
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TOURISM.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§205- Agricultural tourism. (a) Agricultural tourism
5 may be conducted on a farming operation, as defined in
6 section 165-2, for the enjoyment, education, or involvement of
7 visitors.

8 (b) Agricultural tourism activities:

9 (1) Shall be accessory and secondary to the principal
10 agricultural use;

11 (2) Shall coexist with an agricultural activity conducted
12 on a farming operation; and

13 (3) Shall not interfere with surrounding farm operations.

14 (c) Revenue from all agricultural tourism activities on a
15 farming operation shall not exceed revenue from the agricultural
16 activity conducted on the farming operation.



1 (d) Agricultural tourism activities may include overnight
2 accommodations of twenty-one days or less; provided that no
3 person shall stay in overnight accommodations included with
4 agricultural tourism activities for longer than twenty-one days
5 in total within one county during any one-year period.

6 (e) The commission shall adopt rules under chapter 91
7 governing agricultural tourism and agricultural tourism
8 activities. The purpose of the rules shall be to establish
9 uniform requirements for agricultural tourism and agricultural
10 tourism activities throughout the State, promote agriculture,
11 and address community concerns. At a minimum, the rules shall
12 establish:

- 13 (1) Requirements for access to a farm, including road
14 width, road surface, and parking;
- 15 (2) Requirements and restrictions for accessory facilities
16 connected with the farming operation, such as gift
17 shops and restaurants;
- 18 (3) Activities for visitors that may be offered by the
19 farming operation;
- 20 (4) Days and hours of operation; and



1 (5) Automatic termination of authorization for
2 agricultural tourism activities at a farming operation
3 upon the cessation of the agricultural activity there.

4 (f) Each county may require completion of an environmental
5 assessment under chapter 343 before authorizing any agricultural
6 tourism activity at a farming operation."

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

9 "(d) Agricultural districts shall include:

- 10 (1) Activities or uses as characterized by the cultivation
11 of crops, crops for bioenergy, orchards, forage, and
12 forestry;
- 13 (2) Farming activities or uses related to animal husbandry
14 and game and fish propagation;
- 15 (3) Aquaculture, which means the production of aquatic
16 plant and animal life within ponds and other bodies of
17 water;
- 18 (4) Wind-generated energy production for public, private,
19 and commercial use;



- 1 (5) Biofuel production, as described in
- 2 section 205-4.5(a)(16), for public, private, and
- 3 commercial use;
- 4 (6) Solar energy facilities; provided that:
- 5 (A) This paragraph shall apply only to land with soil
- 6 classified by the land study bureau's detailed
- 7 land classification as overall (master)
- 8 productivity rating class B, C, D, or E; and
- 9 (B) Solar energy facilities placed within land with
- 10 soil classified as overall productivity rating
- 11 class B or C shall not occupy more than ten per
- 12 cent of the acreage of the parcel, or twenty
- 13 acres of land, whichever is lesser, unless a
- 14 special use permit is granted pursuant to section
- 15 205-6;
- 16 (7) Bona fide agricultural services and uses that support
- 17 the agricultural activities of the fee or leasehold
- 18 owner of the property and accessory to any of the
- 19 above activities, regardless of whether conducted on
- 20 the same premises as the agricultural activities to
- 21 which they are accessory, including farm dwellings as



- 1 defined in section 205-4.5(a) (4), employee housing,
2 farm buildings, mills, storage facilities, processing
3 facilities, photovoltaic, biogas, and other
4 small-scale renewable energy systems producing energy
5 solely for use in the agricultural activities of the
6 fee or leasehold owner of the property,
7 agricultural-energy facilities as defined in
8 section 205-4.5(a) (17), vehicle and equipment storage
9 areas, and plantation community subdivisions as
10 defined in section 205-4.5(a) (12);
- 11 (8) Wind machines and wind farms;
- 12 (9) Small-scale meteorological, air quality, noise, and
13 other scientific and environmental data collection and
14 monitoring facilities occupying less than one-half
15 acre of land; provided that these facilities shall not
16 be used as or equipped for use as living quarters or
17 dwellings;
- 18 (10) Agricultural parks;
- 19 (11) Agricultural tourism [~~conducted on a working farm, or~~
20 ~~a farming operation as defined in section 165-2, for~~
21 ~~the enjoyment, education, or involvement of visitors;~~



