

JAN 25 2012

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that the existing
2 provisions in the law that are aimed at preventing the theft of
3 agriculture products are not adequate to deter thieves from
4 stealing agricultural products and reselling them. Although the
5 current law requires ownership and movement certification
6 documents for the transportation and sale of agricultural
7 commodities over two hundred pounds or worth at least \$100,
8 these documents are easily falsified.

9 The purpose of this Act is to deter these thefts and the
10 profits that thieves gain from them by clarifying the current
11 requirements and requiring proof of identification upon the sale
12 of farm goods to the buyer.

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

15 "**§145-22 Agricultural commodities; ownership and movement**
16 **certification.** (a) Every person, upon sale of any agricultural
17 commodity or upon transportation of lots of any agricultural
18 commodity of more than two hundred pounds or with a value of at



1 least \$100 that is marketed for commercial purposes, shall
2 complete a certificate describing the commodity, the amount and
3 value of the commodity, and ~~[indicating-]~~ shall include:

4 (1) The ~~[seller, owner, buyer, or consignee,]~~ seller's
5 name, residence address, telephone number, and license
6 plate number of any vehicle used by the seller to
7 deliver the commodity to the place of purchase;

8 (2) The name of the farm owner and address of origin;
9 [and]

10 (3) The name of the buyer or consignee, and
11 destination[-]; and

12 (4) The signature of the seller and, upon sale, the
13 signature of the buyer or consignee.

14 (b) Prior to completing the certificate, the buyer or
15 consignee shall also require the seller to verify the seller's
16 identity by having the seller present a valid photo
17 identification card or license issued to the seller by a federal
18 or state government agency. If the commodity being offered for
19 sale has a value of three hundred dollars or more, the seller
20 shall also provide the buyer with a photocopy of the
21 identification card or license of the seller.



1 (c) No prospective buyer or consignee shall purchase an
2 agricultural commodity from a seller if the seller does not
3 provide a copy of the ownership and movement certification and
4 verification as required by subsections (a) and (b). Every
5 prospective buyer or consignee shall report an attempted sale
6 that does not meet the requirements of subsections (a) and (b)
7 to the police.

8 (d) Two copies of the certificate shall accompany the
9 shipment, and [a] one copy each shall be retained by [the person
10 completing the certificate.] the seller and the buyer or
11 consignee. One of the copies of the certificate shall be
12 presented upon request to a state or county law enforcement
13 officer or other officer, employee, or any other person as
14 described in section 145-25.

15 ~~[(b)]~~ (e) This section shall not apply to the retail sale
16 of an agricultural commodity to the final consumer."

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

19 "**§145-23 Lack of proof of ownership as a violation.** The
20 failure of any person who sells, transports, or possesses after
21 sale or transport, agricultural commodities to maintain a
22 certificate of ownership or other written proof of ownership of



1 the agricultural commodity, as described in section 145-22, is a
2 violation of this part[~~-~~] and is also prima facie evidence of an
3 offense under section 708-831(1)(e)."

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

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

8 (a) Of property from the person of another;

9 (b) Of property or services the value of which exceeds

10 \$300;

11 (c) Of an aquacultural product or part thereof from
12 premises that is fenced or enclosed in a manner
13 designed to exclude intruders or there is prominently
14 displayed on the premises a sign or signs sufficient
15 to give notice and reading as follows: "Private
16 Property"; [~~or~~]

17 (d) Of agricultural equipment, supplies, or products, or
18 part thereof, the value of which exceeds \$100 but does
19 not exceed \$20,000, or of agricultural products that
20 exceed twenty-five pounds, from premises that are
21 fenced, enclosed, or secured in a manner designed to
22 exclude intruders or there is prominently displayed on



1 the premises a sign or signs sufficient to give notice
2 and reading as follows: "Private Property". The sign
3 or signs, containing letters not less than two inches
4 in height, shall be placed along the boundary line of
5 the land in a manner and in such position as to be
6 clearly noticeable from outside the boundary line.

7 Possession of agricultural products without ownership
8 and movement certificates, when a certificate is
9 required pursuant to chapter 145, is prima facie
10 evidence that the products are or have been stolen[-];

11 or

12 (e) Of agricultural commodities marketed for commercial
13 purposes and for which the person has failed to
14 maintain a certificate of ownership as required
15 pursuant to section 145-22. Possession of
16 agricultural commodities without ownership and
17 movement certificates, when a certificate is required
18 pursuant to section 145-22, is prima facie evidence
19 that the products are or have been stolen."

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



1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. This Act shall take effect on July 1, 2012.
5

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S.B. NO. 2914

Report Title:

Agriculture; Theft in the Second Degree; Agricultural
Commodities

Description:

Strengthens existing law to require proof of identification from sellers of agricultural commodities. Makes the failure to maintain required certificates while in possession of agricultural commodities prima facie evidence of the offense of theft in the second degree. Effective July 1, 2012.

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

