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# 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 also finds that composting is currently  
7 not a permissible activity in agricultural districts, which is a  
8 barrier for composting entities who seek to establish operations  
9 in the districts from obtaining the necessary permits.

10           The legislature further finds that increased composting,  
11 including composting of food waste, will also divert materials  
12 from landfills, which are rapidly reaching capacity and facing  
13 the burden of closure and re-siting, a process that will cost  
14 each county hundreds of millions of dollars and create community  
15 resentment. Increased composting will also move the State  
16 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 achieving seventy per  
4           cent waste reduction before disposal and doubling  
5           local food 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, under certain  
5 conditions; and

6 (2) Establish and appropriate funds for an environmental  
7 health specialist IV position in the solid and  
8 hazardous waste branch of the department of health.

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

11 "(d) Agricultural districts shall include:

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

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

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

20 (4) Wind-generated energy production for public, private,  
21 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; provided that  
 2        operations that process their own green waste and do  
 3        not require permits from the department of health  
 4        shall use the finished composting product only on the  
 5        operation's own premises to minimize the potential  
 6        spread of invasive species.

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 by amending subsection (a) to read as follows:

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

- 19       (1) Cultivation of crops, including crops for bioenergy,  
 20       flowers, vegetables, foliage, fruits, forage, and  
 21       timber;



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



1           (7) Public, private, and quasi-public utility lines and  
2           roadways, transformer stations, communications  
3           equipment buildings, solid waste transfer stations,  
4           major water storage tanks, and appurtenant small  
5           buildings such as booster pumping stations, but not  
6           including offices or yards for equipment, material,  
7           vehicle storage, repair or maintenance, treatment  
8           plants, corporation yards, or other similar  
9           structures;

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

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

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



1 to the above-mentioned uses and are permitted under  
2 section 205-2(d);

3 (11) Agricultural parks;

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

14 (A) The employee housing is occupied by employees or  
15 former employees of the plantation who have a  
16 property interest in the land;

17 (B) The employee housing units not owned by their  
18 occupants shall be rented or leased at affordable  
19 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, or twenty  
7 acres of land, whichever is lesser or for which a  
8 special use permit is granted pursuant to section  
9 205-6; provided that this use shall not be permitted  
10 on lands with soil classified by the land study  
11 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[-]; or

13 (24) Notwithstanding any other law to the contrary,  
14 composting and co-composting operations; provided that  
15 operations that process their own green waste and do  
16 not require permits from the department of health  
17 shall use the finished composting product only on the  
18 operation's own premises to minimize the potential  
19 spread of invasive species."

20 SECTION 4. There is established one full-time equivalent  
21 (1.0 FTE) permanent environmental health specialist IV position



1 in the solid and hazardous waste branch of the department of  
2 health.

3 SECTION 5. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2022-2023 for  
6 one full-time equivalent (1.0 FTE) permanent environmental  
7 health specialist IV position for the solid and hazardous waste  
8 branch of the department of health.

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

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on July 1, 2051.



**Report Title:**

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

**Description:**

Permits composting and co-composting operations in agricultural districts, under certain conditions. Establishes and appropriates funds for an environmental health specialist IV position in the solid and hazardous waste branch of the Department of Health. Effective 7/1/2051. (SD1)

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