1 ~~provided that the agricultural tourism activity is~~
 2 ~~accessory and secondary to the principal agricultural~~
 3 ~~use and does not interfere with surrounding farm~~
 4 ~~operations; and provided further that this paragraph~~
 5 ~~shall apply only to a county that has adopted~~
 6 ~~ordinances regulating agricultural tourism under~~
 7 ~~section 205-5;] pursuant to section 205- _____ ;~~

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

20 (13) Open area recreational facilities;



- 1 (14) Geothermal resources exploration and geothermal
- 2 resources development, as defined under section 182-1;
- 3 (15) Agricultural-based commercial operations registered in
- 4 Hawaii, including:
- 5 (A) A roadside stand that is not an enclosed
- 6 structure, owned and operated by a producer for
- 7 the display and sale of agricultural products
- 8 grown in Hawaii and value-added products that
- 9 were produced using agricultural products grown
- 10 in Hawaii;
- 11 (B) Retail activities in an enclosed structure owned
- 12 and operated by a producer for the display and
- 13 sale of agricultural products grown in Hawaii,
- 14 value-added products that were produced using
- 15 agricultural products grown in Hawaii, logo items
- 16 related to the producer's agricultural
- 17 operations, and other food items;
- 18 (C) A retail food establishment owned and operated by
- 19 a producer and permitted under chapter 11-50,
- 20 Hawaii administrative rules, that prepares and
- 21 serves food at retail using products grown in



1 Hawaii and value-added products that were
2 produced using agricultural products grown in
3 Hawaii;

4 (D) A farmers' market, which is an outdoor market
5 limited to producers selling agricultural
6 products grown in Hawaii and value-added products
7 that were produced using agricultural products
8 grown in Hawaii; and

9 (E) A food hub, which is a facility that may contain
10 a commercial kitchen and provides for the
11 storage, processing, distribution, and sale of
12 agricultural products grown in Hawaii and
13 value-added products that were produced using
14 agricultural products grown in Hawaii.

15 The owner of an agricultural-based commercial
16 operation shall certify, upon request of an officer or
17 agent charged with enforcement of this chapter under
18 section 205-12, that the agricultural products
19 displayed or sold by the operation meet the
20 requirements of this paragraph;



- 1 (16) Hydroelectric facilities as described in
- 2 section 205-4.5(a) (23); and
- 3 (17) Composting and co-composting operations; provided that
- 4 operations that process their own green waste and do
- 5 not require permits from the department of health
- 6 shall use the finished composting product only on the
- 7 operation's own premises to minimize the potential
- 8 spread of invasive species.

9 Agricultural districts shall not include golf courses and golf
 10 driving ranges, except as provided in section 205-4.5(d).

11 Agricultural districts include areas that are not used for, or
 12 that are not suited to, agricultural and ancillary activities by
 13 reason of topography, soils, and other related characteristics."

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

16 "(a) Within the agricultural district, all lands with soil
 17 classified by the land study bureau's detailed land
 18 classification as overall (master) productivity rating class A
 19 or B and for solar energy facilities, class B or C, shall be
 20 restricted to the following permitted uses:



- 1 (1) Cultivation of crops, including crops for bioenergy,
2 flowers, vegetables, foliage, fruits, forage, and
3 timber;
- 4 (2) Game and fish propagation;
- 5 (3) Raising of livestock, including poultry, bees, fish,
6 or other animal or aquatic life that are propagated
7 for economic or personal use;
- 8 (4) Farm dwellings, employee housing, farm buildings, or
9 activities or uses related to farming and animal
10 husbandry. "Farm dwelling", as used in this
11 paragraph, means a single-family dwelling located on
12 and accessory to a farm, including clusters of
13 single-family farm dwellings permitted within
14 agricultural parks developed by the State, or where
15 agricultural activity provides income to the family
16 occupying the dwelling;
- 17 (5) Public institutions and buildings that are necessary
18 for agricultural practices;
- 19 (6) Public and private open area types of recreational
20 uses, including day camps, picnic grounds, parks, and
21 riding stables, but not including dragstrips,



