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# A BILL FOR AN ACT

RELATING TO STATEWIDE COMPOSTING.

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

1 PART I

2 SECTION 1. The legislature finds that according to the  
3 United States Environmental Protection Agency and United States  
4 Department of Agriculture, food waste is the second largest  
5 component that enters a waste stream and accounts for  
6 twenty-five per cent of all materials sent to landfills. Nearly  
7 fifty per cent of organic materials disposed of in incinerators  
8 and landfills can be diverted for bioconversion, including  
9 composting. Landfills across Hawaii are rapidly reaching  
10 capacity and facing the burden of closure and re-siting, a  
11 process that will cost each county hundreds of millions of  
12 dollars and create community resentment. Recycling organics,  
13 including food waste, into compost has environmental benefits,  
14 such as improving soil health, increasing drought resistance,  
15 and reducing the need for supplemental water, fertilizers, and  
16 pesticides, while also increasing crop yields. Furthermore,  
17 applying compost and organic matter to soil sequesters carbon



1 from the atmosphere, forming the largest land-based carbon sink,  
2 and mitigates climate change by effectively reducing greenhouse  
3 gas emissions. The legislature believes that food waste  
4 diversion and the creation of multi-scale composting operations  
5 across the State will greatly reduce the burdens on landfills,  
6 lower county waste management costs, and move the State closer  
7 to achieving its sustainability and resiliency goals, which  
8 include:

- 9 (1) The Aloha+ Challenge, which is a statewide commitment  
10 to realize the United Nations' Sustainable Development  
11 Goals that sets a goal of seventy per cent waste  
12 reduction before disposal and doubling of local food  
13 production by 2030;
- 14 (2) The Hawaii 2050 sustainability plan, which also sets a  
15 mandate for the State to achieve full sustainability  
16 and resilience through increased food production and  
17 dramatic waste reduction via recycling and  
18 bioconversion strategies; and
- 19 (3) Increasing the generation of local compost to  
20 sequester more carbon and mitigate climate change  
21 pursuant to the strategy identified by the greenhouse



1 gas sequestration task force permanently established  
2 by Act 15, Session Laws of Hawaii 2018.

3 The legislature also finds that the regulation of co-  
4 composting in the State is under the purview of the department  
5 of health's solid and hazardous waste branch. Existing  
6 regulations have not been updated in over twenty years, and  
7 currently a single application applies to all co-composting  
8 operations regardless of size or scope. The current permitting  
9 process is an onerous and unreasonable barrier to lawful  
10 participation for small to midsize composting operations whose  
11 operations present a much lower risk potential. Reform and  
12 updating of the co-composting regulations and permitting process  
13 will greatly increase the number of operators diverting organics  
14 from landfills and incinerators, thereby aiding the State and  
15 counties in reaching their sustainability, resilience, and  
16 fiscal goals.

17 Accordingly, the purpose of this Act is to encourage the  
18 production of compost by:

19 (1) Requiring the department of health to adopt or amend  
20 rules to establish a classification system for



1 composting facilities or operations for the purposes  
2 of regulating them for health purposes; and  
3 (2) Allowing composting and co-composting in the  
4 agricultural district, including on lands with class A  
5 or B soils.

6 PART II

7 SECTION 2. The department of health shall adopt or amend  
8 rules, pursuant to chapter 91, Hawaii Revised Statutes, to  
9 establish a classification system for composting facilities or  
10 operations for the purposes of regulating them for health  
11 purposes, including but not limited to preventing pollution,  
12 preventing the spread of disease and the creation of nuisances,  
13 protecting public health and safety, conserving natural  
14 resources, and preserving and enhancing the beauty and quality  
15 of the environment. The classification system and adopted or  
16 amended rules shall encourage food waste composting where  
17 possible and not require onerous regulations where unnecessary.  
18 The classification system shall consider the climate and soil  
19 benefits of food waste composting. The classification system  
20 will weigh the climate risk of not composting with the perceived  
21 health risks of compost facilities of various size classes and



1 types. These health risks will be evaluated based on the volume  
2 of food waste inputs, the composting technology used, and the  
3 size of the compost structure or pile. Only operations over a  
4 determined size and volume of food waste inputs shall be  
5 considered a municipal solid waste management facility.

6 SECTION 3. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so much  
8 thereof as may be necessary for fiscal year 2020-2021 for a  
9 full-time equivalent (1.0 FTE) program specialist position in  
10 the solid and hazardous waste branch to focus on updating  
11 administrative solid waste regulations.

