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# A BILL FOR AN ACT

RELATING TO AGRICULTURAL TOURISM.

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

1 PART I

2 SECTION 1. The legislature finds that, throughout the  
3 nation, cattle ranches, agricultural farms, and other farming  
4 operations are diversifying their businesses by expanding into  
5 agricultural tourism activities. These activities provide  
6 critical supplemental revenue streams and are increasingly  
7 becoming an essential part of the business models for many  
8 ranches and farms.

9 The legislature further finds that the State's four  
10 counties each have their own agricultural tourism activity  
11 permitting processes, standards, procedures, and definitions.  
12 This lack of consistency results in a disjointed regulatory  
13 framework, which impedes the growth of the State's agricultural  
14 sector, inhibits the development of viable farming and ranching  
15 business models, and creates systemic impediments and  
16 exacerbates existing impediments in zoning and permitting.



1           The legislature acknowledges that existing law allows  
2 agricultural tourism activities to be conducted through the  
3 special permitting process. However, the use of this process  
4 pushes agricultural tourism activities to the periphery of  
5 farming operations and exacerbates the State's inconsistent  
6 permitting framework, further impeding growth in the  
7 agricultural sector and limiting the revenue potential of the  
8 agricultural businesses that the State is trying to nurture.

9           Therefore, the legislature finds that there should be a  
10 uniform, statewide approach to approving agricultural tourism  
11 activities. With the enactment of targeted, meaningful  
12 legislation, agricultural tourism can become an area of growth  
13 and expansion for farmers while also creating opportunities for  
14 the types of regenerative tourism being encouraged by the Hawaii  
15 tourism authority. The creation of a uniform framework will  
16 increase investment in agricultural tourism activities, promote  
17 unique partnerships between farmers and local businesses  
18 interested in agriculture, and increase support for affiliated  
19 farming pathway programs in the State.





1           "§205-        Agricultural tourism activities.    (a)

2    Agricultural tourism activities may be conducted on a farming  
3    operation, as defined in section 165-2, for the enjoyment,  
4    education, or involvement of visitors.

5            (b) Agricultural tourism activities shall:

6            (1) Be accessory and secondary to the principal farming  
7            operation; provided that it shall be a rebuttable  
8            presumption that the agricultural tourism activities  
9            are secondary to the principal farming operation;

10           (2) Coexist with an agricultural activity conducted on a  
11           farming operation; and

12           (3) Not interfere with on-farm operations.

13           (c) Agricultural tourism shall only be allowed on land on  
14    which productive agricultural use is occurring.

15           (d) Agricultural tourism activities shall be registered by  
16    the owner or lessee with the county planning department before  
17    commencement of any agricultural tourism activity; provided that  
18    the registration shall include the following information:

19           (1) A description of access to the farm, including road  
20           width, road surface, and parking;



- 1        (2) A description of accessory facilities connected with  
2        the principal farming operation, such as gift shops  
3        and restaurants;
- 4        (3) Activities for visitors that may be offered by the  
5        farming operation;
- 6        (4) Documentation that productive agricultural use is  
7        occurring on the farm pursuant to subsection (c);
- 8        (5) Federal and state tax returns verifying farm income  
9        from the principal farming operation;
- 10       (6) Verification of enrollment in a county agricultural  
11       use dedication program; and
- 12       (7) Verification of county agricultural water rates, if  
13       enrolled.
- 14       (e) The authorization to conduct agricultural tourism  
15       activities at the farming operation shall be terminated upon the  
16       determination that productive agricultural activity conducted on  
17       the farming operation has ceased. For the purposes of this  
18       section, the cessation of agricultural activity shall be deemed  
19       to have occurred if the farming operation fails to engage in  
20       active agricultural production for a period of sixty consecutive  
21       days, unless the cessation of the agricultural activity is



1 temporary and due to a catastrophic event, inclement weather,  
2 disease or pest infestation, market and supply chain  
3 disruptions, or change in crop type.

4 (f) Upon a determination that agricultural activity has  
5 ceased, the county agency shall provide written notice to the  
6 operator of the farming operation of the county's intent to  
7 terminate the farming operation's authorization to conduct  
8 agricultural tourism activities. The notice shall include:

9 (1) The factual basis for the determination;

10 (2) The effective date of termination of the authorization  
11 to conduct agricultural tourism activities; and

12 (3) The operator's right to demonstrate that the cessation  
13 is temporary or otherwise exempt under this section.

