



HELP DETER AGRICULTURAL THEFT



Chapter 145, Part II, Hawaii Revised Statutes
Ownership and Movement of Agricultural Commodities

REQUIRES PROOF OF OWNERSHIP – It's the LAW! (see reverse side)

If you sell **any amount** of an agricultural commodity that is to be marketed for commercial purposes; or transport agricultural commodities weighing more than 200 pounds or the value is \$100.00 or more, an **OWNERSHIP AND MOVEMENT CERTIFICATE** is required.

WHAT IS REQUIRED ON THE OWNERSHIP AND MOVEMENT CERTIFICATE?

An Invoice, Receipt, Bill of Lading or similar document can serve the purpose of the certificate, provided that it contains the following information:

1. The name, resident address and telephone number of the seller, and the license plate number of the vehicle used to deliver the agricultural commodity to the buyer
2. The name of the farm owner and address of origin
3. The name of the buyer or consignee and destination
4. Signature of the seller and, upon sale, the signature of the buyer or consignee

The buyer or consignee must verify the seller's identity by having the seller present a valid government issued photo identification card or license. If the commodity is valued at \$300.00 or more, the seller shall also provide the buyer with a photocopy of the identification card or license.

No prospective buyer or consignee shall purchase an agricultural commodity if the seller does not provide a copy of the Ownership and Movement Certificate and verification as required, and shall report an attempted sale which does not meet the above requirements to the police.

Two copies of the certificate must accompany the shipment and one copy is to be retained by the person completing the certificate.

The Ownership and Movement Certification requirements DO NOT apply to the retail sale of an agricultural commodity to the final consumer.

WHY IS THIS REQUIRED?

Proof of ownership is the first step in establishing a paper trail to help deter agricultural theft. If an inspector or law enforcement officer has probable cause to believe agricultural commodities are in unlawful possession, the inspector or law enforcement officer may request proof of ownership of the commodities, which could lead to the seizure of agricultural commodities and criminal penalties.

PROTECT YOURSELF

For more information, contact the Hawaii Department of Agriculture
Dealer Licensing Unit at (808) 832-0700 or FAX at (808) 832-0683



CHAPTER 145
REGULATION OF FARM PRODUCE
PART I. REGULATION OF DEALERS
PART II. OWNERSHIP AND MOVEMENT OF AGRICULTURAL COMMODITIES

§145-21 Definitions. For the 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, silvicultural or floricultural product.

“Person” means any individual, firm, corporation, partnership, or association.

§145-22 Agricultural commodities; ownership and movement certification. (a) Every person, upon sale of any agricultural commodity or upon transportation of lots of any agricultural commodity of more than two hundred pounds or with a value of at least \$100 that is marketed for commercial purposes, shall complete a certificate describing the commodity, the amount and value of the commodity, and shall include:

- (1) The seller’s name, residence address, telephone number, and license plate number of any vehicle used by the seller to deliver the commodity to the place of purchase;
- (2) The name of the farm owner and address of origin;
- (3) The name of the buyer or consignee, and destination; and
- (4) The signature of the seller and, upon sale, the signature of the buyer or consignee.

(b) Prior to completing the certificate, the buyer or consignee shall also require the seller to verify the seller’s identity by having the seller present a valid photo identification card or license issued to the seller by a federal or state government agency. If the commodity being offered for sale has a value of \$300 or more, the seller shall also provide the buyer with a photocopy of the identification card or license of the seller.

(c) No prospective buyer or consignee shall purchase an agricultural commodity from a seller if the seller does not provide a copy of the ownership and movement certification and verification as required by subsections (a) and (b). Every prospective buyer or consignee shall report an attempted sale that does not meet the requirements of subsections (a) and (b) to the police.

(d) Two copies of the certificate shall accompany the shipment and one copy each shall be retained by the seller and the buyer or consignee. One of the copies of the certificate shall be presented upon request to a state or county law enforcement officer or other officer, employee, or any other person authorized and designated by the board of agriculture to investigate and enforce this chapter and all rules adopted by the department pursuant thereto.

(e) This section shall not apply to the retail sale of an agricultural commodity to the final consumer.

§145-23 Lack of proof of ownership as a violation. The failure of any person who sells, transports, or possesses after sale or transport, agricultural commodities to maintain a certificate of ownership or other written proof of ownership of the agricultural commodity, as described in section 145-22, is a violation of this part and also prima facie evidence of an offense under section 708-831(1)(e).

§145-24 Authorization to inspect. Every law enforcement officer or other officer or employee as described in section 145-25 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.

§145-25 Enforcement; criminal penalties. Violations of this part or any rule adopted pursuant thereto shall be criminal offenses as follows:

- (1) A violation in which the value of the agricultural commodity exceeds \$100 shall be a class c felony; and
- (2) A violation in which the value of the agricultural commodity is \$100 or less shall be a misdemeanor.

§145-27 Authorization to seize and hold commodities; disposition. (a) Upon reasonable belief that a person is in unlawful possession of agricultural commodities a law enforcement officer or other officer or employee 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 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 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. 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.

(d) For the purposes of this section, “officer or employee” means any officer or employee of the department of agriculture or any other person authorized and designated by the board of agriculture to investigate and enforce this chapter and all rules adopted by the department pursuant thereto.