

JAN 20 2017

A BILL FOR AN ACT

RELATING TO FOOD SAFETY.

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

1 SECTION 1. The federal Food and Drug Administration has
2 formalized stricter food safety regulations for agriculture
3 under the recently passed Food Safety Modernization Act. The
4 new standards include provisions, such as frequent sampling of
5 irrigation water, that will be burdensome and expensive for many
6 of Hawaii's farmers. The costs that farmers must incur to
7 comply with the new food safety requirements are prohibitive to
8 some farmers and will likely result in farm closures. These
9 farmers require assistance with meeting the compliance costs to
10 prevent the detrimental effect that closures will have on the
11 diversified agricultural industry in the state.

12 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§235- Food safety modernization act tax credit. (a)
16 There shall be allowed to each qualified taxpayer subject to the
17 tax imposed under this chapter, an income tax credit that shall



1 be deductible from the taxpayer's net income tax liability, if
2 any, imposed by this chapter for the taxable year in which the
3 credit is properly claimed.

4 (b) The amount of the tax credit shall be equal to the
5 qualified expenses of the qualified taxpayer, up to a maximum of
6 \$50,000.

7 (c) In the case of a partnership, S corporation, estate,
8 or trust, the tax credit allowable is for qualified expenses
9 incurred by the entity for the taxable year. The expenses upon
10 which the tax credit is computed shall be determined at the
11 entity level. Distribution and share of credit shall be
12 determined pursuant to section 704(b) of the Internal Revenue
13 Code.

14 (d) The total amount of tax credits allowed under this
15 section shall not exceed \$2,000,000 for all qualified taxpayers
16 in any taxable year; provided that any taxpayer who is not
17 eligible to claim the credit in a taxable year due to the
18 \$2,000,000 cap having been exceeded for that taxable year shall
19 be eligible to claim the credit in the subsequent taxable year.

20 (e) Prior to March 31, every qualified taxpayer shall
21 submit a written, certified statement to the chairperson of the



1 board of agriculture stating the qualified expenses incurred by
2 the taxpayer in the previous taxable year, and also identifying
3 the amount of the tax credit claimed by the taxpayer pursuant to
4 this section, if any, in the previous taxable year.

5 (f) The department of agriculture shall:

6 (1) Maintain records of the names and addresses of the
7 qualified taxpayers claiming the credits under this
8 section and the total amount of the qualified expenses
9 upon which the tax credits are based;

10 (2) Verify the nature and amount of the qualified
11 expenses;

12 (3) Total all qualified and cumulative expenses that the
13 department certifies; and

14 (4) Certify the amount of the tax credit for each taxpayer
15 for each taxable year and the cumulative amount of the
16 tax credit.

17 Upon each determination made under this subsection, the
18 department of agriculture shall issue a certificate to the
19 taxpayer verifying information submitted to the department of
20 agriculture, including amounts of qualified expenses, the credit
21 amount certified for the taxpayer for each taxable year, and the



1 cumulative amount of tax credits certified. The taxpayer shall
2 file the certificate with the taxpayer's tax return with the
3 department of taxation.

4 The department of agriculture may assess and collect a fee
5 to offset the costs of certifying tax credit claims under this
6 section.

7 (g) The director of taxation:

8 (1) Shall prepare any forms that may be necessary to claim
9 a tax credit under this section;

10 (2) May require the taxpayer to furnish reasonable
11 information to ascertain the validity of the claim for
12 the tax credit made under this section; and

13 (3) May adopt rules under chapter 91 necessary to
14 effectuate the purposes of this section.

15 (h) If the tax credit under this section exceeds the
16 taxpayer's net income tax liability, the excess of the credit
17 over liability may be used as a credit against the taxpayer's
18 net income tax liability in subsequent years until exhausted.

19 All claims for the tax credit under this section, including
20 amended claims, shall be filed on or before the end of the
21 twelfth month following the close of the taxable year for which



1 the credit may be claimed. Failure to comply with the foregoing
2 provision shall constitute a waiver of the right to claim the
3 credit.

4 (i) As used in this section:

5 "Food Safety Modernization Act" means the federal Food
6 Safety Modernization Act of 2011, Public Law 111-353, as
7 amended.

8 "Net income tax liability" means income tax liability
9 reduced by all other credits allowed under this chapter.

10 "Qualified expenses" means expenses incurred by a qualified
11 taxpayer to comply with the requirements of the Food Safety
12 Modernization Act.

13 "Qualified taxpayer" means a farmer, food processor, and
14 produce merchant wholesaler who is subject to the Food Safety
15 Modernization Act and whose gross income from the sale of
16 agricultural products for the most recently reported fiscal year
17 totals no more than \$500,000."

18 SECTION 3. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval
2 and shall apply to taxable years beginning after December 31,
3 2017.
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S.B. NO. 803

Report Title:

Agriculture; Food Safety Modernization Act; Income Tax Credit

Description:

Establishes an income tax credit to assist farmers with expenses associated with compliance with the Food Safety Modernization Act.

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