

**ACT 186**

H.B. NO. 138

A Bill for an Act Relating to Agricultural Goods.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a means of identifying the owner of large lots of picked fruits, nuts, or vegetables of any tree, vine, or plant, or large lots of shrimps, prawns, shell fish, fish, seaweed, algae, and other aquaculture products, or large lots of flowers, ornamentals, or other horticultural products to give law enforcement officers an additional means of identifying the lawful owners

of these agricultural commodities and to assist in the prevention of theft of these commodities.

SECTION 2. Chapter 145, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART II. OWNERSHIP AND MOVEMENT OF AGRICULTURAL COMMODITIES**

**§145- Definition.** For purposes of this part, “agricultural commodity” means any fruit, nut, or vegetable that is the food product of any tree, vine, or plant, or any aquacultural, horticultural, or floricultural product.

**§145- Agricultural commodities; ownership and movement certification.** Every owner, upon sale or transportation of lots of over two hundred pounds or with a value of at least \$100, of any agricultural commodity that is marketed for commercial purposes, shall complete a certificate describing the commodity and indicating:

- (1) The seller, owner, buyer, or consignee;
- (2) The origin; and
- (3) The destination.

Two copies of the certificate shall accompany the shipment and a copy shall be retained by the owner. One of the copies of the certificate shall be presented upon request to a state or county law enforcement officer or other officer or employee as described in section 145-

**§145- Lack of proof of ownership as a violation.** The failure of any person who sells, transports, or possesses after sale or transport, agricultural commodities in lots of over two hundred pounds or with a value of at least \$100, to maintain a certificate of ownership or other written proof of ownership that describes the commodity is a violation of this part.

**§145- Authorization to inspect.** Every law enforcement officer or other officer or employee as described in section 145- having probable cause to believe that the possession, sale, or transportation of agricultural commodities is unlawful, may take reasonable steps to detain the person having possession, selling, or transporting the agricultural commodities and request from the person being detained proof of ownership of the commodities.

**§145- Enforcement; citation and summons.** Violations of this part or any rule adopted pursuant thereto may be enforced by citation and summons issued by:

- (1) Any state or county law enforcement officer; or
- (2) Any officer or employee of the department of agriculture, authorized and designated by the board of agriculture to investigate and enforce this chapter and all rules adopted by the department pursuant thereto.

**§145- Form of citation and summons.** (a) In issuing citations and summons for violations of this part, state and county law enforcement officers shall use the summons and complaint citation books issued by the judiciary for violations of the traffic code.

(b) Citations issued by officers and employees as described in section 145- (2) shall use citation and summons forms that shall warn the person to

appear and answer the charge against the person at a place and at a time within thirty days after the citation.

The citation and summons shall be in a form that allows a carbon copy to be provided to the accused. The district courts may provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

**§145- Authorization to seize and hold commodities; disposition.** (a) In addition to the issuance of a citation and summons, upon reasonable belief that the person is in unlawful possession of agricultural commodities a law enforcement officer or other officer or employee as described in section 145- shall be authorized to hold the agricultural commodity for not longer than forty-eight hours to investigate and ascertain the ownership of the agricultural commodity. If the lawful owner is determined and located, the agricultural, aquacultural, or horticultural commodity shall be released to the lawful owner.

(b) If for any reason the agricultural commodity is not released to the lawful owner after being in the custody of the law enforcement officer or other officer or employee as described in section 145- for forty-eight hours, or less in the case of highly perishable commodities, the commodity may be sold at fair market value to any retailer, wholesaler, or packer of the commodity. All of the proceeds derived from the sale shall be held by the law enforcement officer or other officer or employee as described in section 145- for not longer than six months, during which time the lawful owner of the commodity may submit satisfactory proof of ownership and obtain possession of the proceeds. The owner may be held responsible for any costs and expenses that may be incurred by the law enforcement officer or other officer or employee as described in section 145- . Any proceeds of sale not recovered within six months for lack of a claim or for insufficient proof shall be treated as unclaimed property of the State.

(c) Any commodity that remains unsold after being offered for sale pursuant to this section may be donated to a nonprofit charitable organization or destroyed at the discretion of the law enforcement officer or other officer or employee as described in section 145-

**§145- Administration of oath.** When a complaint is made by officers and employees as described in section 145- (2) to any prosecuting officer of the violation of this part or of any rules adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to it under oath administered by another official of the department whose name has been submitted to the prosecuting officer and who has been designated by the chairperson of the board of agriculture to administer the oaths.”

SECTION 3. Chapter 145, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“CHAPTER 145  
REGULATION OF [DEALERS IN] FARM PRODUCE”**

SECTION 4. Chapter 145, Hawaii Revised Statutes, is amended by designating sections 145-1 to 145-15 as part I and inserting a title before section 145-1 to read as follows:

**“PART I. REGULATION OF DEALERS”**

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 2, 1999.)