

JAN 19 2024

A BILL FOR AN ACT

RELATING TO CAMPS.

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

1 SECTION 1. The legislature finds that in March 2023, the
2 Hawaii Supreme Court ruled that the specific exclusion of
3 overnight camps from the list of permitted uses in agricultural
4 districts means that special permits cannot be issued for
5 overnight camps in agricultural districts. This ruling reverses
6 a prior Hawaii Supreme Court opinion that allowed for uses, such
7 as overnight camps, to be approved via special permits if they
8 were deemed to be an "unusual and reasonable" use in the
9 agricultural district.

10 The legislature further finds that on Maui, there are four
11 campgrounds in agricultural districts - each established before
12 the adoption of the state land use law and considered
13 grandfathered uses. Two campgrounds have special permits
14 expiring in the next year and a half. Based on the Hawaii
15 Supreme Court's ruling, these two campgrounds would need to
16 obtain a district boundary amendment to change the land use
17 classification from agricultural to urban. Changing the land



1 use classification to urban would be a type of spot zoning since
2 the campgrounds are in rural, country type settings with no
3 urban uses in the nearby vicinity.

4 The legislature additionally finds that camps on other
5 islands, including two on Oahu, are also potentially impacted by
6 the Hawaii Supreme Court's ruling. Accordingly, the purpose of
7 this Act is to repeal the prohibition on overnight camps in
8 agricultural districts in order to allow overnight camps to be
9 regulated via the special permit process.

10 SECTION 2. 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~~] For the purposes of this
7 paragraph, "farm dwelling" [~~, as used in this~~
8 ~~paragraph,~~] means a single-family dwelling located on
9 and accessory to a farm, including clusters of single-
10 family farm dwellings permitted within agricultural
11 parks developed by the State, or where agricultural
12 activity provides income to the family occupying the
13 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, and country clubs [~~, and overnight~~
21 ~~camps~~];



S.B. NO. 2756

- 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



S.B. NO. 2756

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~~ no
17 less 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.



S.B. NO. 2756

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 205-
9 6; provided that this use shall not be permitted on
10 lands with soil classified by the land study bureau's
11 detailed land classification as overall (master)
12 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 before date of commencement of commercial
7 generation; 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~~] before the development of
18 the 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 (23) Hydroelectric facilities, including the appurtenances
4 associated with the production and transmission of
5 hydroelectric energy, subject to section 205-2;
6 provided that the hydroelectric facilities and their
7 appurtenances:

8 (A) Shall consist of a small hydropower facility as
9 defined by the United States Department of
10 Energy, including:

11 (i) Impoundment facilities using a dam to store
12 water in a reservoir;

13 (ii) A diversion or run-of-river facility that
14 channels a portion of a river through a
15 canal or channel; and

16 (iii) Pumped storage facilities that store energy
17 by pumping water uphill to a reservoir at
18 higher elevation from a reservoir at a lower
19 elevation to be released to turn a turbine
20 to generate electricity;

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



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) 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 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval.



1

INTRODUCED BY: *Francis R. J. Jones*



S.B. NO. 2756

Report Title:

Overnight Camps; Agricultural Districts

Description:

Repeals the prohibition on overnight camps in agricultural districts.

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