12 The sum appropriated shall be expended by the department of  
13 health for the purposes of this Act.

14 PART III

15 SECTION 4. Section 205-2, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 "(d) Agricultural districts shall include:

- 18 (1) Activities or uses as characterized by the cultivation  
19 of crops, crops for bioenergy, orchards, forage, and  
20 forestry;



- 1           (2) Farming activities or uses related to animal husbandry
- 2                   and game and fish propagation;
- 3           (3) Aquaculture, which means the production of aquatic
- 4                   plant and animal life within ponds and other bodies of
- 5                   water;
- 6           (4) Wind-generated energy production for public, private,
- 7                   and commercial use;
- 8           (5) Biofuel production, as described in section
- 9                   205-4.5(a)(16), for public, private, and commercial
- 10                  use;
- 11          (6) Solar energy facilities; provided that:
- 12                  (A) This paragraph shall apply only to land with soil
- 13                          classified by the land study bureau's detailed
- 14                          land classification as overall (master)
- 15                          productivity rating class B, C, D, or E; and
- 16                  (B) Solar energy facilities placed within land with
- 17                          soil classified as overall productivity rating
- 18                          class B or C shall not occupy more than ten per
- 19                          cent of the acreage of the parcel, or twenty
- 20                          acres of land, whichever is lesser, unless a



1 special use permit is granted pursuant to section  
2 205-6;

3 (7) Bona fide agricultural services and uses that support  
4 the agricultural activities of the fee or leasehold  
5 owner of the property and accessory to any of the  
6 above activities, regardless of whether conducted on  
7 the same premises as the agricultural activities to  
8 which they are accessory, including farm dwellings as  
9 defined in section 205-4.5(a)(4), employee housing,  
10 farm buildings, mills, storage facilities, processing  
11 facilities, photovoltaic, biogas, and other  
12 small-scale renewable energy systems producing energy  
13 solely for use in the agricultural activities of the  
14 fee or leasehold owner of the property,  
15 agricultural-energy facilities as defined in section  
16 205-4.5(a)(17), vehicle and equipment storage areas,  
17 and plantation community subdivisions as defined in  
18 section 205-4.5(a)(12);

19 (8) Wind machines and wind farms;

20 (9) Small-scale meteorological, air quality, noise, and  
21 other scientific and environmental data collection and



1 monitoring facilities occupying less than one-half  
2 acre of land; provided that these facilities shall not  
3 be used as or equipped for use as living quarters or  
4 dwellings;

5 (10) Agricultural parks;

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

16 (12) Agricultural tourism activities, including overnight  
17 accommodations of twenty-one days or less, for any one  
18 stay within a county; provided that this paragraph  
19 shall apply only to a county that includes at least  
20 three islands and has adopted ordinances regulating  
21 agricultural tourism activities pursuant to section





1 205-5; provided further that the agricultural tourism  
2 activities coexist with a bona fide agricultural  
3 activity. For the purposes of this paragraph, "bona  
4 fide agricultural activity" means a farming operation  
5 as defined in section 165-2;

6 (13) Open area recreational facilities;

7 (14) Geothermal resources exploration and geothermal  
8 resources development, as defined under section 182-1;

9 (15) Agricultural-based commercial operations registered in  
10 Hawaii, including:

11 (A) A roadside stand that is not an enclosed  
12 structure, owned and operated by a producer for  
13 the display and sale of agricultural products  
14 grown in Hawaii and value-added products that  
15 were produced using agricultural products grown  
16 in Hawaii;

17 (B) Retail activities in an enclosed structure owned  
18 and operated by a producer for the display and  
19 sale of agricultural products grown in Hawaii,  
20 value-added products that were produced using  
21 agricultural products grown in Hawaii, logo items



- 1 related to the producer's agricultural  
2 operations, and other food items;
- 3 (C) A retail food establishment owned and operated by  
4 a producer and permitted under chapter 11-50,  
5 Hawaii administrative rules, that prepares and  
6 serves food at retail using products grown in  
7 Hawaii and value-added products that were  
8 produced using agricultural products grown in  
9 Hawaii;
- 10 (D) A farmers' market, which is an outdoor market  
11 limited to producers selling agricultural  
12 products grown in Hawaii and value-added products  
13 that were produced using agricultural products  
14 grown in Hawaii; and
- 15 (E) A food hub, which is a facility that may contain  
16 a commercial kitchen and provides for the  
17 storage, processing, distribution, and sale of  
18 agricultural products grown in Hawaii and  
19 value-added products that were produced using  
20 agricultural products grown in Hawaii.