14 (g) The operator of a farming operation shall have thirty  
15 days from receipt of the notice to submit documentation to the  
16 county agency that demonstrates ongoing agricultural activities  
17 or that the cessation of the agricultural activities is  
18 temporary and due to a catastrophic event, inclement weather,  
19 disease or pest infestation, market and supply chain  
20 disruptions, or change in crop type.



1        (h) Termination of the authorization to conduct  
2 agricultural tourism activities shall be effective only upon  
3 issuance of a final determination by the county agency after  
4 expiration of the response period.

5        (i) Authorization to conduct agricultural tourism  
6 activities may be reinstated upon a showing of resumed  
7 agricultural activities on the farming operation consistent with  
8 the requirements of this chapter.

9        (j) For the purposes of this section:

10       "Agricultural operation" means the cultivation of crops,  
11 raising of livestock or aquaculture species, or processing of  
12 agricultural products that is conducted as an ongoing  
13 agricultural activity rather than primarily for recreation or  
14 unrelated commercial use.

15       "Principal farming operation" means the primary and  
16 predominant use of a parcel of land or a farming operation as  
17 defined in section 165-2 for the commercial production of  
18 agricultural commodities, including crops, aquaculture,  
19 livestock, livestock products, or horticultural products,  
20 conducted in a manner consistent with generally accepted  
21 agricultural practices and from which agricultural production



1 constitutes the majority of the operation's land use, labor, and  
2 operational activity.

3 "Productive agricultural use" means the use of real  
4 property of the working farm, or farming operation as defined in  
5 section 165-2, that is taxed as agricultural and is current on  
6 its real property tax obligations.

7 "Secondary to the principal farming operation" means the  
8 use of a parcel of land that generates annual revenue that is  
9 less than the annual revenue generated from the principal  
10 farming operation or agricultural operation conducted on the  
11 parcel of land."

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

14 "(d) Agricultural districts shall include:

15 (1) Activities or uses as characterized by the cultivation  
16 of crops, crops for bioenergy, orchards, forage, and  
17 forestry;

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



- 1 (3) Aquaculture, which means the production of aquatic  
2 plant and animal life within ponds and other bodies of  
3 water;
- 4 (4) Wind-generated energy production for public, private,  
5 and commercial use;
- 6 (5) Biofuel production, as described in section [205-  
7 ~~4.5(a)(16),~~] 205-4.5(a)(15), for public, private, and  
8 commercial use;
- 9 (6) Solar energy facilities; provided that:
- 10 (A) This paragraph shall apply only to land with soil  
11 classified by the land study bureau's detailed  
12 land classification as overall (master)  
13 productivity rating class B, C, D, or E; and
- 14 (B) Solar energy facilities placed within land with  
15 soil classified as overall productivity rating  
16 class B or C shall not occupy more than ten per  
17 cent of the acreage of the parcel, or twenty  
18 acres of land, whichever is lesser, unless a  
19 special use permit is granted pursuant to section  
20 205-6;



- 1           (7) Bona fide agricultural services and uses that support  
2           the agricultural activities of the fee or leasehold  
3           owner of the property and accessory to any of the  
4           above activities, regardless of whether conducted on  
5           the same premises as the agricultural activities to  
6           which they are accessory, including farm dwellings as  
7           defined in section 205-4.5(a)(4), employee housing,  
8           farm buildings, mills, storage facilities, processing  
9           facilities, photovoltaic, biogas, and other small-  
10          scale renewable energy systems producing energy solely  
11          for use in the agricultural activities of the fee or  
12          leasehold owner of the property, agricultural-energy  
13          facilities as defined in section [~~205-4.5(a)(17),~~  
14          205-4.5(a)(16)], vehicle and equipment storage areas,  
15          and plantation community subdivisions as defined in  
16          section 205-4.5(a)(12);
- 17          (8) Wind machines and wind farms;
- 18          (9) Small-scale meteorological, air quality, noise, and  
19          other scientific and environmental data collection and  
20          monitoring facilities occupying less than one-half  
21          acre of land; provided that these facilities shall not



1 be used as or equipped for use as living quarters or  
2 dwellings;

3 (10) Agricultural parks;