- 1 airports, drive-in theaters, golf courses, golf
2 driving ranges, country clubs, and overnight camps;
- 3 (7) Public, private, and quasi-public utility lines and
4 roadways, transformer stations, communications
5 equipment buildings, solid waste transfer stations,
6 major water storage tanks, and appurtenant small
7 buildings such as booster pumping stations, but not
8 including offices or yards for equipment, material,
9 vehicle storage, repair or maintenance, treatment
10 plants, corporation yards, or other similar
11 structures;
- 12 (8) Retention, restoration, rehabilitation, or improvement
13 of buildings or sites of historic or scenic interest;
- 14 (9) Agricultural-based commercial operations as described
15 in section 205-2(d)(15);
- 16 (10) Buildings and uses, including mills, storage, and
17 processing facilities, maintenance facilities,
18 photovoltaic, biogas, and other small-scale renewable
19 energy systems producing energy solely for use in the
20 agricultural activities of the fee or leasehold owner
21 of the property, and vehicle and equipment storage



1 areas that are normally considered directly accessory
2 to the above-mentioned uses and are permitted under
3 section 205-2(d);

4 (11) Agricultural parks;

5 (12) Plantation community subdivisions, which as used in
6 this chapter means an established subdivision or
7 cluster of employee housing, community buildings, and
8 agricultural support buildings on land currently or
9 formerly owned, leased, or operated by a sugar or
10 pineapple plantation; provided that the existing
11 structures may be used or rehabilitated for use, and
12 new employee housing and agricultural support
13 buildings may be allowed on land within the
14 subdivision as follows:

15 (A) The employee housing is occupied by employees or
16 former employees of the plantation who have a
17 property interest in the land;

18 (B) The employee housing units not owned by their
19 occupants shall be rented or leased at affordable
20 rates for agricultural workers; or



1 (C) The agricultural support buildings shall be
2 rented or leased to agricultural business
3 operators or agricultural support services;

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

14 (14) ~~Agricultural tourism activities[, including overnight~~
15 ~~accommodations of twenty-one days or less, for any one~~
16 ~~stay within a county; provided that this paragraph~~
17 ~~shall apply only to a county that includes at least~~
18 ~~three islands and has adopted ordinances regulating~~
19 ~~agricultural tourism activities pursuant to section~~
20 ~~205-5; provided further that the agricultural tourism~~
21 ~~activities coexist with a bona fide agricultural~~



1 ~~activity. For the purposes of this paragraph, "bona~~
 2 ~~fide agricultural activity" means a farming operation~~
 3 ~~as defined in section 165-2;~~ pursuant to
 4 section 205- ;

5 (15) Wind energy facilities, including the appurtenances
 6 associated with the production and transmission of
 7 wind generated energy; provided that the wind energy
 8 facilities and appurtenances are compatible with
 9 agriculture uses and cause minimal adverse impact on
 10 agricultural land;

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

19 For the purposes of this paragraph:

20 "Appurtenances" means operational infrastructure
 21 of the appropriate type and scale for economic



1 commercial storage and distribution, and other similar
2 handling of feedstock, fuels, and other products of
3 biofuel processing facilities.

4 "Biofuel processing facility" means a facility
5 that produces liquid or gaseous fuels from organic
6 sources such as biomass crops, agricultural residues,
7 and oil crops, including palm, canola, soybean, and
8 waste cooking oils; grease; food wastes; and animal
9 residues and wastes that can be used to generate
10 energy;

11 (17) Agricultural-energy facilities, including
12 appurtenances necessary for an agricultural-energy
13 enterprise; provided that the primary activity of the
14 agricultural-energy enterprise is agricultural
15 activity. To be considered the primary activity of an
16 agricultural-energy enterprise, the total acreage
17 devoted to agricultural activity shall be not less
18 than ninety per cent of the total acreage of the
19 agricultural-energy enterprise. The
20 agricultural-energy facility shall be limited to lands



1 owned, leased, licensed, or operated by the entity
2 conducting the agricultural activity.

