

JAN 20 2012

A BILL FOR AN ACT

RELATING TO AGRICULTURAL COMMODITIES.

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

1 SECTION 1. The legislature finds that agricultural
2 commodities thieves are a threat to Hawaii's food self-
3 sufficiency by driving local farmers out of business and further
4 finds that existing law intended to criminalize the theft of
5 agricultural products from farms is inadequate to deter thefts
6 of agricultural commodities. Farmers have resorted to
7 barricading and fencing farm fields, as well as posting security
8 guards on a twenty-four hour basis to catch thieves in the act
9 in the middle of the night. The intent of this Act is to deter
10 thieves by making it more difficult for thieves to sell stolen
11 agricultural commodities.

12 The purpose of this Act is to clarify the requirements for
13 agricultural commodities certificates and to include theft of
14 agricultural commodities under existing law for theft of
15 agricultural products.

16 SECTION 2. Section 145-22, Hawaii Revised Statutes, is
17 amended to read as follows:



1 **"§145-22 Agricultural commodities; ownership and movement**
2 **certification.** (a) Every person, upon sale of any agricultural
3 commodity or upon transportation of lots of any agricultural
4 commodity of more than two hundred pounds or with a value of at
5 least \$100 that is marketed for commercial purposes, shall
6 complete a certificate describing the commodity and
7 indicating[+] the following information about the commodity:

8 (1) The seller, owner, buyer, or consignee[+] and the
9 respective residential and business address and
10 telephone number of each;

11 (2) The origin[~~+~~and], including the name of the farm
12 owner and address of the farm from which the commodity
13 originated;

14 (3) The address of the destination[~~+~~];

15 (4) The amount and value;

16 (5) The license plate number of any vehicle used to
17 deliver the commodity to the place of purchase;

18 and

19 (6) The signature of the seller and buyer or consignee on
20 an invoice;

21 provided that, in addition to paragraphs (1) to (6), the seller
22 shall provide to the buyer or consignee a valid and current



1 photo identification of the seller issued by a state or federal
2 agency authorized to issue photo identifications and, if the
3 agricultural commodity being sold has a value of \$300 or more, a
4 photocopy of the photo identification.

5 (b) No agricultural commodity may be bought or transferred
6 unless the seller produces to the buyer or consignee a valid and
7 current agricultural commodity certificate with the required
8 information, identification, and signatures under subsection
9 (a). The prospective buyer or transferee shall notify the
10 county law enforcement agency of any seller who has attempted to
11 sell an agricultural commodity without an agricultural commodity
12 certificate.

13 (c) [~~Two~~] Three copies of the certificate shall accompany
14 the shipment[~~, and a~~] -- one copy shall be retained by the
15 [~~person completing the certificate. One of the copies of the~~
16 ~~certificate~~] seller, one copy shall be retained by the buyer or
17 consignee, and one copy shall be presented upon request to a
18 state or county law enforcement officer or other officer,
19 employee, or any other person as described in section 145-25.

20 [~~(b)~~] (d) This section shall not apply to the retail sale
21 of an agricultural commodity to the final consumer."



SECTION 3. Section 145-23, Hawaii Revised Statutes, is amended to read as follows:

"§145-23 Lack of proof of ownership as a violation. The failure of any person who sells, transports, or possesses after sale or transport, agricultural commodities to maintain a certificate of ownership or other written proof of ownership of the agricultural commodity, as described in section 145-22, is a violation of this part. Violation of this section shall constitute prima facie evidence proving a lack of ownership for purposes of an offense of theft in the second degree under section 708-831."

SECTION 4. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of theft in the second degree if the person commits theft:

(a) Of property from the person of another;

(b) Of property or services the value of which exceeds \$300;

(c) Of an aquacultural product or part thereof from premises that is fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient



1 to give notice and reading as follows: "Private
2 Property"; [~~or~~]

3 (d) Of agricultural equipment, supplies, or products, or
4 part thereof, the value of which exceeds \$100 but does
5 not exceed \$20,000, or of agricultural products that
6 exceed twenty-five pounds, from premises that are
7 fenced, enclosed, or secured in a manner designed to
8 exclude intruders or there is prominently displayed on
9 the premises a sign or signs sufficient to give notice
10 and reading as follows: "Private Property". The sign
11 or signs, containing letters not less than two inches
12 in height, shall be placed along the boundary line of
13 the land in a manner and in such position as to be
14 clearly noticeable from outside the boundary line.
15 Possession of agricultural products without ownership
16 and movement certificates, when a certificate is
17 required pursuant to chapter 145, is prima facie
18 evidence that the products are or have been stolen[~~-~~];
19 or

20 (e) Of agricultural commodities marketed for commercial
21 purposes and for which the person has failed to
22 maintain a certificate of ownership as required




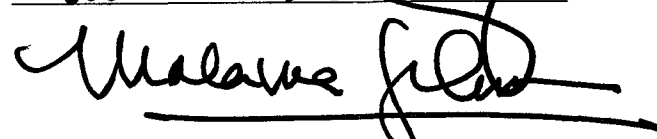
1 pursuant to section 145-22. Possession of
2 agricultural commodities without ownership and
3 movement certificates, when a certificate is required
4 pursuant to chapter 145, is prima facie evidence that
5 the agricultural commodities are or have been stolen."

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

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

12 INTRODUCED BY:



Clarence K. Richman



S.B. NO. 2374

Report Title:

Agricultural Commodities

Description:

Clarifies requirements for agricultural commodities certificates. Specifies that lack of agricultural commodity certificate to show proof of ownership is prima facie evidence of theft in the second degree. Makes theft of certain agricultural commodities for which the person has failed to maintain a certificate of ownership as required by law an offense of theft in the second degree.

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