

JAN 15 2025

A BILL FOR AN ACT

RELATING TO THE RIGHT TO FARM.

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

1 SECTION 1. The legislature finds that while the Hawaii
2 Right to Farm Act was established to protect legitimate farming
3 operations from undue nuisance lawsuits, there is a need to
4 ensure that these protections are appropriately balanced with
5 the rights of residents and the preservation of community
6 standards. The legislature further finds that it is imperative
7 to refine the Hawaii Right to Farm Act to prevent misuse and
8 empower local communities to determine acceptable agricultural
9 practices.

10 Accordingly, the purpose of this Act is to amend the Hawaii
11 Right to Farm Act by:

12 (1) Amending the definition of "farming operation" to
13 include customary and traditional subsistence farming
14 conducted by native Hawaiian cultural practitioners
15 and exclude concentrated animal feeding operations and
16 business entities with unclear or non-transparent
17 ownership or beneficiary structures;



1 (2) Establishing additional criteria for farming
2 operations to meet in order to be protected against
3 nuisance claims; and

4 (3) Clarifying the purpose and intent of the Hawaii Right
5 to Farm Act.

6 SECTION 2. Section 165-2, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "Concentrated animal feeding operation" has the same
11 meaning as in title 40 Code of Federal Regulations section
12 122.23."

13 2. By amending the definition of "farming operation" to
14 read:

15 "'Farming operation" means a commercial agricultural,
16 silvicultural, or aquacultural facility or pursuit conducted, in
17 whole or in part, including the care and production of livestock
18 and livestock products, poultry and poultry products, apiary
19 products, and plant and animal production for nonfood uses; the
20 planting, cultivating, harvesting, and processing of crops; and
21 the farming or ranching of any plant or animal species in a



1 controlled salt, brackish, or freshwater environment. "Farming
2 operation" includes but shall not be limited to:

- 3 (1) Agricultural-based commercial operations as described
4 in section [†]205-2(d)(15)[†];
- 5 (2) Noises, odors, dust, and fumes emanating from a
6 commercial agricultural or an aquacultural facility or
7 pursuit;
- 8 (3) Operation of machinery and irrigation pumps;
- 9 (4) Ground and aerial seeding and spraying;
- 10 (5) The application of chemical fertilizers, conditioners,
11 insecticides, pesticides, and herbicides; [~~and~~]
- 12 (6) The employment and use of labor[~~-~~]; and
- 13 (7) Customary and traditional subsistence farming
14 conducted by native Hawaiian cultural practitioners.

15 "Farming operation" does not include concentrated animal feeding
16 operations and business entities with unclear or non-transparent
17 ownership or beneficiary structures. A farming operation that
18 conducts processing operations or salt, brackish, or freshwater
19 aquaculture operations on land that is zoned for industrial,
20 commercial, or other nonagricultural use shall not, by reason of
21 that zoning, fall beyond the scope of this definition; provided



1 that those processing operations form an integral part of
2 operations that otherwise meet the requirements of this
3 definition."

4 SECTION 3. Section 165-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§165-4 Right to farm.** (a) No court, official, public
7 servant, or public employee shall declare any farming operation
8 a nuisance for any reason if the farming operation [~~has~~]:

9 (1) Was established before the commencement of surrounding
10 non-agricultural activities;

11 (2) Has been conducted in a manner consistent with
12 generally accepted agricultural and management
13 practices[-], as defined by the county in which the
14 farming operation is located; and

15 (3) Does not cause significant environmental harm or
16 public health concern.

17 There shall be a rebuttable presumption that a farming operation
18 does not constitute a nuisance.

19 (b) County ordinances governing agricultural practices
20 shall supersede the provisions of this chapter.



1 (c) No court, official, public servant, or public employee
2 shall grant the protections under this chapter unless a farming
3 operation has publicly disclosed its ownership and beneficiary
4 structures, including the existence of any parent companies."

5 SECTION 4. Section 165-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~f~~]**\$165-6**[~~]~~ **Liberal construction.** This chapter [~~is~~
8 ~~remedial in nature and~~] shall be liberally construed to
9 effectuate its purposes[~~]~~, with due consideration given to:

- 10 (1) Safeguarding the rights of local communities to
11 determine acceptable agricultural practices that align
12 with their environmental, health, and cultural
13 priorities;
- 14 (2) Protecting the public's right to clean air, clean
15 water, and the preservation of the environment;
- 16 (3) Ensuring transparency and accountability in the
17 ownership and operation of farming operations;
- 18 (4) Preventing the misuse of farming protections by large-
19 scale industrial agricultural operations, including
20 concentrated animal feeding operations, that are



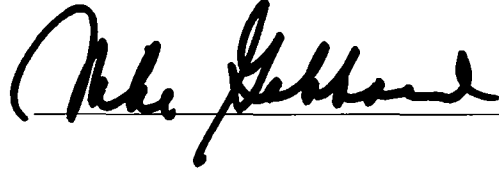
1 inconsistent with sustainable and community-oriented
2 agricultural practices; and
3 (5) Empowering counties to adopt and enforce ordinances
4 that protect the well-being of residents and the
5 environment."

6 SECTION 5. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15

INTRODUCED BY: 

S.B. NO. 240

Report Title:

Hawaii Right to Farm Act; Farming Operations; Customary and Traditional Subsistence Farming; Animal Feeding Operations; Ownership and Beneficiary Structure; Nuisance Claims

Description:

Amends the definition of "farming operation" by including customary and traditional subsistence farming conducted by native Hawaiian cultural practitioners and excluding concentrated animal feeding operations and business entities with unclear or non-transparent ownership or beneficiary structures. Establishes additional criteria for farming operations to meet in order to be protected against nuisance claims. Clarifies the purpose and intent of the Hawaii Right to Farm Act.

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