3 As used in this paragraph:

4 "Agricultural activity" means any activity
5 described in paragraphs (1) to (3) of this subsection.

6 "Agricultural-energy enterprise" means an
7 enterprise that integrally incorporates an
8 agricultural activity with an agricultural-energy
9 facility.

10 "Agricultural-energy facility" means a facility
11 that generates, stores, or distributes renewable
12 energy as defined in section 269-91 or renewable fuel
13 including electrical or thermal energy or liquid or
14 gaseous fuels from products of agricultural activities
15 from agricultural lands located in the State.

16 "Appurtenances" means operational infrastructure
17 of the appropriate type and scale for the economic
18 commercial generation, storage, distribution, and
19 other similar handling of energy, including equipment,
20 feedstock, fuels, and other products of
21 agricultural-energy facilities;



- 1 (18) Construction and operation of wireless communication
2 antennas, including small wireless facilities;
3 provided that, for the purposes of this paragraph,
4 "wireless communication antenna" means communications
5 equipment that is either freestanding or placed upon
6 or attached to an already existing structure and that
7 transmits and receives electromagnetic radio signals
8 used in the provision of all types of wireless
9 communications services; provided further that "small
10 wireless facilities" shall have the same meaning as in
11 section 206N-2; provided further that nothing in this
12 paragraph shall be construed to permit the
13 construction of any new structure that is not deemed a
14 permitted use under this subsection;
- 15 (19) Agricultural education programs conducted on a farming
16 operation as defined in section 165-2, for the
17 education and participation of the general public;
18 provided that the agricultural education programs are
19 accessory and secondary to the principal agricultural
20 use of the parcels or lots on which the agricultural
21 education programs are to occur and do not interfere



1 with surrounding farm operations. For the purposes of
2 this paragraph, "agricultural education programs"
3 means activities or events designed to promote
4 knowledge and understanding of agricultural activities
5 and practices conducted on a farming operation as
6 defined in section 165-2;

7 (20) Solar energy facilities that do not occupy more than
8 ten per cent of the acreage of the parcel, or twenty
9 acres of land, whichever is lesser or for which a
10 special use permit is granted pursuant to
11 section 205-6; provided that this use shall not be
12 permitted on lands with soil classified by the land
13 study bureau's detailed land classification as overall
14 (master) productivity rating class A;

15 (21) Solar energy facilities on lands with soil classified
16 by the land study bureau's detailed land
17 classification as overall (master) productivity rating
18 B or C for which a special use permit is granted
19 pursuant to section 205-6; provided that:

20 (A) The area occupied by the solar energy facilities
21 is also made available for compatible



1 agricultural activities at a lease rate that is
2 at least fifty per cent below the fair market
3 rent for comparable properties;

4 (B) Proof of financial security to decommission the
5 facility is provided to the satisfaction of the
6 appropriate county planning commission prior to
7 date of commencement of commercial generation;
8 and

9 (C) Solar energy facilities shall be decommissioned
10 at the owner's expense according to the following
11 requirements:

12 (i) Removal of all equipment related to the
13 solar energy facility within twelve months
14 of the conclusion of operation or useful
15 life; and

16 (ii) Restoration of the disturbed earth to
17 substantially the same physical condition as
18 existed prior to the development of the
19 solar energy facility.



- 1 For the purposes of this paragraph, "agricultural
2 activities" means the activities described in
3 paragraphs (1) to (3);
- 4 (22) Geothermal resources exploration and geothermal
5 resources development, as defined under section 182-1;
- 6 (23) Hydroelectric facilities, including the appurtenances
7 associated with the production and transmission of
8 hydroelectric energy, subject to section 205-2;
9 provided that the hydroelectric facilities and their
10 appurtenances:
- 11 (A) Shall consist of a small hydropower facility as
12 defined by the United States Department of
13 Energy, including:
- 14 (i) Impoundment facilities using a dam to store
15 water in a reservoir;
- 16 (ii) A diversion or run-of-river facility that
17 channels a portion of a river through a
18 canal or channel; and
- 19 (iii) Pumped storage facilities that store energy
20 by pumping water uphill to a reservoir at
21 higher elevation from a reservoir at a lower



