



GOV. MSG. NO. **917**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 8, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 8, 2007, the following bill was signed into law:

SB1943 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO ENERGY.
(ACT 159)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 8 2007

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 159
S.B. NO. 1943
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that Hawaii's dependence
2 on petroleum for about ninety per cent of its energy needs is
3 more than any other state in the nation. This makes the state
4 extremely vulnerable to oil embargos, supply disruptions,
5 international market dysfunctions, and many other factors beyond
6 the control of the state. Furthermore, the continued
7 consumption of conventional petroleum fuel negatively impacts
8 the environment. At the same time, Hawaii has some of the most
9 abundant renewable energy resources in the world, in the form of
10 solar, geothermal, wind, biomass, and ocean energy assets.

11 The legislature also finds that increased energy efficiency
12 and use of renewable energy resources would increase Hawaii's
13 energy self-sufficiency, achieving broad societal benefits,
14 including increased energy security, reduced impact of increases
15 in oil prices, environmental sustainability, economic
16 development, and job creation.



1 To shape Hawaii's energy future and achieve the goal of
 2 energy self-sufficiency for the State of Hawaii, efforts must
 3 continue on all fronts, integrating new and evolving
 4 technologies, seizing upon economic opportunities to become more
 5 energy efficient and economically diversified, and providing
 6 incentives and assistance to address barriers.

7 It is the intent of the legislature that Hawaii-based
 8 production of energy feedstock shall become a significant
 9 portion of the total feedstock intake for Hawaii biofuels
 10 processing facilities.

11 The purpose of this Act is to encourage further production
 12 and use of biofuels in Hawaii by:

- 13 (1) Establishing biofuel processing facilities as a
 14 permitted use in designated agricultural districts
 15 under chapter 205, Hawaii Revised Statutes; and
- 16 (2) Establishing an energy feedstock program within the
 17 department of agriculture to encourage the production
 18 of energy feedstock in Hawaii and establish milestones
 19 and objectives for energy feedstock to be grown in the
 20 state to meet Hawaii's energy requirements.

21 PART I. BIOFUEL PROCESSING FACILITIES



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

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

7 (2) Farming activities or uses related to animal
8 husbandry, and game and fish propagation;

9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;

12 (4) Wind generated energy production for public, private,
13 and commercial use;

14 (5) Biofuel production as described in section
15 205-4.5(a)(15) for public, private, and commercial
16 use;

17 [+5+] (6) Bona fide agricultural services and uses that
18 support the agricultural activities of the fee or
19 leasehold owner of the property and accessory to any
20 of the above activities, whether or not conducted on
21 the same premises as the agricultural activities to
22 which they are accessory, including but not limited to



1 farm dwellings as defined in section 205-4.5(a)(4),
2 employee housing, farm buildings, mills, storage
3 facilities, processing facilities, vehicle and
4 equipment storage areas, roadside stands for the sale
5 of products grown on the premises, and plantation
6 community subdivisions as defined in section
7 205-4.5(a)(12);

8 ~~(6)~~ (7) Wind machines and wind farms;

9 ~~(7)~~ (8) Small-scale meteorological, air quality, noise,
10 and other scientific and environmental data collection
11 and monitoring facilities occupying less than one-half
12 acre of land; provided that these facilities shall not
13 be used as or equipped for use as living quarters or
14 dwellings;

15 ~~(8)~~ (9) Agricultural parks;

16 ~~(9)~~ (10) Agricultural tourism conducted on a working
17 farm, or a farming operation as defined in section
18 165-2, for the enjoyment, education, or involvement of
19 visitors; provided that the agricultural tourism
20 activity is accessory and secondary to the principal
21 agricultural use and does not interfere with
22 surrounding farm operations; and provided further that



1 this paragraph shall apply only to a county that has
2 adopted ordinances regulating agricultural tourism
3 under section 205-5; and

4 [~~10~~] (11) Open area recreational facilities.

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

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

10 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Within the agricultural district, all lands with soil
13 classified by the land study bureau's detailed land
14 classification as overall (master) productivity rating class A
15 or B shall be restricted to the following permitted uses:

16 (1) Cultivation of crops, including but not limited to
17 crops for bioenergy, flowers, vegetables, foliage,
18 fruits, forage, and timber;

19 (2) Game and fish propagation;

20 (3) Raising of livestock, including but not limited to
21 poultry, bees, fish, or other animal or aquatic life
22 that are propagated for economic or personal use;



- 1 (4) Farm dwellings, employee housing, farm buildings, or
2 activities or uses related to farming and animal
3 husbandry. "Farm dwelling", as used in this
4 paragraph, means a single-family dwelling located on
5 and used in connection with a farm, including clusters
6 of single-family farm dwellings permitted within
7 agricultural parks developed by the State, or where
8 agricultural activity provides income to the family
9 occupying the dwelling;
- 10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;
- 12 (6) Public and private open area types of recreational
13 uses, including day camps, picnic grounds, parks, and
14 riding stables, but not including dragstrips,
15 airports, drive-in theaters, golf courses, golf
16 driving ranges, country clubs, and overnight camps;
- 17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not
22 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) Roadside stands for the sale of agricultural products
7 grown on the premises;

