
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
17 closer to achieving the following:



- 1 (1) The Aloha+ Challenge, which is a statewide commitment
2 to realize the United Nations' Sustainable Development
3 Goals, including the goals of seventy per cent waste
4 reduction before disposal and doubling of local food
5 production by 2030;
- 6 (2) The Hawaii 2050 sustainability plan, which also sets a
7 mandate for the State to achieve full sustainability
8 and resilience through increased food production and
9 dramatic waste reduction via recycling and
10 bioconversion strategies; and
- 11 (3) Increasing the generation of local compost to
12 sequester more carbon and mitigate climate change
13 pursuant to the strategy identified by the greenhouse
14 gas sequestration task force permanently established
15 by Act 15, Session Laws of Hawaii 2018, codified as
16 section 225P-4, Hawaii Revised Statutes.

17 The legislature additionally finds that there is a single
18 general permit for all prospective food waste composters that is
19 designed to handle all potential applicants ranging from small-
20 to large-scale operations. Potential small-scale food waste
21 composters have indicated that the application process is too



1 daunting, deterring them from applying. As a result, the State
2 has lost a valuable opportunity to reduce the amount of waste
3 that enters landfills, create economic benefits for composters,
4 and increase the supply of local organic soil enhancers for
5 Hawaii's agricultural and horticultural industries.

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

21 The purpose of this Act is to:



- 1 (1) Encourage the production of local compost and the
- 2 diversion of certain materials from the State's waste
- 3 streams by allowing composting and co-composting
- 4 operations in agricultural districts; and
- 5 (2) Establish and appropriate funds for an environmental
- 6 health specialist IV position in the solid and
- 7 hazardous waste branch of the department of health.

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

- 10 "(d) Agricultural districts shall include:
- 11 (1) Activities or uses as characterized by the cultivation
 - 12 of crops, crops for bioenergy, orchards, forage, and
 - 13 forestry;
 - 14 (2) Farming activities or uses related to animal husbandry
 - 15 and game and fish propagation;
 - 16 (3) Aquaculture, which means the production of aquatic
 - 17 plant and animal life within ponds and other bodies of
 - 18 water;
 - 19 (4) Wind-generated energy production for public, private,
 - 20 and commercial use;



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



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

11 (8) Wind machines and wind farms;

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

18 (10) Agricultural parks;

19 (11) Agricultural tourism conducted on a working farm, or a
20 farming operation as defined in section 165-2, for the
21 enjoyment, education, or involvement of visitors;



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

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

19 (13) Open area recreational facilities;

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



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



1 produced using agricultural products grown in
2 Hawaii;

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

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

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

20 (16) Hydroelectric facilities as described in section
21 205-4.5(a) (23) [~~-~~]; and



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

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

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

- 14 (1) Cultivation of crops, including crops for bioenergy,
 15 flowers, vegetables, foliage, fruits, forage, and
 16 timber;
- 17 (2) Game and fish propagation;
- 18 (3) Raising of livestock, including poultry, bees, fish,
 19 or other animal or aquatic life that are propagated
 20 for economic or personal use;



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

- 1 including offices or yards for equipment, material,
2 vehicle storage, repair or maintenance, treatment
3 plants, corporation yards, or other similar
4 structures;
- 5 (8) Retention, restoration, rehabilitation, or improvement
6 of buildings or sites of historic or scenic interest;
- 7 (9) Agricultural-based commercial operations as described
8 in section 205-2(d) (15);
- 9 (10) Buildings and uses, including mills, storage, and
10 processing facilities, maintenance facilities,
11 photovoltaic, biogas, and other small-scale renewable
12 energy systems producing energy solely for use in the
13 agricultural activities of the fee or leasehold owner
14 of the property, and vehicle and equipment storage
15 areas that are normally considered directly accessory
16 to the above-mentioned uses and are permitted under
17 section 205-2(d);
- 18 (11) Agricultural parks;
- 19 (12) Plantation community subdivisions, which as used in
20 this chapter means an established subdivision or
21 cluster of employee housing, community buildings, and



1 agricultural support buildings on land currently or
2 formerly owned, leased, or operated by a sugar or
3 pineapple plantation; provided that the existing
4 structures may be used or rehabilitated for use, and
5 new employee housing and agricultural support
6 buildings may be allowed on land within the
7 subdivision as follows:

8 (A) The employee housing is occupied by employees or
9 former employees of the plantation who have a
10 property interest in the land;

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

14 (C) The agricultural support buildings shall be
15 rented or leased to agricultural business
16 operators or agricultural support services;

17 (13) Agricultural tourism conducted on a working farm, or a
18 farming operation as defined in section 165-2, for the
19 enjoyment, education, or involvement of visitors;
20 provided that the agricultural tourism activity is
21 accessory and secondary to the principal agricultural



1 use and does not interfere with surrounding farm
2 operations; and provided further that this paragraph
3 shall apply only to a county that has adopted
4 ordinances regulating agricultural tourism under
5 section 205-5;

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

17 (15) Wind energy facilities, including the appurtenances
18 associated with the production and transmission of
19 wind generated energy; provided that the wind energy
20 facilities and appurtenances are compatible with



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

11 For the purposes of this paragraph:

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

17 "Biofuel processing facility" means a facility
18 that produces liquid or gaseous fuels from organic
19 sources such as biomass crops, agricultural residues,
20 and oil crops, including palm, canola, soybean, and
21 waste cooking oils; grease; food wastes; and animal



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

15 As used in this paragraph:

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

18 "Agricultural-energy enterprise" means an
19 enterprise that integrally incorporates an
20 agricultural activity with an agricultural-energy
21 facility.



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

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

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



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

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

19 (20) Solar energy facilities that do not occupy more than
20 ten per cent of the acreage of the parcel, or twenty
21 acres of land, whichever is lesser or for which a



1 special use permit is granted pursuant to section
2 205-6; provided that this use shall not be permitted
3 on lands with soil classified by the land study
4 bureau's detailed land classification as overall
5 (master) productivity rating class A;

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

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

16 (B) Proof of financial security to decommission the
17 facility is provided to the satisfaction of the
18 appropriate county planning commission prior to
19 date of commencement of commercial generation;
20 and



1 (C) Solar energy facilities shall be decommissioned
2 at the owner's expense according to the following
3 requirements:

4 (i) Removal of all equipment related to the
5 solar energy facility within twelve months
6 of the conclusion of operation or useful
7 life; and

8 (ii) Restoration of the disturbed earth to
9 substantially the same physical condition as
10 existed prior to the development of the
11 solar energy facility.

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

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

18 (23) Hydroelectric facilities, including the appurtenances
19 associated with the production and transmission of
20 hydroelectric energy, subject to section 205-2;



1 provided that the hydroelectric facilities and their
2 appurtenances:

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

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

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

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

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

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



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 established one full-time equivalent
 11 (1.0 FTE) permanent environmental health specialist IV position
 12 in the solid and hazardous waste branch of the department of
 13 health.

14 SECTION 5. There is appropriated out of the general
 15 revenues of the State of Hawaii the sum of \$55,200 or so much
 16 thereof as may be necessary for fiscal year 2022-2023 for one
 17 full-time equivalent (1.0 FTE) permanent environmental health
 18 specialist IV position for the solid and hazardous waste branch
 19 of the department of health.

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



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2050.

4



H.B. NO. 1992
H.D. 2

Report Title:

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

Description:

Permits composting and co-composting operations in agricultural
districts. Establishes and appropriates funds for an
environmental health specialist IV position in the solid and
hazardous waste branch of the department of health. Effective
7/1/2050. (HD2)

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