
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TOURISM.

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

1 SECTION 1. Chapter 205, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§205- Agricultural tourism activities. (a)
5 Agricultural tourism activities may be conducted on a farming
6 operation, as defined in section 165-2, for the enjoyment,
7 education, or involvement of visitors.

8 (b) Agricultural tourism activities:

9 (1) Shall be accessory and secondary to the principal
10 agricultural use;

11 (2) Shall coexist with an agricultural activity conducted
12 on a farming operation; and

13 (3) Shall not interfere with surrounding farm operations.

14 (c) Revenue from all agricultural tourism activities on a
15 farming operation shall not exceed revenue from the agricultural
16 activity conducted on the farming operation.



1 (d) Agricultural tourism activities may include overnight
2 accommodations of twenty-one days or less; provided that no
3 person shall stay in overnight accommodations included with
4 agricultural tourism activities for longer than twenty-one days
5 in total within one county during any one-year period.

6 (e) The commission shall adopt rules under chapter 91
7 governing agricultural tourism activities. The purpose of the
8 rules shall be to establish uniform requirements for
9 agricultural tourism activities throughout the State, promote
10 agriculture, and address community concerns. At a minimum, the
11 rules shall establish:

12 (1) Requirements for access to a farm, including road
13 width, road surface, and parking;

14 (2) Requirements and restrictions for accessory facilities
15 connected with the farming operation, such as gift
16 shops and restaurants;

17 (3) Activities for visitors that may be offered by the
18 farming operation;

19 (4) Days and hours of operation; and

20 (5) Automatic termination of authorization for
21 agricultural tourism activities at a farming operation



1 upon the cessation of the agricultural activity
2 there."

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

5 "(d) Agricultural districts shall include:

6 (1) Activities or uses as characterized by the cultivation
7 of crops, crops for bioenergy, orchards, forage, and
8 forestry;

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

11 (3) Aquaculture, which means the production of aquatic
12 plant and animal life within ponds and other bodies of
13 water;

14 (4) Wind-generated energy production for public, private,
15 and commercial use;

16 (5) Biofuel production, as described in
17 section 205-4.5(a)(16), for public, private, and
18 commercial use;

19 (6) Solar energy facilities; provided that:

20 (A) This paragraph shall apply only to land with soil
21 classified by the land study bureau's detailed



1 land classification as overall (master)
2 productivity rating class B, C, D, or E; and
3 (B) Solar energy facilities placed within land with
4 soil classified as overall productivity rating
5 class B or C shall not occupy more than ten per
6 cent of the acreage of the parcel, or twenty
7 acres of land, whichever is lesser, unless a
8 special use permit is granted pursuant to section
9 205-6;

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



1 agricultural-energy facilities as defined in
 2 section ~~[205-4.5(a)(17),]~~ 205-4.5(a)(16), vehicle and
 3 equipment storage areas, and plantation community
 4 subdivisions as defined in section 205-4.5(a)(12);
 5 (8) Wind machines and wind farms;
 6 (9) Small-scale meteorological, air quality, noise, and
 7 other scientific and environmental data collection and
 8 monitoring facilities occupying less than one-half
 9 acre of land; provided that these facilities shall not
 10 be used as or equipped for use as living quarters or
 11 dwellings;
 12 (10) Agricultural parks;
 13 (11) Agricultural tourism ~~[conducted on a working farm, or~~
 14 ~~a farming operation as defined in section 165-2, for~~
 15 ~~the enjoyment, education, or involvement of visitors;~~
 16 ~~provided that the agricultural tourism activity is~~
 17 ~~accessory and secondary to the principal agricultural~~
 18 ~~use and does not interfere with surrounding farm~~
 19 ~~operations; and provided further that this paragraph~~
 20 ~~shall apply only to a county that has adopted~~
 21 ~~ordinances regulating agricultural tourism under~~



1 ~~section 205-5;~~ activities pursuant to section
 2 205- ; provided that this paragraph shall apply only
 3 to a county that has adopted ordinances regulating
 4 agricultural tourism uses and activities under section
 5 205-5;

6 ~~[-(12) 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 ~~-(13)]~~ (12) Open area recreational facilities;

18 ~~[-(14)]~~ (13) Geothermal resources exploration and geothermal
 19 resources development, as defined under section 182-1;

20 ~~[-(15)]~~ (14) Agricultural-based commercial operations
 21 registered in Hawaii, including:



- 1 (A) A roadside stand that is not an enclosed
2 structure, owned and operated by a producer for
3 the display and sale of agricultural products
4 grown in Hawaii and value-added products that
5 were produced using agricultural products grown
6 in Hawaii;

- 7 (B) Retail activities in an enclosed structure owned
8 and operated by a producer for the display and
9 sale of agricultural products grown in Hawaii,
10 value-added products that were produced using
11 agricultural products grown in Hawaii, logo items
12 related to the producer's agricultural
13 operations, and other food items;