4 (11) Agricultural tourism [~~conducted on a working farm, or~~  
5 ~~a farming operation as defined in section 165-2, for~~  
6 ~~the 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; provided further that this paragraph shall~~  
11 ~~apply only to a county that has adopted ordinances~~  
12 ~~regulating agricultural tourism under section 205-5;]~~  
13 activities pursuant to section 205- ; provided that  
14 this paragraph shall apply only to a county that has  
15 adopted ordinances regulating agricultural tourism  
16 uses and activities under section 205-5;

17 [~~(12) Agricultural tourism activities, including overnight~~  
18 ~~accommodations of twenty one days or less, for any one~~  
19 ~~stay within a county; provided that this paragraph~~  
20 ~~shall apply only to a county that includes at least~~  
21 ~~three islands and has adopted ordinances regulating~~



1 ~~agricultural tourism activities pursuant to section~~  
2 ~~205-5; provided further that the agricultural tourism~~  
3 ~~activities coexist with a bona fide agricultural~~  
4 ~~activity. For the purposes of this paragraph, "bona~~  
5 ~~fide agricultural activity" means a farming operation~~  
6 ~~as defined in section 165-2;~~

7 ~~(13)]~~ (12) Open area recreational facilities;

8 ~~[(14)]~~ (13) Geothermal resources exploration and geothermal  
9 resources development, as defined under section 182-1;

10 ~~[(15)]~~ (14) Agricultural-based commercial operations  
11 registered in Hawaii, including:

12 (A) A roadside stand that is not an enclosed  
13 structure, owned and operated by a producer for  
14 the display and sale of agricultural products  
15 grown in Hawaii and value-added products that  
16 were produced using agricultural products grown  
17 in Hawaii;

18 (B) Retail activities in an enclosed structure owned  
19 and operated by a producer for the display and  
20 sale of agricultural products grown in Hawaii,  
21 value-added products that were produced using



1 agricultural products grown in Hawaii, logo items  
2 related to the producer's agricultural  
3 operations, and other food items;

4 (C) A retail food establishment owned and operated by  
5 a producer and permitted under chapter 11-50,  
6 Hawaii administrative rules, that prepares and  
7 serves food at retail using products grown in  
8 Hawaii and value-added products that were  
9 produced using agricultural products grown in  
10 Hawaii;

11 (D) A farmers' market, which is an outdoor market  
12 limited to producers selling agricultural  
13 products grown in Hawaii and value-added products  
14 that were produced using agricultural products  
15 grown in Hawaii; and

16 (E) A food hub, which is a facility that may contain  
17 a commercial kitchen and provides for the  
18 storage, processing, distribution, and sale of  
19 agricultural products grown in Hawaii and value-  
20 added products that were produced using  
21 agricultural products grown in Hawaii.



1 The owner of an agricultural-based commercial  
2 operation shall certify, upon request of an officer or  
3 agent charged with enforcement of this chapter under  
4 section 205-12, that the agricultural products  
5 displayed or sold by the operation meet the  
6 requirements of this paragraph;

7 [~~(16)~~] (15) Hydroelectric facilities as described in section  
8 [~~205-4.5(a)(23);~~] 205-4.5(a)(22); and

9 [~~(17)~~] (16) Composting and co-composting operations;  
10 provided that operations that process their own green  
11 waste and do not require permits from the department  
12 of health shall use the finished composting product  
13 only on the operation's own premises to minimize the  
14 potential spread of invasive species.

15 Agricultural districts shall not include golf courses and golf  
16 driving ranges, except as provided in section 205-4.5(d). No  
17 landfill unit, as defined in section 342H-52, shall be located  
18 on land within the agricultural district that has soil  
19 classified by the land study bureau's detailed land  
20 classification as overall (master) productivity rating class A  
21 in a county with a population greater than five hundred



1 thousand. Agricultural districts may include areas that are not  
2 used for, or that are not suited to, agricultural and ancillary  
3 activities by reason of topography, soils, and other related  
4 characteristics."

