

Dukes Law [SB1249/Act 235](#) Summary

Agricultural enforcement pilot program applies to Oahu and Hawaii Island

HRS	Description	Violations
PART III		
HRS 142-A – Violation of Chapter and Adm. Rules	Administrative penalties /legal action for violations of HRS 142	<ul style="list-style-type: none"> • 1st Violation, fine<\$200 • 2nd violation w/in 5 yrs, fine <\$500 • 3rd violation w/in 5 yrs, fine<\$1000
142-B – Habitual Ag. Crime	> 3 criminal offense crimes in HRS 142 w/in 5 yrs., Class C Felony	prison 1-5 yrs. -or- 5 yr. probation after minimum 1 yr. prison
HRS142-D – Inspection before slaughter	Livestock prior to harvest - requires management's inspection of brand to; collection, verification and weekly submittal of the Ownership/Movement Certificate to HDOA; Law enforcement or HDOA Inspectors may assist if violation or theft suspected	<ul style="list-style-type: none"> • 1st Violation, fine<\$200 • 2nd violation w/in 5 yrs, fine <\$500 • 3rd violation w/in 5 yrs, fine<\$1000
HRS142-3.6 – Animal Industry Special fund	Adds receives moneys for fines, fees, costs, damages, brand registrations, and other appropriations, including fines for HRS 708	
HRS142-4 – Entry of animal into state with w/inspection prohibited	Requires every carrier, owner or handler to bringing animals into the state to present them for inspection	Administrative penalty, < \$1000 for each animal

<p>HRS142-8 – Notification of Arrival</p>	<p>Requires immediate notification of arrival by the captain of any vessel or aircraft transporting animals into the State</p>	<p>Misdemeanor</p>
<p>HRS142-12 – Penalties</p>	<p>For HRS 142 and Administrative rule violations</p> <p>Property used in commission, attempt to commit or conspiracy to commit a violationAny property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a violation of this chapter, or that facilitated or assisted the activity, and any proceeds or other property acquired or maintained with the proceeds from a violation of this chapter may be ordered forfeited to the State, subject to the requirements of chapter 712A."</p>	<p>Violations for petty misdemeanors:</p> <ul style="list-style-type: none"> ● 1st offence, fine >\$250 or prison 3-30 days, or both ● 2nd offence w/in 5 yrs, Fine >\$500 or prison 10-30 days, or both ● 3rd offence w/in 5 yrs, Fine \$1000 or prison 30 days, or both <p>Violations for misdemeanors</p> <ul style="list-style-type: none"> ● 1st offence, fine >\$500 or prison 5-365 days or both ● 2nd offence w/in 5 yrs, fine >\$1000 or prison 30-365 days, or both ● 3rd offence w/in 5 yrs, fine \$2000 or prison 365 days or both <p>If penalty is not designated a petty misdemeanor, misdemeanor or felony, then enforced by civil or administrative penalties</p>
<p>HRS142-18 – Disposal of TB animals</p>		<p>Adds failure to segregate TB animals or deliver them to slaughter is a misdemeanor</p>
<p>HRS142-20 – Disinfection of TB premises</p>		<p>Adds failure to disinfect violation misdemeanor</p>
<p>HRS142-23.5 – Unpermitted garbage feeding prohibited</p>		<p>Adds a violation misdemeanor</p>

<p>HRS142-3 – Department Duties</p>	<ol style="list-style-type: none"> 1) DOA may conduct investigations collect data, and require reports from owners of livestock animals 2) Enter private to investigate and inspect 3) Establish and assess fees pursuant to implement and administer 4) Recover expenses incurred in taking any action required by the owner of the livestock 5) Assess and collect administrative penalties for violation of this chapter 6) Place liens on property, to be collected as delinquent taxes against lands and property 7) Assistance of the AG pursue court action for enforcement of order issued by department 8) Cooperate with US Govt. or other State, County agencies as needed 9) Take all other actions as needed to carry out this chapter 	<p>DOA has control of all matters relating to the animal industry, inspection of animals, including brand inspections, and the prevention and eradication of contagious, infectious, and communicable diseases among animals.</p>
<p>HRS142-41 – Brand Registration</p>	<p>Unlawful to use unregistered brand</p>	<p>< \$200 fine for each use of unregistered brand.</p> <p>All moneys received deposited into the Animal Industry Special fund</p>
<p>HRS142-47 – Altering, removing, or obliterating brand or mark</p>	<p>Unlawful to alter...</p>	<p>< \$500 fine for every brand or mark altered</p>

<u>HRS142-48</u> – Prohibited branding or marking penalty	Unlawful for person to brand or mark animal they do not own	Class C felony, fine > \$1000 for each animal branded or marked
<u>HRS142-49</u> – Livestock ownership and movement certification	Upon sale or transportation owner shall complete the certificate and submit to HDOA, accompany the shipment and submit to law enforcement upon request	Subject to administrative penalty <\$500 per animal moved w/o the certification and violation of this section upon sale, movement to slaughter, transport interisland, or interstate
<u>HRS 142-61</u> – Electric Fence penalty	None conforming electric fence penalty	Penalty misdemeanor
<u>HRS 142-62</u> – Breaking Fence penalty	Malicious fence breaking or gate opening, trespasses, removes animals	Penalty petty misdemeanor
<u>HRS142-72</u> – Illegal impounding	May be challenged in court with the impoundment fee held in bond by the court pending the outcome	Impoundment fee held in bond by court
<u>HRS142-74</u> – Dog injurs or destroys livestock, poultry	Dog owner liable for damages, repeat damages and failure to confine	Pay for damages. Repeat violation, damages plus guilty of misdemeanor and dog may be destroyed by any person
<u>HRS142-91</u> – Destruction of animals feral nature	Animal introduced into the State cannot be destroyed for 10 yrs.	Misdemeanor
<u>HRS142-93</u> – Harboring mongoose	Illegal to harbor, feed, care for mongoose	Misdemeanor
<u>HRS142-95</u> – Rabbits, Belgian hares, to be kept off ground; penalty	Rabbit owners shall keep them off the ground	Petty misdemeanor

