
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 during the last
2 several decades, population growth and migration to Hawaii has
3 resulted in urban encroachment into rural areas traditionally
4 reserved for agricultural activity. This intrusion brings
5 inevitable conflict when new neighbors face dust, pesticide use,
6 noise, and other activity typical of farming operations. State
7 legislatures across the nation have responded by giving farmers
8 a basic "right to farm" without the fear of lawsuits brought by
9 offended neighbors.

10 In 2001, Hawaii joined the rest of the country by passing
11 the Hawaii Right to Farm Act. As one judge remarked while
12 dismissing a lawsuit against a pig farmer, "pork production
13 generates odors which cannot be prevented, and so long as the
14 human race consumes pork, someone must tolerate the smell."
15 Right to farm laws do not give farmers complete freedom to do
16 as they please. Farmers must operate in a legal and
17 reasonable manner to be eligible for the law's protection and
18 must follow best management practices.



1 The legislature also finds that despite being one of the
2 State's most important economic sectors, Hawaii farmers continue
3 to face an onslaught of problems that challenge their freedom to
4 farm as well as their long-term viability and sustainability.
5 Article XI, section 3, of the Hawaii State Constitution mandates
6 that "The State shall conserve and protect agricultural lands,
7 promote diversified agriculture, increase agricultural self-
8 sufficiency and assure the availability of agriculturally
9 suitable lands." This policy sets forth the State's
10 responsibility to oversee and implement laws and rules to guide
11 the success and development of Hawaii's agricultural community.
12 No county charter appropriately provides a county role in
13 regulating agriculture, nor does any county government dedicate
14 a department with financial resources and qualified agricultural
15 and scientific professionals necessary to fulfill that role.

16 The legislature instead finds that the state department of
17 agriculture, the United States Department of Agriculture, the
18 United States Food and Drug Administration, and the United
19 States Environmental Protection Agency are the governmental
20 entities responsible for the oversight of agriculture in Hawaii,
21 as well as of agricultural imports and exports. The Hawaii
22 Right to Farm Act, the United States Department of Agriculture's



1 Plant Protection Act, and other state and federal mandates
2 provide consistent policies that apply to all farmers doing
3 business in Hawaii, regardless of the crop or commodity being
4 grown. Hawaii farmers have made great strides over the years,
5 and state laws and rules ensure uniformity and consistency,
6 reflect changes in the agricultural industry, and encourage
7 investment in infrastructure and technology.

8 The legislature finds that technology plays an ever-
9 increasing role in agriculture. It can be found in the
10 methodology and equipment that have made farmers more
11 successful, sustainable, and better stewards of the land and
12 resources. Technology permits farmers to use resources more
13 efficiently and to better manage inputs, allowing them to grow
14 more high-quality crops with increasing efficiency and success.
15 The use of these technologies strengthens the State socially,
16 economically, and environmentally by creating local job
17 opportunities, enhancing food security, and making more
18 efficient use of land, labor, water, and necessary inputs.

19 The purpose of this Act is to protect the farmer's freedom
20 to farm and promote lawful and proven agricultural activities by
21 bona fide farmers that are consistent with long-standing state
22 and federal laws, rules, and regulations.



1 SECTION 2. Section 165-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§165-4 Right to farm. No court, official, public
4 servant, or public employee shall declare any farming operation
5 a nuisance for any reason if the farming operation has been
6 conducted in a manner consistent with generally accepted
7 agricultural and management practices. There shall be a
8 rebuttable presumption that a farming operation does not
9 constitute a nuisance. The right of farmers and ranchers to
10 engage in modern farming and ranching practices shall be forever
11 guaranteed in this State. No law, ordinance, or resolution of
12 any unit of local government shall be enacted that abridges the
13 right of farmers and ranchers to employ agricultural technology,
14 modern livestock production, and ranching practices not
15 prohibited by federal or state law, rules, or regulations."

16 SECTION 3. New statutory material is underscored.

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

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H.B. NO. 2506

Report Title:

Right to Farm; Counties

Description:

Amends Hawaii's Right to Farm Act to ensure that counties cannot enact laws, ordinances, or resolutions to limit the rights of farmers and ranchers to engage in modern farming and ranching practices.

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