5 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

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

12 (1) Cultivation of crops, including crops for bioenergy,  
13 flowers, vegetables, foliage, fruits, forage, and  
14 timber;

15 (2) Game and fish propagation;

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

19 (4) Farm dwellings, employee housing, farm buildings, or  
20 activities or uses related to farming and animal  
21 husbandry. For the purposes of this paragraph, "farm



1 dwelling" means a single-family dwelling located on  
2 and accessory to a farm, including clusters of single-  
3 family farm dwellings permitted within agricultural  
4 parks developed by the State, or where agricultural  
5 activity provides income to the family occupying the  
6 dwelling;

7 (5) Public institutions and buildings that are necessary  
8 for agricultural practices;

9 (6) Public and private open area types of recreational  
10 uses, including day camps, picnic grounds, parks, and  
11 riding stables, but not including dragstrips,  
12 airports, drive-in theaters, golf courses, golf  
13 driving ranges, country clubs, and overnight camps;  
14 provided that overnight camps in operation before  
15 January 1, 1961, may be approved by special permit;

16 (7) Public, private, and quasi-public utility lines and  
17 roadways, transformer stations, communications  
18 equipment buildings, solid waste transfer stations,  
19 major water storage tanks, and appurtenant small  
20 buildings such as booster pumping stations, but not  
21 including offices or yards for equipment, material,



- 1 vehicle storage, repair or maintenance, treatment  
2 plants, corporation yards, or other similar  
3 structures;
- 4 (8) Retention, restoration, rehabilitation, or improvement  
5 of buildings or sites of historic or scenic interest;
- 6 (9) Agricultural-based commercial operations as described  
7 in section [~~205-2(d)(15)+~~] 205-2(d)(14);
- 8 (10) Buildings and uses, including mills, storage, and  
9 processing facilities, maintenance facilities,  
10 photovoltaic, biogas, and other small-scale renewable  
11 energy systems producing energy solely for use in the  
12 agricultural activities of the fee or leasehold owner  
13 of the property, and vehicle and equipment storage  
14 areas that are normally considered directly accessory  
15 to the above-mentioned uses and are permitted under  
16 section 205-2(d);
- 17 (11) Agricultural parks;
- 18 (12) Plantation community subdivisions, which as used in  
19 this chapter means an established subdivision or  
20 cluster of employee housing, community buildings, and  
21 agricultural support buildings on land currently or



1           formerly owned, leased, or operated by a sugar or  
 2           pineapple plantation; provided that the existing  
 3           structures may be used or rehabilitated for use, and  
 4           new employee housing and agricultural support  
 5           buildings may be allowed on land within the  
 6           subdivision as follows:

7           (A) The employee housing is occupied by employees or  
 8           former employees of the plantation who have a  
 9           property interest in the land;

10          (B) The employee housing units not owned by their  
 11          occupants shall be rented or leased at affordable  
 12          rates for agricultural workers; or

13          (C) The agricultural support buildings shall be  
 14          rented or leased to agricultural business  
 15          operators or agricultural support services;

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

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

8 ~~[-(14) 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 ~~-(15)]~~ (14) Wind energy facilities, including the  
20 appurtenances associated with the production and  
21 transmission of wind generated energy; provided that



1 the wind energy facilities and appurtenances are  
2 compatible with agriculture uses and cause minimal  
3 adverse impact on agricultural land;

4 [~~(16)~~] (15) Biofuel processing facilities, including the  
5 appurtenances associated with the production and  
6 refining of biofuels that is normally considered  
7 directly accessory and secondary to the growing of the  
8 energy feedstock; provided that biofuel processing  
9 facilities and appurtenances do not adversely impact  
10 agricultural land and other agricultural uses in the  
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure  
14 of the appropriate type and scale for economic  
15 commercial storage and distribution, and other similar  
16 handling of feedstock, fuels, and other products of  
17 biofuel processing facilities.

18 "Biofuel processing facility" means a facility  
19 that produces liquid or gaseous fuels from organic  
20 sources such as biomass crops, agricultural residues,  
21 and oil crops, including palm, canola, soybean, and



1 waste cooking oils; grease; food wastes; and animal  
2 residues and wastes that can be used to generate  
3 energy;

4 [~~(17)~~] (16) Agricultural-energy facilities, including  
5 appurtenances necessary for an agricultural-energy  
6 enterprise; provided that the primary activity of the  
7 agricultural-energy enterprise is agricultural  
8 activity. To be considered the primary activity of an  
9 agricultural-energy enterprise, the total acreage  
10 devoted to agricultural activity shall be no less than  
11 ninety per cent of the total acreage of the  
12 agricultural-energy enterprise. The agricultural-  
13 energy facility shall be limited to lands owned,  
14 leased, licensed, or operated by the entity conducting  
15 the agricultural activity.

