
A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

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

1 SECTION 1. The legislature finds that allowing composting
2 in agricultural districts will facilitate production of local
3 organic material that farmers can use to improve soil health,
4 increase drought resistance, and reduce the need for
5 supplemental water and fertilizers while also increasing crop
6 yields. The legislature further finds that composting is
7 currently not a permissible activity in agricultural districts,
8 which is a barrier for composting entities who seek to establish
9 operations in the districts from obtaining the necessary
10 permits.

11 The legislature further finds that increased composting,
12 including composting of food waste, will also divert materials
13 from landfills, which are rapidly reaching capacity and facing
14 the burden of closure and re-siting, a process that will cost
15 each county hundreds of millions of dollars and create community
16 resentment. Increased composting will also move the State



1 closer to achieving its sustainability and resiliency goals,
2 which include:

3 (1) The Aloha+ Challenge, which is a statewide commitment
4 to realize the United Nations' Sustainable Development
5 Goals, including the goals of seventy per cent waste
6 reduction before disposal and doubling of local food
7 production by 2030;

8 (2) The Hawaii 2050 sustainability plan, which also sets a
9 mandate for the State to achieve full sustainability
10 and resilience through increased food production and
11 dramatic waste reduction via recycling and
12 bioconversion strategies; and

13 (3) Increasing the generation of local compost to
14 sequester more carbon and mitigate climate change
15 pursuant to the strategy identified by the greenhouse
16 gas sequestration task force permanently established
17 by Act 15, Session Laws of Hawaii 2018, codified as
18 section 225P-4, Hawaii Revised Statutes.

19 The legislature additionally finds that there is a single
20 general permit for all prospective food waste composters that is
21 designed to handle all potential applicants ranging from small-



1 to large-scale operations. Potential small-scale food waste
2 composters have indicated that the application process is too
3 daunting, deterring them from applying. As a result, the State
4 has lost a valuable opportunity to reduce the amount of waste
5 that enters landfills, create economic benefits for composters,
6 and increase the supply of local organic soil enhancers for
7 Hawaii's agricultural and horticultural industries.

8 The legislature finds that the solid and hazardous waste
9 branch of the department of health had intended to develop an
10 additional, simplified application process for its general
11 permit targeting small-scale composters of green waste and food
12 waste to encourage more small-scale composters to apply for
13 permits. The simplified process would have increased the
14 workload on the solid and hazardous waste branch to provide
15 education to prospective applicants, process applications,
16 conduct site inspections, and respond to complaints. However,
17 an environmental health specialist position dedicated to these
18 types of solid waste facilities was eliminated and the
19 responsibilities of that position were absorbed by other
20 positions, leaving the solid and hazardous waste branch unable



1 to expand services to include the simplified general permit
2 application process for small-scale composters.

3 The purpose of this Act is to:

4 (1) Encourage the production of local compost and the
5 diversion of certain materials from the State's waste
6 streams by allowing composting and co-composting
7 operations in agricultural districts; and

8 (2) Restore an environmental specialist IV position to the
9 solid and hazardous waste branch of the department of
10 health.

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

13 "(d) Agricultural districts shall include:

14 (1) Activities or uses as characterized by the cultivation
15 of crops, crops for bioenergy, orchards, forage, and
16 forestry;

17 (2) Farming activities or uses related to animal husbandry
18 and game and fish propagation;

19 (3) Aquaculture, which means the production of aquatic
20 plant and animal life within ponds and other bodies of
21 water;



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- 1 (4) Wind-generated energy production for public, private,
2 and commercial use;
- 3 (5) Biofuel production, as described in section
4 205-4.5(a)(16), for public, private, and commercial
5 use;
- 6 (6) Solar energy facilities; provided that:
- 7 (A) This paragraph shall apply only to land with soil
8 classified by the land study bureau's detailed
9 land classification as overall (master)
10 productivity rating class B, C, D, or E; and
- 11 (B) Solar energy facilities placed within land with
12 soil classified as overall productivity rating
13 class B or C shall not occupy more than ten per
14 cent of the acreage of the parcel, or twenty
15 acres of land, whichever is lesser, unless a
16 special use permit is granted pursuant to section
17 205-6;
- 18 (7) Bona fide agricultural services and uses that support
19 the agricultural activities of the fee or leasehold
20 owner of the property and accessory to any of the
21 above activities, regardless of whether conducted on



