
A BILL FOR AN ACT

RELATING TO STATEWIDE COMPOSTING.

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

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



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

- 8 (1) The Aloha+ Challenge, which is a statewide commitment
9 to realize the United Nations' Sustainable Development
10 Goals that sets a goal of seventy per cent waste
11 reduction before disposal and doubling of local food
12 production by 2030;
- 13 (2) The Hawaii 2050 sustainability plan, which also sets a
14 mandate for the State to achieve full sustainability
15 and resilience through increased food production and
16 dramatic waste reduction via recycling and
17 bioconversion strategies; and
- 18 (3) Increasing the generation of local compost to
19 sequester more carbon and mitigate climate change
20 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 composting is currently not
4 a permissible activity in agricultural districts, which has been
5 a barrier for composting enterprises who seek to establish
6 operations in those districts from obtaining the necessary
7 permits.

8 Accordingly, the purpose of this Act is to encourage the
9 diversion of organics from Hawaii's waste streams and encourage
10 the production of compost by allowing composting and co-
11 composting operations in agricultural districts.

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

14 "(d) Agricultural districts shall include:

- 15 (1) Activities or uses as characterized by the cultivation
16 of crops, crops for bioenergy, orchards, forage, and
17 forestry;
- 18 (2) Farming activities or uses related to animal husbandry
19 and game and fish propagation;



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



- 1 (7) Bona fide agricultural services and uses that support
2 the agricultural activities of the fee or leasehold
3 owner of the property and accessory to any of the
4 above activities, regardless of whether conducted on
5 the same premises as the agricultural activities to
6 which they are accessory, including farm dwellings as
7 defined in section 205-4.5(a)(4), employee housing,
8 farm buildings, mills, storage facilities, processing
9 facilities, photovoltaic, biogas, and other small-
10 scale renewable energy systems producing energy solely
11 for use in the agricultural activities of the fee or
12 leasehold owner of the property, agricultural-energy
13 facilities as defined in section 205-4.5(a)(17),
14 vehicle and equipment storage areas, and plantation
15 community subdivisions as defined in
16 section 205-4.5(a)(12);
- 17 (8) Wind machines and wind farms;
- 18 (9) Small-scale meteorological, air quality, noise, and
19 other scientific and environmental data collection and
20 monitoring facilities occupying less than one-half
21 acre of land; provided that these facilities shall not



1 be used as or equipped for use as living quarters or
2 dwellings;

3 (10) Agricultural parks;

4 (11) 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 (12) 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
20 section 205-5; provided further that the agricultural
21 tourism activities coexist with a bona fide



1 agricultural activity. For the purposes of this
2 paragraph, "bona fide agricultural activity" means a
3 farming operation as defined in section 165-2;
4 (13) Open area recreational facilities;
5 (14) Geothermal resources exploration and geothermal
6 resources development, as defined under section 182-1;
7 (15) Agricultural-based commercial operations registered in
8 Hawaii, including:
9 (A) A roadside stand that is not an enclosed
10 structure, owned and operated by a producer for
11 the display and sale of agricultural products
12 grown in Hawaii and value-added products that
13 were produced using agricultural products grown
14 in Hawaii;
15 (B) Retail activities in an enclosed structure owned
16 and operated by a producer for the display and
17 sale of agricultural products grown in Hawaii,
18 value-added products that were produced using
19 agricultural products grown in Hawaii, logo items
20 related to the producer's agricultural
21 operations, and other food items;



1 (C) A retail food establishment owned and operated by
2 a producer and permitted under chapter 11-50,
3 Hawaii administrative rules, that prepares and
4 serves food at retail using products grown in
5 Hawaii and value-added products that were
6 produced using agricultural products grown in
7 Hawaii;

8 (D) A farmers' market, which is an outdoor market
9 limited to producers selling agricultural
10 products grown in Hawaii and value-added products
11 that were produced using agricultural products
12 grown in Hawaii; and

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

19 The owner of an agricultural-based commercial
20 operation shall certify, upon request of an officer or
21 agent charged with enforcement of this chapter under



1 section 205-12, that the agricultural products
2 displayed or sold by the operation meet the
3 requirements of this paragraph; [~~and~~]
4 (16) Hydroelectric facilities as described in
5 section 205-4.5(a) (23) [-]; and
6 (17) Composting and co-composting operations.
7 Agricultural districts shall not include golf courses and golf
8 driving ranges, except as provided in section 205-4.5(d).
9 Agricultural districts include areas that are not used for, or
10 that are not suited to, agricultural and ancillary activities by
11 reason of topography, soils, and other related characteristics."