16 As used in this paragraph:

17 "Agricultural activity" means any activity  
18 described in paragraphs (1) to (3) of this subsection.

19 "Agricultural-energy enterprise" means an  
20 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy  
2 facility.

3 "Agricultural-energy facility" means a facility  
4 that generates, stores, or distributes renewable  
5 energy as defined in section 269-91 or renewable fuel  
6 including electrical or thermal energy or liquid or  
7 gaseous fuels from products of agricultural activities  
8 from agricultural lands located in the State.

9 "Appurtenances" means operational infrastructure  
10 of the appropriate type and scale for the economic  
11 commercial generation, storage, distribution, and  
12 other similar handling of energy, including equipment,  
13 feedstock, fuels, and other products of agricultural-  
14 energy facilities;

15 [~~(18)~~] (17) Construction and operation of wireless  
16 communication antennas, including small wireless  
17 facilities; provided that, for the purposes of this  
18 paragraph, "wireless communication antenna" means  
19 communications equipment that is either freestanding  
20 or placed upon or attached to an already existing  
21 structure and that transmits and receives



1 electromagnetic radio signals used in the provision of  
2 all types of wireless communications services;  
3 provided further that "small wireless facilities"  
4 shall have the same meaning as in section 206N-2;  
5 provided further that nothing in this paragraph shall  
6 be construed to permit the construction of any new  
7 structure that is not deemed a permitted use under  
8 this subsection;

9 ~~(+19)~~ (18) Agricultural education programs conducted on a  
10 farming operation as defined in section 165-2, for the  
11 education and participation of the general public;  
12 provided that the agricultural education programs are  
13 accessory and secondary to the principal agricultural  
14 use of the parcels or lots on which the agricultural  
15 education programs are to occur and do not interfere  
16 with surrounding farm operations. For the purposes of  
17 this paragraph, "agricultural education programs"  
18 means activities or events designed to promote  
19 knowledge and understanding of agricultural activities  
20 and practices conducted on a farming operation as  
21 defined in section 165-2;



1       ~~[(+20)]~~ (19) Solar energy facilities that do not occupy more  
2            than ten per cent of the acreage of the parcel, or  
3            twenty acres of land, whichever is lesser or for which  
4            a special use permit is granted pursuant to section  
5            205-6; provided that this use shall not be permitted  
6            on lands with soil classified by the land study  
7            bureau's detailed land classification as overall  
8            (master) productivity rating class A;

9       ~~[(+21)]~~ (20) Solar energy facilities on lands with soil  
10           classified by the land study bureau's detailed land  
11           classification as overall (master) productivity rating  
12           B or C for which a special use permit is granted  
13           pursuant to section 205-6; provided that:

14           (A) The area occupied by the solar energy facilities  
15                is also made available for compatible  
16                agricultural activities at a lease rate that is  
17                at least fifty per cent below the fair market  
18                rent for comparable properties;

19           (B) Proof of financial security to decommission the  
20                facility is provided to the satisfaction of the  
21                appropriate county planning commission before the



1 date of commencement of commercial generation;  
2 and  
3 (C) Solar energy facilities shall be decommissioned  
4 at the owner's expense according to the following  
5 requirements:

- 6 (i) Removal of all equipment related to the  
7 solar energy facility within twelve months  
8 of the conclusion of operation or useful  
9 life; and  
10 (ii) Restoration of the disturbed earth to  
11 substantially the same physical condition as  
12 existed before the development of the solar  
13 energy facility.

14 For the purposes of this paragraph, "agricultural  
15 activities" means the activities described in  
16 paragraphs (1) to (3);

17 [~~22~~] (21) Geothermal resources exploration and geothermal  
18 resources development, as defined under section 182-1;

19 [~~23~~] (22) Hydroelectric facilities, including the  
20 appurtenances associated with the production and  
21 transmission of hydroelectric energy, subject to