- 14 (C) A retail food establishment owned and operated by
15 a producer and permitted under chapter 11-50,
16 Hawaii administrative rules, that prepares and
17 serves food at retail using products grown in
18 Hawaii and value-added products that were
19 produced using agricultural products grown in
20 Hawaii;



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

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

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

18 [~~16~~] (15) Hydroelectric facilities as described in
19 section 205-4.5(a)(23); and

20 [~~17~~] (16) Composting and co-composting operations;
21 provided that operations that process their own green



1 waste and do not require permits from the department
2 of health shall use the finished composting product
3 only on the operation's own premises to minimize the
4 potential spread of invasive species.

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

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

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

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

17 (1) Cultivation of crops, including crops for bioenergy,
18 flowers, vegetables, foliage, fruits, forage, and
19 timber;

20 (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
9 single-family farm dwellings permitted within
10 agricultural parks developed by the State, or where
11 agricultural activity provides income to the family
12 occupying the 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);~~] 205-2(d)(14);

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~~
21 ~~a farming operation as defined in section 165-2, for~~



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



1 ~~vide agricultural activity" means a farming operation~~
2 ~~as defined in section 165-2;~~

3 ~~(15)]~~ (14) Wind energy facilities, including the
4 appurtenances associated with the production and
5 transmission of wind generated energy; provided that
6 the wind energy facilities and appurtenances are
7 compatible with agriculture uses and cause minimal
8 adverse impact on agricultural land;

9 ~~[(16)]~~ (15) Biofuel processing facilities, including the
10 appurtenances associated with the production and
11 refining of biofuels that is normally considered
12 directly accessory and secondary to the growing of the
13 energy feedstock; provided that biofuel processing
14 facilities and appurtenances do not adversely impact
15 agricultural land and other agricultural uses in the
16 vicinity.

17 For the purposes of this paragraph:

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for economic
20 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)~~] (16) 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
19 agricultural-energy facility shall be limited to lands
20 owned, leased, licensed, or operated by the entity
21 conducting 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
19 agricultural-energy facilities;

20 [~~(18)~~] (17) Construction and operation of wireless
21 communication antennas, including small wireless



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

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



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

6 ~~[(20)]~~ (19) Solar energy facilities that do not occupy more
7 than ten per cent of the acreage of the parcel, or
8 twenty acres of land, whichever is lesser or for which
9 a special use permit is granted pursuant to
10 section 205-6; provided that this use shall not be
11 permitted on lands with soil classified by the land
12 study bureau's detailed land classification as overall
13 (master) productivity rating class A;

14 ~~[(21)]~~ (20) Solar energy facilities on lands with soil
15 classified by the land study bureau's detailed land
16 classification as overall (master) productivity rating
17 B or C for which a special use permit is granted
18 pursuant to section 205-6; provided that:

19 (A) The area occupied by the solar energy facilities
20 is also made available for compatible
21 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 (C) Shall, if over five hundred kilowatts in
 2 hydroelectric generating capacity, have the
 3 approval of the commission on water resource
 4 management, including a new instream flow
 5 standard established for any new hydroelectric
 6 facility; and

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

12 [~~(24)~~] (23) Notwithstanding any other law to the contrary,
 13 composting and co-composting operations; provided that
 14 operations that process their own green waste and do
 15 not require permits from the department of health
 16 shall use the finished composting product only on the
 17 operation's own premises to minimize the potential
 18 spread of invasive species."

19 SECTION 4. Section 141-9(a), Hawaii Revised Statutes, is
 20 amended by substituting the phrase "section 205-4.5(a)(15)"



1 wherever the term "section 205-4.5(a)(16)" appears, as the
2 context requires.

3 Section 141-13(d), Hawaii Revised Statutes, is amended by
4 substituting the phrase "section 205-2(d)(14)(D)" wherever the
5 term "section 205-2(d)(15)(D)" appears, as the context requires.

6 The definition of "farming operation" in section 165-2,
7 Hawaii Revised Statutes, is amended by substituting the phrase
8 "section 205-2(d)(14)" wherever the term "section 205-2(d)(15)"
9 appears, as the context requires.

10 Section 205-2(c), Hawaii Revised Statutes, is amended by
11 substituting the phrase "section 205-4.5(a)(17)" wherever the
12 term "section 205-4.5(a)(18)" appears, as the context requires.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Agricultural Tourism Activities; Land Use Commission; Counties

Description:

Authorizes agricultural tourism activities, including certain overnight accommodations, under certain conditions and only in counties that have adopted ordinances regulating agricultural tourism activities. Requires the Land Use Commission to adopt rules that establish requirements applicable to all farming operations implementing agricultural tourism activities. Effective 7/1/3000. (HD2)

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

