housing Administration, Federal



1 National Mortgage Association, Department of Veterans Affairs,  
2 Small Business Administration, United States Department of  
3 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate  
4 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any  
5 other federal, state, or private mortgage lending agency  
6 qualified to do business in Hawaii, and their respective  
7 successors and assigns."

8 SECTION 4. Section 342H-52, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§342H-52 Prohibitions; buffer zones.** (a) No person,  
11 including any federal agency, the State, or any county, shall  
12 construct, operate, modify, expand, or close a municipal solid  
13 waste landfill unit, or any component of a municipal solid waste  
14 landfill unit, without first obtaining a permit from the  
15 director. All permits for municipal solid waste landfill units  
16 shall be subject to any terms and conditions that the director  
17 determines are necessary to protect human health or the  
18 environment.

19 (b) ~~[No]~~ Beginning July 1, 2025, no person, including the  
20 State or any county, shall construct, modify, or expand a ~~[waste~~  
21 ~~or disposal facility including a municipal solid waste landfill~~



1 ~~unit, any component of a municipal solid waste landfill unit, a~~  
2 ~~construction and demolition landfill unit, or any component of a~~  
3 ~~construction and demolition]~~ landfill unit or component of a  
4 landfill unit without first establishing a buffer zone of no  
5 less than one-half mile around the ~~[waste or disposal facility.]~~  
6 landfill unit or component of a landfill unit. This subsection  
7 shall not apply to the continued operation of an existing ~~[waste~~  
8 ~~or disposal facility]~~ landfill unit or component of a landfill  
9 unit that is properly permitted; provided that continued  
10 operation does not require physical expansion, vertical or  
11 horizontal, of the ~~[facility]~~ landfill unit or component of a  
12 landfill unit requiring additional permitting review and a  
13 permit modification.

14 ~~[For the purposes of this subsection:~~

15 ~~"Buffer zone" means the distance between the edge of waste~~  
16 ~~or waste activity and the nearest residential, school, or~~  
17 ~~hospital property line.~~

18 ~~"Waste or disposal facility" excludes individual, state~~  
19 ~~certified, non-industrial redemption centers.]~~

20 (c) Beginning July 1, 2025, no person, including the State  
21 or any county, shall construct, modify, or expand a landfill



unit or any component of a landfill unit inland of an  
underground injection control line in a county with a population  
greater than five hundred thousand. This subsection shall not  
apply to the continued operation of an existing landfill unit or  
any component of a landfill unit that is properly permitted;  
provided that continued operation does not require physical  
expansion, vertical or horizontal, of the landfill unit or  
component of a landfill unit requiring additional permitting  
review and a permit modification.

(d) For the purposes of this section:

"Buffer zone" means the distance between the edge of the  
landfill unit or component of the landfill unit and the nearest  
residential, school, or hospital property line.

"Landfill unit" means a municipal solid waste landfill unit  
or a construction and demolition landfill unit.

"Underground injection control line" means the line  
determined by the department under rules adopted or regulations  
promulgated pursuant to section 340E-2."

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



H.B. NO. 969  
H.D. 2  
S.D. 2  
C.D. 1

**1** SECTION 6. This Act shall take effect on July 1, 2025.



**Report Title:**

DOH; CWRM; Waste Disposal Facilities; Landfill Units;  
Agricultural District; Buffer Zones; Underground Injection  
Control Lines; Prohibition

**Description:**

Prohibits landfill units on land in an agricultural district with class A soils in a county with a population greater than five hundred thousand. Beginning 7/1/2025, narrows the prohibition on constructing, modifying, or expanding waste or disposal facilities within a one-half mile buffer zone of residential, school, or hospital property lines to apply specifically to landfill units or components of landfill units. Beginning 7/1/2025, prohibits the construction, modification, or expansion of a landfill unit, or any component of a landfill unit, inland of an underground injection control line in a county with a population greater than five hundred thousand, with certain exemptions. (CD1)

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