
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that the State possesses
2 a rich ranching history and cowboy culture preceding that of the
3 American west. In 1793, Captain James Vancouver presented
4 Kamehameha I with six cows and a bull. Kamehameha I placed a
5 kapu on the cattle to prevent them from being hunted or killed.
6 Over time, the herd flourished and turned feral, becoming a
7 nuisance to Native Hawaiians. Cattle would rampage through
8 villages and destroy crops, eat the thatch off the roofs of
9 houses, and occasionally hurt or kill people. In 1832,
10 Kamehameha III sent one of his chiefs to Alta California to
11 enlist cowboys who could teach his people how to work cattle.
12 The chief returned with three vaqueros who taught aspiring
13 Native Hawaiian cowboys to rope, slaughter, and breed cattle;
14 cure hides; construct fences and paddocks; and ride horses.
15 Native Hawaiians took quickly to the skills and techniques that
16 the vaqueros introduced. Native Hawaiian cowboys, known as
17 paniolo, iterated on these skills and techniques, creating a



1 distinct Hawaiian cowboy culture. Paniolo crafted their saddles
2 and gear in a style unique to them, created their own genre of
3 music accompanied by the guitar and ukulele, and also developed
4 a singular Hawaiian style of open-tuning for the guitar called
5 kihoalu, or slack key.

6 The legislature further finds that in 1908, three paniolo,
7 Ikua Purdy, Archie Kaaua, and Jack Low traveled to Cheyenne,
8 Wyoming, to compete in the biggest rodeo at the time, Frontier
9 Days. In the world championship finals, Ikua Purdy won the
10 steer-roping contest in fifty-six seconds, Archie Kaaua came
11 second, and Jack Low came sixth. The paniolo shocked much of
12 the American public with their victory over many of America's
13 best cowboys. When the three paniolo returned to Hawaii, they
14 were hailed as heroes with poetry and hula being composed in
15 their honor.

16 The purpose of this Act is to authorize plant and animal
17 sanctuaries with ancillary functions and related support and
18 visitor facilities, rodeos, and rodeo activities on lands that
19 are zoned for agricultural use.

20 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§205-4.5 Permissible uses within the agricultural**
2 **districts.** (a) Within the agricultural district, all lands
3 with soil classified by the land study bureau's detailed land
4 classification as overall (master) productivity rating class A
5 or B and for solar energy facilities, class B or C, shall be
6 restricted to the following permitted uses:

7 (1) Cultivation of crops, including crops for bioenergy,
8 flowers, vegetables, foliage, fruits, forage, and
9 timber;

10 (2) Game and fish propagation;

11 (3) Raising of livestock, including poultry, bees, fish,
12 or other animal or aquatic life that are propagated
13 for economic or personal use;

14 (4) Plant and animal sanctuaries as defined in
15 subsection (g);

16 ~~(4)~~ (5) Farm dwellings, employee housing, farm buildings,
17 or activities or uses related to farming and animal
18 husbandry. For the purposes of this paragraph, "farm
19 dwelling" means a single-family dwelling located on
20 and accessory to a farm, including clusters of
21 single-family farm dwellings permitted within



1 agricultural parks developed by the State, or where
2 agricultural activity provides income to the family
3 occupying the dwelling;

4 ~~[+5]~~ (6) Public institutions and buildings that are
5 necessary for agricultural practices;

6 ~~[+6]~~ (7) Public and private open area types of
7 recreational uses, including day camps, picnic
8 grounds, parks, ~~and~~ riding stables, and rodeos or
9 rodeo activities as defined in subsection (g), but not
10 including dragstrips, airports, drive-in theaters,
11 golf courses, golf driving ranges, country clubs, and
12 overnight camps; provided that overnight camps in
13 operation before January 1, 1961, may be approved by
14 special permit; provided further that the applicable
15 department that owns, manages, controls, or leases the
16 land used for rodeos or rodeo activities shall adopt
17 rules pursuant to chapter 91 to restrict the scale of
18 rodeo activities, including requiring the land to be
19 returned to its natural condition upon the cessation
20 of use for the rodeo or rodeo activity;



1 [~~(7)~~] (8) Public, private, and quasi-public utility lines
2 and 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)~~] (9) Retention, restoration, rehabilitation, or
11 improvement of buildings or sites of historic or
12 scenic interest;

13 [~~(9)~~] (10) Agricultural-based commercial operations as
14 described in section 205-2(d)(15);

15 [~~(10)~~] (11) Buildings and uses, including mills, storage,
16 and processing facilities, maintenance facilities,
17 photovoltaic, biogas, and other small-scale renewable
18 energy systems producing energy solely for use in the
19 agricultural activities of the fee or leasehold owner
20 of the property, and vehicle and equipment storage
21 areas that are normally considered directly accessory



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

3 [~~(11)~~] (12) Agricultural parks;

