

JAN 24 2024

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that multiple businesses
2 claiming to be agricultural-based commercial operations are, in-
3 fact, not accessory to agricultural operations on the property
4 where they are located. Rather, they are essentially retail
5 operations on agricultural lands along busy highways in
6 contravention of county zoning and planning restrictions.

7 Act 113, Session Laws of Hawaii 2012, created an approved
8 use in the agricultural district called agricultural-based
9 commercial operations. Act 113 allows the display and sale of
10 agricultural products grown in the State and value-added
11 products that were produced using agricultural products grown in
12 the State. The intent of Act 113 was to help bona fide farmers
13 stay profitable and continue to farm in the State. It was not
14 meant to allow someone to open a coffee shop or restaurant on
15 agricultural land and claim they are accessory to agriculture
16 because the person sells coffee grown on another island or the
17 person purchases a few vegetables at a weekly farmers market.



1 The purpose of this Act is to prohibit roadside stands from
2 displaying and selling value-added products and establish a
3 minimum percentage of agricultural products that must be
4 produced on the property in order to be offered for sale at
5 certain retail agricultural-based commercial operations.

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

8 "(d) Agricultural districts shall include:

- 9 (1) Activities or uses as characterized by the cultivation
10 of crops, crops for bioenergy, orchards, forage, and
11 forestry;
- 12 (2) Farming activities or uses related to animal husbandry
13 and game and fish propagation;
- 14 (3) Aquaculture, which means the production of aquatic
15 plant and animal life within ponds and other bodies of
16 water;
- 17 (4) Wind-generated energy production for public, private,
18 and commercial use;
- 19 (5) Biofuel production, as described in section 205-
20 4.5(a)(16), for public, private, and commercial use;
- 21 (6) Solar energy facilities; provided that:



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



1 for use in the agricultural activities of the fee or
2 leasehold owner of the property, agricultural-energy
3 facilities as defined in section 205-4.5(a) (17),
4 vehicle and equipment storage areas, and plantation
5 community subdivisions as defined in section 205-
6 4.5(a) (12);

7 (8) Wind machines and wind farms;

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

14 (10) Agricultural parks;

15 (11) Agricultural tourism conducted on a working farm, or a
16 farming operation as defined in section 165-2, for the
17 enjoyment, education, or involvement of visitors;
18 provided that the agricultural tourism activity is
19 accessory and secondary to the principal agricultural
20 use and does not interfere with surrounding farm
21 operations; and provided further that this paragraph



- 1 shall apply only to a county that has adopted
2 ordinances regulating agricultural tourism under
3 section 205-5;
- 4 (12) Agricultural tourism activities, including overnight
5 accommodations of twenty-one days or less, for any one
6 stay within a county; provided that this paragraph
7 shall apply only to a county that includes at least
8 three islands and has adopted ordinances regulating
9 agricultural tourism activities pursuant to section
10 205-5; provided further that the agricultural tourism
11 activities coexist with a bona fide agricultural
12 activity. For the purposes of this paragraph, "bona
13 fide agricultural activity" means a farming operation
14 as defined in section 165-2;
- 15 (13) Open area recreational facilities;
- 16 (14) Geothermal resources exploration and geothermal
17 resources development, as defined under section 182-1;
- 18 (15) Agricultural-based commercial operations registered in
19 Hawaii, including:
- 20 (A) A roadside stand that is not an enclosed
21 structure, owned and operated by a producer for



1 the display and sale of agricultural products
2 grown in Hawaii [~~and value-added products that~~
3 ~~were produced using agricultural products grown~~
4 ~~in Hawaii~~];

5 (B) Retail activities in an enclosed structure owned
6 and operated by a producer for the display and
7 sale of agricultural products [~~grown in Hawaii~~]
8 and value-added products [~~that were~~] produced
9 [~~using agricultural products grown~~] in Hawaii[~~r~~
10 ~~logo~~]; provided that no less than fifty per cent
11 of the agricultural products shall have been
12 grown on the same property where the retail
13 activities occur. Logo items related to the
14 producer's agricultural operations[~~r~~] and [~~other~~]
15 incidental food items[~~r~~], such as snacks and
16 beverages, may also be sold;

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



1 ~~produced using agricultural products grown in~~
2 ~~Hawaii];~~ provided that no less than fifty per
3 cent of the agricultural products shall have been
4 grown on the property where the retail activities
5 occur;

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

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

17 The owner of an agricultural-based commercial
18 operation shall certify, upon request of an officer or
19 agent charged with enforcement of this chapter under
20 section 205-12, that the agricultural products



1 displayed or sold by the operation meet the
2 requirements of this paragraph;

3 (16) Hydroelectric facilities as described in section 205-
4 4.5(a)(23); and

5 (17) Composting and co-composting operations; provided that
6 operations that process their own green waste and do
7 not require permits from the department of health
8 shall use the finished composting product only on the
9 operation's own premises to minimize the potential
10 spread of invasive species.

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

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

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect upon its approval.



S.B. NO. 3294

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INTRODUCED BY:

Alma Mercado K.



S.B. NO. 3294

Report Title:

Land Use Districts; Agricultural Districts; Minimum Level of Agricultural Production

Description:

Amends the authorized activities and uses in agricultural districts to prohibit roadside stands from displaying and selling value-added products and establish a minimum percentage of agricultural products that must be produced on the property in order to be offered for sale at certain retail agricultural-based commercial operations.

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