1 The owner of an agricultural-based commercial  
2 operation shall certify, upon request of an officer or  
3 agent charged with enforcement of this chapter under  
4 section 205-12, that the agricultural products  
5 displayed or sold by the operation meet the  
6 requirements of this paragraph; [~~and~~]

7 (16) Hydroelectric facilities as described in section  
8 205-4.5(a)(23) [~~-~~]; and

9 (17) Composting and co-composting facilities or operations.

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

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

15 SECTION 5. Section 205-4.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Within the agricultural district, all lands with soil  
18 classified by the land study bureau's detailed land  
19 classification as overall (master) productivity rating class A  
20 or B and for solar energy facilities, class B or C, shall be  
21 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 used in connection with a farm, including clusters  
13                  of 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 a  
5 farming operation as defined in section 165-2, for the  
6 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;

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;

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

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

18 For the purposes of this paragraph:

19 "Appurtenances" means operational infrastructure  
20 of the appropriate type and scale for economic  
21 commercial storage and distribution, and other similar





1 handling of feedstock, fuels, and other products of  
2 biofuel processing facilities.

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

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



1           As used in this paragraph:

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

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

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

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

20           (18) Construction and operation of wireless communication  
21 antennas, including small wireless facilities;



1 provided that, for the purposes of this paragraph,  
2 "wireless communication antenna" means communications  
3 equipment that is either freestanding or placed upon  
4 or attached to an already existing structure and that  
5 transmits and receives electromagnetic radio signals  
6 used in the provision of all types of wireless  
7 communications services; provided further that "small  
8 wireless facilities" shall have the same meaning as in  
9 section 206N-2; provided further that nothing in this  
10 paragraph shall be construed to permit the  
11 construction of any new structure that is not deemed a  
12 permitted use under this subsection;

13 (19) Agricultural education programs conducted on a farming  
14 operation as defined in section 165-2, for the  
15 education and participation of the general public;  
16 provided that the agricultural education programs are  
17 accessory and secondary to the principal agricultural  
18 use of the parcels or lots on which the agricultural  
19 education programs are to occur and do not interfere  
20 with surrounding farm operations. For the purposes of  
21 this paragraph, "agricultural education programs"



1 means activities or events designed to promote  
2 knowledge and understanding of agricultural activities  
3 and practices conducted on a farming operation as  
4 defined in section 165-2;

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

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

18 (A) The area occupied by the solar energy facilities  
19 is also made available for compatible  
20 agricultural activities at a lease rate that is



1           at least fifty per cent below the fair market  
2           rent for comparable properties;

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

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

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

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

19          For the purposes of this paragraph, "agricultural  
20          activities" means the activities described in  
21          paragraphs (1) to (3);



1           (22) Geothermal resources exploration and geothermal  
2           resources development, as defined under section 182-1;  
3           [~~or~~]

4           (23) Hydroelectric facilities, including the appurtenances  
5           associated with the production and transmission of  
6           hydroelectric energy, subject to section 205-2;  
7           provided that the hydroelectric facilities and their  
8           appurtenances:

9           (A) Shall consist of a small hydropower facility as  
10           defined by the United States Department of  
11           Energy, including:

12           (i) Impoundment facilities using a dam to store  
13           water in a reservoir;

14           (ii) A diversion or run-of-river facility that  
15           channels a portion of a river through a  
16           canal or channel; and

17           (iii) Pumped storage facilities that store energy  
18           by pumping water uphill to a reservoir at  
19           higher elevation from a reservoir at a lower  
20           elevation to be released to turn a turbine  
21           to generate electricity;



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

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

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

13 (24) Composting and co-composting facilities or  
14 operations."

15 PART IV

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2020.



**Report Title:**

Composting; Co-Composting; DOH; Rules; Agricultural Districts

**Description:**

Requires DOH to adopt rules to establish a classification system for composting facilities or operations for the purposes of regulating them for health purposes. Allows composting and co-composting in the agricultural district, including on lands with class A or B soils. Appropriates moneys to the Department of Health for a Program Specialist position in the Solid and Hazardous Waste Branch. Effective 7/1/2020. (SD1)

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