4 [~~(12)~~] (13) Plantation community subdivisions, which as used
5 in 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)~~] (14) Agricultural tourism conducted on a working
5 farm, or a farming operation as defined in
6 section 165-2, for the enjoyment, education, or
7 involvement of visitors; provided that the
8 agricultural tourism activity is accessory and
9 secondary to the principal agricultural use and does
10 not interfere with surrounding farm operations;
11 provided further that this paragraph shall apply only
12 to a county that has adopted ordinances regulating
13 agricultural tourism under section 205-5;

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



1 agricultural activity. For the purposes of this
2 paragraph, "bona fide agricultural activity" means a
3 farming operation as defined in section 165-2;

4 [~~(15)~~] (16) Wind energy facilities, including the
5 appurtenances associated with the production and
6 transmission of wind generated energy; provided that
7 the wind energy facilities and appurtenances are
8 compatible with agriculture uses and cause minimal
9 adverse impact on agricultural land;

10 [~~(16)~~] (17) 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)~~] (18) 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 [~~no~~] not
17 less 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]~~ For the purposes of 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)]~~ (19) 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 defined in section
10 206N-2; provided further that nothing in this
11 paragraph shall be construed to permit the
12 construction of any new structure that is not deemed a
13 permitted use under this subsection;

14 [~~19~~] (20) 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)]~~ (21) 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 section
10 205-6; provided that this use shall not be permitted
11 on lands with soil classified by the land study
12 bureau's detailed land classification as overall
13 (master) productivity rating class A;

14 ~~[(+21)]~~ (22) 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 before the
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 before the development of the solar
18 energy facility.

19 For the purposes of this paragraph, "agricultural
20 activities" means the activities described in
21 paragraphs (1) to (3);



1 ~~[+22]~~ (23) Geothermal resources exploration and geothermal
2 resources development, as defined under section 182-1;

3 ~~[+23]~~ (24) Hydroelectric facilities, including the
4 appurtenances associated with the production and
5 transmission of hydroelectric energy, subject to
6 section 205-2; provided that the hydroelectric
7 facilities and their 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)~~] (25) 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 (b) Uses not expressly permitted in subsection (a),
20 including landfill units, as defined in section 342H-52, located
21 on land within the agricultural district that has soil



1 classified by the land study bureau's detailed land
2 classification as overall (master) productivity rating class A
3 in a county with a population greater than five hundred
4 thousand, shall be prohibited, except the uses permitted as
5 provided in sections 205-6 and 205-8, and construction of
6 single-family dwellings on lots existing before June 4, 1976.
7 Any other law to the contrary notwithstanding, no subdivision of
8 land within the agricultural district with soil classified by
9 the land study bureau's detailed land classification as overall
10 (master) productivity rating class A or B shall be approved by a
11 county unless those A and B lands within the subdivision are
12 made subject to the restriction on uses as prescribed in this
13 section and to the condition that the uses shall be primarily in
14 pursuit of an agricultural activity.

15 Any deed, lease, agreement of sale, mortgage, or other
16 instrument of conveyance covering any land within the
17 agricultural subdivision shall expressly contain the restriction
18 on uses and the condition, as prescribed in this section, that
19 these restrictions and conditions shall be encumbrances running
20 with the land until the land is reclassified to a land use
21 district other than an agricultural district.



1 If the foregoing requirement of encumbrances running with
2 the land jeopardizes the owner or lessee in obtaining mortgage
3 financing from any of the mortgage lending agencies set forth in
4 the following paragraph, and the requirement is the sole reason
5 for failure to obtain mortgage financing, then the requirement
6 of encumbrances shall, insofar as the mortgage financing is
7 jeopardized, be conditionally waived by the appropriate county
8 enforcement officer; provided that the conditional waiver shall
9 become effective only in the event that the property is
10 subjected to foreclosure proceedings by the mortgage lender.

11 The mortgage lending agencies referred to in the preceding
12 paragraph are the Federal Housing Administration, Federal
13 National Mortgage Association, Department of Veterans Affairs,
14 Small Business Administration, United States Department of
15 Agriculture, ~~{Federal Land Bank of Berkeley, Federal~~
16 ~~Intermediate Credit Bank of Berkeley, Berkeley Bank for~~
17 ~~Cooperatives,}~~ and any other federal, state, or private mortgage
18 lending agency qualified to do business in [~~Hawaii,~~] the State,
19 and their respective successors and assigns.

20 (c) Within the agricultural district, all lands with soil
21 classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class C,
2 D, E, or U shall be restricted to the uses permitted for
3 agricultural districts as set forth in section 205-5(b).

4 (d) Notwithstanding any other provision of this chapter to
5 the contrary, golf courses and golf driving ranges approved by a
6 county before July 1, 2005, for development within the
7 agricultural district shall be permitted uses within the
8 agricultural district.

9 (e) Notwithstanding any other provision of this chapter to
10 the contrary, plantation community subdivisions as defined in
11 this section shall be permitted uses within the agricultural
12 district, and section 205-8 shall not apply.