12 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§205-4.5 Permissible uses within the agricultural**
15 **districts.** (a) Within the agricultural district, all lands
16 with soil classified by the land study bureau's detailed land
17 classification as overall (master) productivity rating class A
18 or B and for solar energy facilities, class B or C, shall be
19 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
20 section 205-5; provided further that the agricultural
21 tourism activities coexist with a bona fide



1 agricultural activity. For the purposes of this
2 paragraph, "bona fide agricultural activity" means a
3 farming operation 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, or twenty
7 acres of land, whichever is lesser or for which a
8 special use permit is granted pursuant to
9 section 205-6; provided that this use shall not be
10 permitted on lands with soil classified by the land
11 study bureau's detailed land classification as overall
12 (master) 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.
- 13 (b) Uses not expressly permitted in subsection (a) shall
- 14 be prohibited, except the uses permitted as provided in
- 15 sections 205-6 and 205-8, and construction of single-family
- 16 dwellings on lots existing before June 4, 1976. Any other law
- 17 to the contrary notwithstanding, no subdivision of land within
- 18 the agricultural district with soil classified by the land study
- 19 bureau's detailed land classification as overall (master)
- 20 productivity rating class A or B shall be approved by a county
- 21 unless those A and B lands within the subdivision are made



1 subject to the restriction on uses as prescribed in this section
2 and to the condition that the uses shall be primarily in pursuit
3 of an agricultural activity.

4 Any deed, lease, agreement of sale, mortgage, or other
5 instrument of conveyance covering any land within the
6 agricultural subdivision shall expressly contain the restriction
7 on uses and the condition, as prescribed in this section that
8 these restrictions and conditions shall be encumbrances running
9 with the land until such time that the land is reclassified to a
10 land use district other than agricultural district.

11 If the foregoing requirement of encumbrances running with
12 the land jeopardizes the owner or lessee in obtaining mortgage
13 financing from any of the mortgage lending agencies set forth in
14 the following paragraph, and the requirement is the sole reason
15 for failure to obtain mortgage financing, then the requirement
16 of encumbrances shall, insofar as such mortgage financing is
17 jeopardized, be conditionally waived by the appropriate county
18 enforcement officer; provided that the conditional waiver shall
19 become effective only in the event that the property is
20 subjected to foreclosure proceedings by the mortgage lender.



1 The mortgage lending agencies referred to in the preceding
2 paragraph are the Federal Housing Administration, Federal
3 National Mortgage Association, Department of Veterans Affairs,
4 Small Business Administration, United States Department of
5 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
6 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
7 other federal, state, or private mortgage lending agency
8 qualified to do business in Hawaii, and their respective
9 successors and assigns.

10 (c) Within the agricultural district, all lands with soil
11 classified by the land study bureau's detailed land
12 classification as overall (master) productivity rating class C,
13 D, E, or U shall be restricted to the uses permitted for
14 agricultural districts as set forth in section 205-5(b).

15 (d) Notwithstanding any other provision of this chapter to
16 the contrary, golf courses and golf driving ranges approved by a
17 county before July 1, 2005, for development within the
18 agricultural district shall be permitted uses within the
19 agricultural district.

20 (e) Notwithstanding any other provision of this chapter to
21 the contrary, plantation community subdivisions as defined in



1 this section shall be permitted uses within the agricultural
2 district, and section 205-8 shall not apply.

3 [†](f)[†] Notwithstanding any other law to the contrary,
4 agricultural lands may be subdivided and leased for the
5 agricultural uses or activities permitted in subsection (a);
6 provided that:

7 (1) The principal use of the leased land is agriculture;

8 (2) No permanent or temporary dwellings or farm dwellings,
9 including trailers and campers, are constructed on the
10 leased area. This restriction shall not prohibit the
11 construction of storage sheds, equipment sheds, or
12 other structures appropriate to the agricultural
13 activity carried on within the lot; and

14 (3) The lease term for a subdivided lot shall be for at
15 least as long as the greater of:

16 (A) The minimum real property tax agricultural
17 dedication period of the county in which the
18 subdivided lot is located; or

19 (B) Five years.



1 Lots created and leased pursuant to this section shall be legal
2 lots of record for mortgage lending purposes and shall be exempt
3 from county subdivision standards.

4 (g) Notwithstanding any other law to the contrary,
5 composting and co-composting operations shall be permitted uses
6 within the agricultural district."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2050.



H.B. NO. 1349
H.D. 1

Report Title:

Composting; Co-Composting; Agricultural Districts

Description:

Permits composting and co-composting operations in agricultural districts. Effective 7/1/2050. (HD1)

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

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