

## ACT 159

S.B. NO. 1943

A Bill for an Act Relating to Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii's dependence on petroleum for about ninety per cent of its energy needs is more than any other state in the nation. This makes the state extremely vulnerable to oil embargos, supply disruptions, international market dysfunctions, and many other factors beyond the control of the state. Furthermore, the continued consumption of conventional petroleum fuel negatively impacts the environment. At the same time, Hawaii has some of the most abundant renewable energy resources in the world, in the form of solar, geothermal, wind, biomass, and ocean energy assets.

The legislature also finds that increased energy efficiency and use of renewable energy resources would increase Hawaii's energy self-sufficiency, achieving broad societal benefits, including increased energy security, reduced impact of increases in oil prices, environmental sustainability, economic development, and job creation.

To shape Hawaii's energy future and achieve the goal of energy self-sufficiency for the State of Hawaii, efforts must continue on all fronts, integrating new and evolving technologies, seizing upon economic opportunities to become

more energy efficient and economically diversified, and providing incentives and assistance to address barriers.

It is the intent of the legislature that Hawaii-based production of energy feedstock shall become a significant portion of the total feedstock intake for Hawaii biofuels processing facilities.

The purpose of this Act is to encourage further production and use of biofuels in Hawaii by:

- (1) Establishing biofuel processing facilities as a permitted use in designated agricultural districts under chapter 205, Hawaii Revised Statutes; and
- (2) Establishing an energy feedstock program within the department of agriculture to encourage the production of energy feedstock in Hawaii and establish milestones and objectives for energy feedstock to be grown in the state to meet Hawaii's energy requirements.

PART I. BIOFUEL PROCESSING FACILITIES

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)(15) for public, private, and commercial use;
- [(5)] (6) Bona fide agricultural services and uses that support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, whether or not conducted on the same premises as the agricultural activities to which they are accessory, including but not limited to farm dwellings as defined in section 205-4.5(a)(4), employee housing, farm buildings, mills, storage facilities, processing facilities, vehicle and equipment storage areas, roadside stands for the sale of products grown on the premises, and plantation community subdivisions as defined in section 205-4.5(a)(12);
- [(6)] (7) Wind machines and wind farms;
- [(7)] (8) Small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities occupying less than one-half acre of land; provided that these facilities shall not be used as or equipped for use as living quarters or dwellings;
- [(8)] (9) Agricultural parks;
- [(9)] (10) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5; and
- [(10)] (11) Open area recreational facilities.

Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d). Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.”

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

“(a) Within the agricultural district, all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
  - (2) Game and fish propagation;
  - (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
  - (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. “Farm dwelling”, as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
  - (5) Public institutions and buildings that are necessary for agricultural practices;
  - (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
  - (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
  - (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
  - (9) Roadside stands for the sale of agricultural products grown on the premises;
  - (10) Buildings and uses, including but not limited to mills, storage, and processing facilities, maintenance facilities, and vehicle and equipment storage areas that are normally considered directly accessory to the above mentioned uses and are permitted under section 205-2(d);
  - (11) Agricultural parks;
  - (12) Plantation community subdivisions, which as used in this paragraph means a subdivision or cluster of employee housing, community buildings, and acreage established on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation and in residential use by employees or former employees of the plantation; provided that the employees or former employees shall have a property interest in the land;
- ⊠(13)⊠ Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or

involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5; [or

(14) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that ~~such~~ the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land[-]; or

(15) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuels processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.

For the purposes of this paragraph:

“Appurtenances” means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuels processing facilities.

“Biofuel processing facility” means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy.”

PART II. ENERGY FEEDSTOCK PRODUCTION

SECTION 4. The legislature finds that there is considerable interest in producing biofuels in Hawaii to meet alternative energy mandates. Current law requires a ten per cent ethanol content for gasoline. The demand for biofuel production in Hawaii is steadily increasing, which has been the catalyst for the creation of private entities to produce biofuels in this State. However, there is a lack of feedstock in Hawaii to produce biofuels, which means that private entities must import feedstock. Because of the state’s remoteness, it is imperative for the state to be energy self-sufficient. Feedstock is necessary to produce biofuels in order to attain energy self-sufficiency. There are many crops that can grow in tropical environments that may be ideal feedstock for bioenergy production.

The purpose of this part is to develop an energy feedstock program within the department of agriculture to encourage the production of energy feedstock in Hawaii and establish milestones and objectives for energy feedstock to be grown in the state to meet its energy requirements.

SECTION 5. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§141- Energy feedstock program. (a) There is established within the department of agriculture an energy feedstock program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to the production of energy feedstock, and promote and support worthwhile energy feedstock production activities in the state;

- (2) Serve as an information clearinghouse for energy feedstock production activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial energy generating potential;
- (4) Actively seek federal funding for energy feedstock production activities;
- (5) Undertake activities required to develop and expand the energy feedstock production industry; and
- (6) Perform other functions and activities as may be assigned by law, including monitoring the compliance provisions under section 205-4.5(a)(15).

(b) The chairperson of the board of agriculture shall consult and coordinate with the energy resources coordinator under chapter 196 to establish milestones and objectives for the production of energy feedstock that is grown in the State. The chairperson and the coordinator shall report the state’s progress toward meeting such milestones and objectives annually to the legislature.

(c) The chairperson of the board of agriculture shall also consult and coordinate with research programs and activities at the University of Hawaii that will assist in the further growth and promotion of the energy feedstock production industry in Hawaii.

(d) The chairperson of the board of agriculture may employ temporary staff exempt from chapters 76 and 89. The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.