13 (f) Notwithstanding any other law to the contrary,
14 agricultural lands may be subdivided and leased for the
15 agricultural uses or activities permitted in subsection (a);
16 provided that:

- 17 (1) The principal use of the leased land is agriculture;
- 18 (2) No permanent or temporary dwellings or farm dwellings,
19 including trailers and campers, are constructed on the
20 leased area. This restriction shall not prohibit the
21 construction of storage sheds, equipment sheds, or



1 other structures appropriate to the agricultural
2 activity carried on within the lot; provided that any
3 violation of this paragraph shall be subject to county
4 enforcement authority and fines pursuant to sections
5 46-4, 205-12, and 205-13; and

6 (3) The lease term for a subdivided lot shall be for at
7 least as long as the greater of:

8 (A) The minimum real property tax agricultural
9 dedication period of the county in which the
10 subdivided lot is located; or

11 (B) Five years.

12 Lots created and leased pursuant to this section shall be legal
13 lots of record for mortgage lending purposes and shall be exempt
14 from county subdivision standards.

15 (g) For the purposes of this section:

16 "Plant and animal sanctuaries" means places recognized by
17 the State for the purposes of preservation, proliferation,
18 research, and education relating to native, endangered, rescued,
19 or other species; ancillary functions necessary for the safe,
20 humane, and effective operation of plant and animal sanctuaries;
21 and related support and visitor facilities; provided that the



1 facilities remain subordinate to, and supportive of, the
2 principal sanctuary use.

3 "Rodeo or rodeo activities" means a structured, organized,
4 and permitted agricultural, equestrian, or cultural event
5 conducted on lands classified as an agricultural district
6 pursuant to section 205-2; on agricultural or pastoral lands
7 owned, managed, controlled, or leased by the department of
8 agriculture and biosecurity or department of land and natural
9 resources; and on lands encumbered under the authority of the
10 board of agriculture and biosecurity or board of land and
11 natural resources. "Rodeo or rodeo activities" includes but is
12 not limited to:

13 (1) Activities that demonstrate, train, or competitively
14 apply livestock-handling and horsemanship skills
15 associated with ranching, cattle management, and
16 paniolo traditions, including:

17 (A) Competitive or demonstration events utilizing
18 livestock- and equestrian-based competitions or
19 exhibitions that reflect customary ranching
20 practices, including team roping, breakaway



- 1 roping, calf or steer roping, and related timed
- 2 roping events;
- 3 (B) Riding events, including saddle bronc, bareback,
- 4 bull riding, ranch bronc riding, and related
- 5 livestock-mounted competitions;
- 6 (C) Saddle bronc riding, bareback riding, bull
- 7 riding, ranch bronc riding, and other mounted or
- 8 livestock-interaction events;
- 9 (D) Barrel racing, pole bending, mounted agility
- 10 competitions, and similar speed events; and
- 11 (E) Steer wrestling, ranch sorting, cattle penning,
- 12 and other demonstrations of practical livestock
- 13 management proficiency;
- 14 (2) Ancillary functions necessary for the safe, humane,
- 15 and effective conduct of rodeo events, including:
- 16 (A) Veterinary care, livestock inspection, feeding,
- 17 watering, conditioning, and temporary stabling or
- 18 penning;
- 19 (B) Transportation, staging, and handling of
- 20 livestock before, during, and after events; and



- 1 (C) Construction, maintenance, installation, or
2 temporary placement of chutes, arenas, corrals,
3 fencing, livestock enclosures, and other
4 infrastructure reasonably required for event
5 operations;

- 6 (3) Support functions essential to organizing and hosting
7 rodeo events, including:
 - 8 (A) Event management, setup, administration, and
9 post-event restoration;
 - 10 (B) Accessory spectator facilities, including parking
11 areas, seating, concessions, restroom facilities,
12 and safety stations; provided that the facilities
13 remain subordinate to, and supportive of, the
14 principal rodeo use; and
 - 15 (C) Participation by vendors, cultural practitioners,
16 and agricultural organizations when incidental
17 and reasonably related to the rodeo or rodeo
18 activity, or when agricultural, ranching, or
19 paniolo heritage is promoted; and

- 20 (4) Any educational, cultural, ceremonial, or
21 community-based activity associated with the State's

1 paniolo history, ranching traditions, livestock
2 stewardship, and equestrian culture, including
3 demonstrations, exhibitions, cultural protocols,
4 community gatherings, or heritage programming
5 conducted as part of or in connection with rodeos."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Department of Agriculture and Biosecurity; Department of Land and Natural Resources; Land Use; Plant and Animal Sanctuaries; Rodeos; Rodeo Activities; Rules

Description:

Authorizes plant and animal sanctuaries with ancillary functions and related support and visitor facilities, rodeos, and rodeo activities on lands that are zoned for agricultural use. Requires the applicable department that owns, manages, controls, or leases the land used for rodeos or rodeo activities to adopt rules to restrict the scale of rodeo activities. Defines the terms "rodeo or rodeo activities" and "plant and animal sanctuaries". Effective 7/1/2050. (SD1)

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