8 (10) Buildings and uses, including but not limited to
9 mills, storage, and processing facilities, maintenance
10 facilities, and vehicle and equipment storage areas
11 that are normally considered directly accessory to the
12 above mentioned uses and are permitted under section
13 205-2(d);

14 (11) Agricultural parks;

15 (12) Plantation community subdivisions, which as used in
16 this paragraph means a subdivision or cluster of
17 employee housing, community buildings, and acreage
18 established on land currently or formerly owned,
19 leased, or operated by a sugar or pineapple plantation
20 and in residential use by employees or former
21 employees of the plantation; provided that the



1 employees or former employees shall have a property
2 interest in the land;

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

13 +] (14) [+] Wind energy facilities, including the appurtenances
14 associated with the production and transmission of
15 wind generated energy; provided that [~~such~~] the wind
16 energy facilities and appurtenances are compatible
17 with agriculture uses and cause minimal adverse impact
18 on agricultural land[-]; or

19 (15) Biofuel processing facilities, including the
20 appurtenances associated with the production and
21 refining of biofuels that is normally considered
22 directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuels processing
2 facilities and appurtenances do not adversely impact
3 agricultural land and other agricultural uses in the
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational
7 infrastructure of the appropriate type and scale
8 for economic commercial storage and distribution,
9 and other similar handling of feedstock, fuels,
10 and other products of biofuels processing
11 facilities.

12 "Biofuel processing facility" means a
13 facility that produces liquid or gaseous fuels
14 from organic sources such as biomass crops,
15 agricultural residues, and oil crops, including
16 palm, canola, soybean, and waste cooking oils;
17 grease; food wastes; and animal residues and
18 wastes that can be used to generate energy.

19 PART II. ENERGY FEEDSTOCK PRODUCTION

20 SECTION 4. The legislature finds that there is
21 considerable interest in producing biofuels in Hawaii to meet
22 alternative energy mandates. Current law requires a ten per



1 cent ethanol content for gasoline. The demand for biofuel
2 production in Hawaii is steadily increasing, which has been the
3 catalyst for the creation of private entities to produce
4 biofuels in this State. However, there is a lack of feedstock
5 in Hawaii to produce biofuels, which means that private entities
6 must import feedstock. Because of the state's remoteness, it is
7 imperative for the state to be energy self-sufficient.
8 Feedstock is necessary to produce biofuels in order to attain
9 energy self-sufficiency. There are many crops that can grow in
10 tropical environments that may be ideal feedstock for bioenergy
11 production.

12 The purpose of this part is to develop an energy feedstock
13 program within the department of agriculture to encourage the
14 production of energy feedstock in Hawaii and establish
15 milestones and objectives for energy feedstock to be grown in
16 the state to meet its energy requirements.

17 SECTION 5. Chapter 141, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§141- Energy feedstock program. (a) There is
21 established within the department of agriculture an energy
22 feedstock program that shall:



- 1 (1) Maintain cognizance of actions taken by industry and
- 2 by federal, state, county, and private agencies in
- 3 activities relating to the production of energy
- 4 feedstock, and promote and support worthwhile energy
- 5 feedstock production activities in the state;
- 6 (2) Serve as an information clearinghouse for energy
- 7 feedstock production activities;
- 8 (3) Coordinate development projects to investigate and
- 9 solve biological and technical problems involved in
- 10 raising selected species with commercial energy
- 11 generating potential;
- 12 (4) Actively seek federal funding for energy feedstock
- 13 production activities;
- 14 (5) Undertake activities required to develop and expand
- 15 the energy feedstock production industry; and
- 16 (6) Perform other functions and activities as may be
- 17 assigned by law, including monitoring the compliance
- 18 provisions under section 205-4.5(a)(15).
- 19 (b) The chairperson of the board of agriculture shall
- 20 consult and coordinate with the energy resources coordinator
- 21 under chapter 196 to establish milestones and objectives for the
- 22 production of energy feedstock that is grown in the State. The



1 chairperson and the coordinator shall report the state's
2 progress toward meeting such milestones and objectives annually
3 to the legislature.

4 (c) The chairperson of the board of agriculture shall also
5 consult and coordinate with research programs and activities at
6 the University of Hawaii that will assist in the further growth
7 and promotion of the energy feedstock production industry in
8 Hawaii.

9 (d) The chairperson of the board of agriculture may employ
10 temporary staff exempt from chapters 76 and 89. The board may
11 adopt rules pursuant to chapter 91 to effectuate the purposes of
12 this section."

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.



GOVERNOR OF THE STATE OF HAWAII

Approved this day: JUN 8 2007