1 the same premises as the agricultural activities to
2 which they are accessory, including farm dwellings as
3 defined in section 205-4.5(a)(4), employee housing,
4 farm buildings, mills, storage facilities, processing
5 facilities, photovoltaic, biogas, and other small-
6 scale renewable energy systems producing energy solely
7 for use in the agricultural activities of the fee or
8 leasehold owner of the property, agricultural-energy
9 facilities as defined in section 205-4.5(a)(17),
10 vehicle and equipment storage areas, and plantation
11 community subdivisions as defined in section
12 205-4.5(a)(12);

13 (8) Wind machines and wind farms;

14 (9) Small-scale meteorological, air quality, noise, and
15 other scientific and environmental data collection and
16 monitoring facilities occupying less than one-half
17 acre of land; provided that these facilities shall not
18 be used as or equipped for use as living quarters or
19 dwellings;

20 (10) Agricultural parks;



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

11 (12) Agricultural tourism activities, including overnight
12 accommodations of twenty-one days or less, for any one
13 stay within a county; provided that this paragraph
14 shall apply only to a county that includes at least
15 three islands and has adopted ordinances regulating
16 agricultural tourism activities pursuant to section
17 205-5; provided further that the agricultural tourism
18 activities coexist with a bona fide agricultural
19 activity. For the purposes of this paragraph, "bona
20 fide agricultural activity" means a farming operation
21 as defined in section 165-2;



- 1 (13) Open area recreational facilities;
- 2 (14) Geothermal resources exploration and geothermal
- 3 resources development, as defined under section 182-1;
- 4 (15) Agricultural-based commercial operations registered in
- 5 Hawaii, including:
- 6 (A) A roadside stand that is not an enclosed
- 7 structure, owned and operated by a producer for
- 8 the display and sale of agricultural products
- 9 grown in Hawaii and value-added products that
- 10 were produced using agricultural products grown
- 11 in Hawaii;
- 12 (B) Retail activities in an enclosed structure owned
- 13 and operated by a producer for the display and
- 14 sale of agricultural products grown in Hawaii,
- 15 value-added products that were produced using
- 16 agricultural products grown in Hawaii, logo items
- 17 related to the producer's agricultural
- 18 operations, and other food items;
- 19 (C) A retail food establishment owned and operated by
- 20 a producer and permitted under chapter 11-50,
- 21 Hawaii administrative rules, that prepares and



1 serves food at retail using products grown in
2 Hawaii and value-added products that were
3 produced using agricultural products grown in
4 Hawaii;

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

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

16 The owner of an agricultural-based commercial
17 operation shall certify, upon request of an officer or
18 agent charged with enforcement of this chapter under
19 section 205-12, that the agricultural products
20 displayed or sold by the operation meet the
21 requirements of this paragraph; [~~and~~]



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

9 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Within the agricultural district, all lands with soil
12 classified by the land study bureau's detailed land
13 classification as overall (master) productivity rating class A
14 or B and for solar energy facilities, class B or C, shall be
15 restricted to the following permitted uses:

- 16 (1) Cultivation of crops, including crops for bioenergy,
17 flowers, vegetables, foliage, fruits, forage, and
18 timber;
19 (2) Game and fish propagation;



- 1 (3) Raising of livestock, including poultry, bees, fish,
2 or other animal or aquatic life that are propagated
3 for economic or personal use;
- 4 (4) Farm dwellings, employee housing, farm buildings, or
5 activities or uses related to farming and animal
6 husbandry. "Farm dwelling", as used in this
7 paragraph, means a single-family dwelling located on
8 and accessory to a farm, including clusters of single-
9 family farm dwellings permitted within agricultural
10 parks developed by the State, or where agricultural
11 activity provides income to the family occupying the
12 dwelling;
- 13 (5) Public institutions and buildings that are necessary
14 for agricultural practices;
- 15 (6) Public and private open area types of recreational
16 uses, including day camps, picnic grounds, parks, and
17 riding stables, but not including dragstrips,
18 airports, drive-in theaters, golf courses, golf
19 driving ranges, country clubs, and overnight camps;
- 20 (7) Public, private, and quasi-public utility lines and
21 roadways, transformer stations, communications