1 elevation to be released to turn a turbine
2 to generate electricity;

3 (B) Comply with the state water code, chapter 174C;

4 (C) Shall, if over five hundred kilowatts in
5 hydroelectric generating capacity, have the
6 approval of the commission on water resource
7 management, including a new instream flow
8 standard established for any new hydroelectric
9 facility; and

10 (D) Do not impact or impede the use of agricultural
11 land or the availability of surface or ground
12 water for all uses on all parcels that are served
13 by the ground water sources or streams for which
14 hydroelectric facilities are considered; or

15 (24) Notwithstanding any other law to the contrary,
16 composting and co-composting operations; provided that
17 operations that process their own green waste and do
18 not require permits from the department of health
19 shall use the finished composting product only on the
20 operation's own premises to minimize the potential
21 spread of invasive species."



1 SECTION 4. Section 205-5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Within agricultural districts, uses compatible to the
4 activities described in section 205-2 as determined by the
5 commission shall be permitted; provided that accessory
6 agricultural uses and services described in sections 205-2 and
7 205-4.5 may be further defined by each county by zoning
8 ordinance. ~~[Each county shall adopt ordinances setting forth
9 procedures and requirements, including provisions for
10 enforcement, penalties, and administrative oversight, for the
11 review and permitting of agricultural tourism uses and
12 activities as an accessory use on a working farm, or farming
13 operation as defined in section 165-2. Ordinances shall include
14 but not be limited to:~~

- 15 ~~(1) Requirements for access to a farm, including road
16 width, road surface, and parking;~~
- 17 ~~(2) Requirements and restrictions for accessory facilities
18 connected with the farming operation, including gift
19 shops and restaurants;~~
- 20 ~~(3) Activities that may be offered by the farming
21 operation for visitors;~~



1 ~~(4) Days and hours of operation; and~~

2 ~~(5) Automatic termination of the accessory use upon the~~
3 ~~cessation of the farming operation.~~

4 ~~Each county may require an environmental assessment under~~
5 ~~chapter 343 as a condition to any agricultural tourism use and~~
6 ~~activity.] Other uses may be allowed by special permits issued~~

7 pursuant to this chapter. The minimum lot size in agricultural
8 districts shall be determined by each county by zoning
9 ordinance, subdivision ordinance, or other lawful means;

10 provided that the minimum lot size for any agricultural use
11 shall not be less than one acre, except as provided herein. If

12 the county finds that unreasonable economic hardship to the
13 owner or lessee of land cannot otherwise be prevented or where
14 land utilization is improved, the county may allow lot sizes of

15 less than the minimum lot size as specified by law for lots
16 created by a consolidation of existing lots within an

17 agricultural district and the resubdivision thereof; provided
18 that the consolidation and resubdivision do not result in an

19 increase in the number of lots over the number existing prior to
20 consolidation; and provided further that in no event shall a lot

21 which is equal to or exceeds the minimum lot size of one acre be



1 less than that minimum after the consolidation and resubdivision
2 action. The county may also allow lot sizes of less than the
3 minimum lot size as specified by law for lots created or used
4 for plantation community subdivisions as defined in section
5 205-4.5(a)(12), for public, private, and quasi-public utility
6 purposes, and for lots resulting from the subdivision of
7 abandoned roadways and railroad easements."

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

10 SECTION 6. This Act shall take effect on July 1, 3000.



H.B. NO. 2146 H.D. 1

Report Title:

Agricultural Tourism; Land Use Commission; Uniform Statewide Standards

Description:

Makes state agricultural tourism requirements applicable to all counties, instead of only counties that have adopted an agricultural tourism ordinance. Requires Land Use Commission to adopt rules that establish requirements applicable to all farms implementing agricultural tourism. Effective 7/1/3000. (HD1)

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

2024-1307 HB2146 HD1 HMSO