1 section 205-2; provided that the hydroelectric  
2 facilities and their appurtenances:  
3 (A) Shall consist of a small hydropower facility as  
4 defined by the United States Department of  
5 Energy, including:  
6 (i) Impoundment facilities using a dam to store  
7 water in a reservoir;  
8 (ii) A diversion or run-of-river facility that  
9 channels a portion of a river through a  
10 canal or channel; and  
11 (iii) Pumped storage facilities that store energy  
12 by pumping water uphill to a reservoir at  
13 higher elevation from a reservoir at a lower  
14 elevation to be released to turn a turbine  
15 to generate electricity;  
16 (B) Comply with the state water code, chapter 174C;  
17 (C) Shall, if over five hundred kilowatts in  
18 hydroelectric generating capacity, have the  
19 approval of the commission on water resource  
20 management, including a new instream flow

1 standard established for any new hydroelectric  
2 facility; and  
3 (D) Do not impact or impede the use of agricultural  
4 land or the availability of surface or ground  
5 water for all uses on all parcels that are served  
6 by the ground water sources or streams for which  
7 hydroelectric facilities are considered; or  
8 ~~[-24-]~~ (23) Notwithstanding any other law to the contrary,  
9 composting and co-composting operations; provided that  
10 operations that process their own green waste and do  
11 not require permits from the department of health  
12 shall use the finished composting product only on the  
13 operation's own premises to minimize the potential  
14 spread of invasive species."

15 SECTION 5. Section 205-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) ~~[Within agricultural districts, uses compatible to~~  
18 ~~the activities described in section 205-2 as determined by the~~  
19 ~~commission shall be permitted; provided that accessory]~~  
20 Accessory agricultural ~~[uses and services]~~ activities described  
21 in ~~[sections 205-2 and 205-4.5]~~ section 205- may be further



1 defined by each county by zoning ordinance. [~~Each county shall~~  
2 ~~adopt ordinances setting forth procedures and requirements,~~  
3 ~~including provisions for enforcement, penalties, and~~  
4 ~~administrative oversight, for the review and permitting of~~  
5 ~~agricultural tourism uses and activities as an accessory use on~~  
6 ~~a working farm, or farming operation as defined in section~~  
7 ~~165-2. Ordinances shall include but not be limited to:~~

8       ~~(1) Requirements for access to a farm, including road~~  
9           ~~width, road surface, and parking;~~

10       ~~(2) Requirements and restrictions for accessory facilities~~  
11           ~~connected with the farming operation, including gift~~  
12           ~~shops and restaurants;~~

13       ~~(3) Activities that may be offered by the farming~~  
14           ~~operation for visitors;~~

15       ~~(4) Days and hours of operation; and~~

16       ~~(5) Automatic termination of the accessory use upon the~~  
17           ~~cessation of the farming operation.~~

18 ~~Each county may require an environmental assessment under~~  
19 ~~chapter 343 as a condition to any agricultural tourism use and~~  
20 ~~activity.] Other uses may be allowed by special permits issued~~  
21 ~~pursuant to this chapter. The minimum lot size in agricultural~~



1 districts shall be determined by each county by zoning  
2 ordinance, subdivision ordinance, or other lawful means;  
3 provided that the minimum lot size for any agricultural use  
4 shall not be less than one acre, except as provided herein. If  
5 the county finds that unreasonable economic hardship to the  
6 owner or lessee of land cannot otherwise be prevented or where  
7 land utilization is improved, the county may allow lot sizes of  
8 less than the minimum lot size as specified by law for lots  
9 created by a consolidation of existing lots within an  
10 agricultural district and the resubdivision thereof; provided  
11 that the consolidation and resubdivision do not result in an  
12 increase in the number of lots over the number existing [~~prior~~  
13 ~~to~~] before consolidation; [~~and~~] provided further that in no  
14 event shall a lot [~~which~~] that is equal to or exceeds the  
15 minimum lot size of one acre be less than [~~that~~] the minimum  
16 established after the consolidation and resubdivision action.  
17 The county may also allow lot sizes of less than the minimum lot  
18 size as specified by law for lots created or used for plantation  
19 community subdivisions as defined in section 205-4.5(a)(12) [~~7~~];  
20 for public, private, and quasi-public utility purposes [~~7~~]; and



1 for lots resulting from the subdivision of abandoned roadways  
2 and railroad easements."