1 equipment buildings, solid waste transfer stations,
2 major water storage tanks, and appurtenant small
3 buildings such as booster pumping stations, but not
4 including offices or yards for equipment, material,
5 vehicle storage, repair or maintenance, treatment
6 plants, corporation yards, or other similar
7 structures;

8 (8) Retention, restoration, rehabilitation, or improvement
9 of buildings or sites of historic or scenic interest;

10 (9) Agricultural-based commercial operations as described
11 in section 205-2(d)(15);

12 (10) Buildings and uses, including mills, storage, and
13 processing facilities, maintenance facilities,
14 photovoltaic, biogas, and other small-scale renewable
15 energy systems producing energy solely for use in the
16 agricultural activities of the fee or leasehold owner
17 of the property, and vehicle and equipment storage
18 areas that are normally considered directly accessory
19 to the above-mentioned uses and are permitted under
20 section 205-2(d);

21 (11) Agricultural parks;



1 (12) Plantation community subdivisions, which as used in
2 this chapter means an established subdivision or
3 cluster of employee housing, community buildings, and
4 agricultural support buildings on land currently or
5 formerly owned, leased, or operated by a sugar or
6 pineapple plantation; provided that the existing
7 structures may be used or rehabilitated for use, and
8 new employee housing and agricultural support
9 buildings may be allowed on land within the
10 subdivision as follows:

11 (A) The employee housing is occupied by employees or
12 former employees of the plantation who have a
13 property interest in the land;

14 (B) The employee housing units not owned by their
15 occupants shall be rented or leased at affordable
16 rates for agricultural workers; or

17 (C) The agricultural support buildings shall be
18 rented or leased to agricultural business
19 operators or agricultural support services;

20 (13) Agricultural tourism conducted on a working farm, or a
21 farming operation as defined in section 165-2, for the



1 enjoyment, education, or involvement of visitors;
2 provided that the agricultural tourism activity is
3 accessory and secondary to the principal agricultural
4 use and does not interfere with surrounding farm
5 operations; and provided further that this paragraph
6 shall apply only to a county that has adopted
7 ordinances regulating agricultural tourism under
8 section 205-5;

9 (14) Agricultural tourism activities, including overnight
10 accommodations of twenty-one days or less, for any one
11 stay within a county; provided that this paragraph
12 shall apply only to a county that includes at least
13 three islands and has adopted ordinances regulating
14 agricultural tourism activities pursuant to section
15 205-5; provided further that the agricultural tourism
16 activities coexist with a bona fide agricultural
17 activity. For the purposes of this paragraph, "bona
18 fide agricultural activity" means a farming operation
19 as defined in section 165-2;

20 (15) Wind energy facilities, including the appurtenances
21 associated with the production and transmission of



1 wind generated energy; provided that the wind energy
2 facilities and appurtenances are compatible with
3 agriculture uses and cause minimal adverse impact on
4 agricultural land;

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

13 For the purposes of this paragraph:

14 "Appurtenances" means operational infrastructure
15 of the appropriate type and scale for economic
16 commercial storage and distribution, and other similar
17 handling of feedstock, fuels, and other products of
18 biofuel processing facilities.

19 "Biofuel processing facility" means a facility
20 that produces liquid or gaseous fuels from organic
21 sources such as biomass crops, agricultural residues,



1 and oil crops, including palm, canola, soybean, and
2 waste cooking oils; grease; food wastes; and animal
3 residues and wastes that can be used to generate
4 energy;

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

17 As used in this paragraph:

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

20 "Agricultural-energy enterprise" means an
21 enterprise that integrally incorporates an



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1 agricultural activity with an agricultural-energy
2 facility.