PART VI		
<u>HRS 146-22</u> – Reports	Hide of slaughtered animal retained for public inspection; report brands of slaughtered animals; report altered, removed, obliterated brands to law enforcement or HDOA	-
<u>HRS159-15</u> – Bonding for License to Slaughter	Slaughter plant to keep records of animals slaughtered and maintain a \$5000 surety bond for that purpose with HDOA	-
PART VI		
<u>HRS 183D-1</u> – Definition	<p>"Agricultural land" means any land used primarily for a farming operation, as defined in section 165-2. (§165-2 Definitions. As used in this chapter, unless the context otherwise requires:"Farming operation" means a commercial agricultural, silvicultural, or aquacultural facility or pursuit conducted, in whole or in part, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.)</p> <p>"Agricultural land" includes land used for farm buildings and dwellings and roads and irrigation infrastructure associated with the agricultural land."</p>	

<p>HRS 183D-52 – Interisland transportation</p>	<p>Interisland transportation and possession of wild or feral deer prohibited</p>	<p>Misdemeanor</p> <ul style="list-style-type: none"> • 1st conviction, fine > \$10,000, cost of eradication, or prison < 1yr, or both • 2nd conviction w/in 5 yrs, fine > \$15,000, cost of eradication, or prison < 1yr, or both • 3rd conviction w/in 5 yrs, fine > \$25,000, cost of eradication, or prison < 1yr, or both
<p>HRS 183D-26, 27 – Hunting on private lands Night hunting</p>	<p>Hunting on private lands prohibited, Night hunting on private lands;</p>	<p>Prohibition</p> <p>Class C felony w/out probation or suspension of sentence</p> <ul style="list-style-type: none"> • For a first offense w/in 10 yrs., prison >180 days - 5 yrs. or prison 180 days w/4 yrs. probation • 2nd offense /in 10 yrs., prison 1 yr. -5 yrs. • and property used in commission of the offense shall be forfeited under chapter 712A
<p>HRS 183D-35, 36, 37, 38, 39, 40, 42 – Various game management</p>	<p>Sale of game birds, carcass to be tagged, retail dealer license, transportation, report by licensed private and commercial shooting preserve operator; farmer, permits, game birds when exclusive property</p>	<p>Petty misdemeanor</p> <ul style="list-style-type: none"> • Fine >\$100 or prison <30 days or both • State can also tale civil action <p>Other: 1st conviction, fines of \$100</p> <ul style="list-style-type: none"> • 2nd offense, \$500 • 1st conviction, hunting license forfeiture • 2nd offense, no hunting license for 3 yrs
<p>PART VII</p>		

<p><u>HRS 708</u> – Criminal trespass on agricultural land.</p>	<p>A person commits the offense of criminal trespass on agricultural land if the person enters or remains unlawfully on agricultural land without the permission of the owner; and the land is fenced, enclosed to exclude intruders; or is fallow or has visible presence of livestock raising; or crop under cultivation, being harvested; has been harvested misdemeanor sentenced without probation or suspension of sentence</p>	<ul style="list-style-type: none"> • 1st offense, or any offense not preceded within five years of a previous conviction for an offense under this section: Prison >3days and fine >\$500 • For an offense that occurs within five years of a previous conviction for an offense under this section: Prison >30 days and fine >\$1000 • For an offense that occurs within five years of two or more previous convictions for offenses under this section: Prison > 90 days and fine of \$2000
<p><u>HRS 708</u> – Criminal trespass on agricultural land) w/ dangerous instrument</p>	<p>Criminal trespass on agricultural land) w/ dangerous instrument</p>	<p>Class C felony</p>
<p><u>HRS 708-814</u> – Criminal Trespass on Agricultural Land</p>	<p>Criminal Trespass on Agricultural Land</p>	<p><i>language is not clear as written and will require a legislative amendment</i></p>
<p><u>HRS 708-820</u> – Criminal property damage in the 1st degree</p>	<p>subsection (1)(d)The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$1,500. In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.</p>	<p>Class B felony Prison>180 days,without probation or sentence suspension</p>

<p>HRS 708-821 – Criminal property damage in the 2nd degree</p>	<p>Criminal property damage in the 2nd degree: subsection (1)(c) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$500. In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.</p>	<p>Class C felony Prison > 180 days, without probation or sentence suspension</p>
<p>HRS 708-822 – Criminal property damage in the 3rd degree</p>	<p>Criminal property damage in the 3rd degree: subsection (1) c) The person intentionally damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent, in an amount exceeding \$100. In calculating the amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.</p>	<p>Misdemeanor Prison > 90 days, without probation or sentence suspension</p>
<p>PART VIII</p>		
<p>HRS 712A-4 – Covered offenses. Offenses for which property is subject to forfeiture</p>	<p>Forfeiture of property for criminal trespass on agricultural land as defined in HRS 708</p>	