3 PART III

4 SECTION 6. Section 141-9, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) There [~~is~~] shall be established within the department  
7 of agriculture and biosecurity an energy feedstock program that  
8 shall:

- 9 (1) Maintain cognizance of actions taken by industry and  
10 by federal, state, county, and private agencies in  
11 activities relating to the production of energy  
12 feedstock, and promote and support worthwhile energy  
13 feedstock production activities in the State;
- 14 (2) Serve as an information clearinghouse for energy  
15 feedstock production activities;
- 16 (3) Coordinate development projects to investigate and  
17 solve biological and technical problems involved in  
18 raising selected species with commercial energy  
19 generating potential;
- 20 (4) Actively seek federal funding for energy feedstock  
21 production activities;



- 1 (5) Undertake activities required to develop and expand  
2 the energy feedstock production industry; and  
3 (6) Perform other functions and activities as may be  
4 assigned by law, including monitoring the compliance  
5 provisions under section [~~205-4.5(a)(16).~~] 205-  
6 4.5(a)(15)."

7 SECTION 7. Section 141-13, Hawaii Revised Statutes, is  
8 amended by amending subsection (d) to read as follows:

9 "(d) For the purposes of this section, "farmers' market"  
10 shall have the same meaning as in section [~~205-2(d)(15)(D).~~]  
11 205-2(d)(14)(D)."

12 SECTION 8. Section 165-2, Hawaii Revised Statutes, is  
13 amended by amending the definition of "farming operation" to  
14 read as follows:

15 ""Farming operation" means a commercial agricultural,  
16 silvicultural, or aquacultural facility or pursuit conducted, in  
17 whole or in part, including the care and production of livestock  
18 and livestock products, poultry and poultry products, apiary  
19 products, and plant and animal production for nonfood uses; the  
20 planting, cultivating, harvesting, and processing of crops; and  
21 the farming or ranching of any plant or animal species in a



1 controlled salt, brackish, or freshwater environment. "Farming  
2 operation" includes but shall not be limited to:

3 (1) Agricultural-based commercial operations as described  
4 in section [~~205-2(d)(15)~~]; 205-2(d)(14);

5 (2) Noises, odors, dust, and fumes emanating from a  
6 commercial agricultural or an aquacultural facility or  
7 pursuit;

8 (3) Operation of machinery and irrigation pumps;

9 (4) Ground and aerial seeding and spraying;

10 (5) The application of chemical fertilizers, conditioners,  
11 insecticides, pesticides, and herbicides; and

12 (6) The employment and use of labor.

13 A farming operation that conducts processing operations or salt,  
14 brackish, or freshwater aquaculture operations on land that is  
15 zoned for industrial, commercial, or other nonagricultural use  
16 shall not, by reason of that zoning, fall beyond the scope of  
17 this definition; provided that those processing operations form  
18 an integral part of operations that otherwise meet the  
19 requirements of this definition."

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



1           "(c) Rural districts shall include activities or uses as  
2 characterized by low density residential lots of [~~not~~] no more  
3 than one dwelling house per one-half acre, except as provided by  
4 county ordinance pursuant to section 46-4(c), in areas where  
5 "city-like" concentration of people, structures, streets, and  
6 urban level of services are absent, and where small farms are  
7 intermixed with low density residential lots except that within  
8 a subdivision, as defined in section 484-1, the commission for  
9 good cause may allow one lot of less than one-half acre, but  
10 [~~not~~] no less than eighteen thousand five hundred square feet,  
11 or an equivalent residential density, within a rural subdivision  
12 and permit the construction of one dwelling on such lot;  
13 provided that all other dwellings in the subdivision shall have  
14 a minimum lot size of one-half acre or 21,780 square feet. Such  
15 petition for variance may be processed under the special permit  
16 procedure. These districts may include contiguous areas [~~which~~]  
17 that are not suited to low density residential lots or small  
18 farms by reason of topography, soils, and other related  
19 characteristics. Rural districts shall also include golf  
20 courses, golf driving ranges, and golf-related facilities.





**Report Title:**

Agricultural Tourism Activities; Counties; DAB; Uniform  
Statewide Standards; Report; Principal Farming Operation

**Description:**

Establishes statewide, uniform standards to promote agricultural tourism activities in the State for all counties that have adopted an agricultural tourism ordinance. Requires agricultural tourism activities to be registered by the county planning department. Requires agricultural tourism activities to coexist with an agricultural activity on a farming operation and to be accessory and secondary to the principal farming operation. Establishes a process for the termination of an authorization for agricultural tourism activities upon a determination that the agricultural activity has ceased. Requires report to the Legislature. 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.*