3 "Agricultural-energy facility" means a facility
4 that generates, stores, or distributes renewable
5 energy as defined in section 269-91 or renewable fuel
6 including electrical or thermal energy or liquid or
7 gaseous fuels from products of agricultural activities
8 from agricultural lands located in the State.

9 "Appurtenances" means operational infrastructure
10 of the appropriate type and scale for the economic
11 commercial generation, storage, distribution, and
12 other similar handling of energy, including equipment,
13 feedstock, fuels, and other products of agricultural-
14 energy facilities;

15 (18) Construction and operation of wireless communication
16 antennas, including small wireless facilities;
17 provided that, for the purposes of this paragraph,
18 "wireless communication antenna" means communications
19 equipment that is either freestanding or placed upon
20 or attached to an already existing structure and that
21 transmits and receives electromagnetic radio signals



1 used in the provision of all types of wireless
2 communications services; provided further that "small
3 wireless facilities" shall have the same meaning as in
4 section 206N-2; provided further that nothing in this
5 paragraph shall be construed to permit the
6 construction of any new structure that is not deemed a
7 permitted use under this subsection;

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



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

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

14 (A) The area occupied by the solar energy facilities
15 is also made available for compatible
16 agricultural activities at a lease rate that is
17 at least fifty per cent below the fair market
18 rent for comparable properties;

19 (B) Proof of financial security to decommission the
20 facility is provided to the satisfaction of the
21 appropriate county planning commission prior to



- 1 date of commencement of commercial generation;
2 and
3 (C) Solar energy facilities shall be decommissioned
4 at the owner's expense according to the following
5 requirements:
6 (i) Removal of all equipment related to the
7 solar energy facility within twelve months
8 of the conclusion of operation or useful
9 life; and
10 (ii) Restoration of the disturbed earth to
11 substantially the same physical condition as
12 existed prior to the development of the
13 solar energy facility.

14 For the purposes of this paragraph, "agricultural
15 activities" means the activities described in
16 paragraphs (1) to (3);

17 (22) Geothermal resources exploration and geothermal
18 resources development, as defined under section 182-1;
19 [~~☞~~]

20 (23) Hydroelectric facilities, including the appurtenances
21 associated with the production and transmission of



1 hydroelectric energy, subject to section 205-2;
2 provided that the hydroelectric facilities and their
3 appurtenances:

4 (A) Shall consist of a small hydropower facility as
5 defined by the United States Department of
6 Energy, including:

7 (i) Impoundment facilities using a dam to store
8 water in a reservoir;

9 (ii) A diversion or run-of-river facility that
10 channels a portion of a river through a
11 canal or channel; and

12 (iii) Pumped storage facilities that store energy
13 by pumping water uphill to a reservoir at
14 higher elevation from a reservoir at a lower
15 elevation to be released to turn a turbine
16 to generate electricity;

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

18 (C) Shall, if over five hundred kilowatts in
19 hydroelectric generating capacity, have the
20 approval of the commission on water resource
21 management, including a new instream flow



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1 standard established for any new hydroelectric
 2 facility; and
 3 (D) Do not impact or impede the use of agricultural
 4 land or the availability of surface or ground
 5 water for all uses on all parcels that are served
 6 by the ground water sources or streams for which
 7 hydroelectric facilities are considered~~[-]~~; or
 8 (24) Notwithstanding any other law to the contrary,
 9 composting and co-composting operations."

10 SECTION 4. There is appropriated out of the general
 11 revenues of the State of Hawaii the sum of \$55,200 or so much
 12 thereof as may be necessary for fiscal year 2022-2023 for an
 13 environmental specialist IV position for the solid and hazardous
 14 waste branch of the department of health.

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

17 SECTION 5. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2022.

20

INTRODUCED BY: *Lian Mertes*

JAN 24 2022



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Report Title:

Composting; Co-composting; Agricultural Districts; Permitted
Uses; Environmental Health Specialist IV; Appropriation

Description:

Permits composting and co-composting operations in agricultural districts. Appropriates funds to restore an environmental health specialist IV position to the solid and hazardous waste branch of the department of health.

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

