

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS

**FRIDAY, MARCH 3, 2023
10:00 AM
CONFERENCE ROOM 211 AND VIDEOCONFERENCE**

**SENATE BILL NO. 745 SD1
RELATING TO AGRICULTURE**

Chairpersons Rhoads and Dela Cruz and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 745 SD1. This measure extends the offense of false labeling of Hawaii-grown coffee to include roasted coffee. Imposes \$10,000 fine for each separate offense of false labeling of Hawaii-grown roasted coffee. Makes an appropriation for 1.0 FTE enforcement position. The Department of Agriculture (DOA) supports this measure.

DOA supports the appropriation of funds to hire one full time measurement standards specialist/inspector (approximate appropriation request of \$100,000) for the purpose of labeling and packaging enforcement and inspection. The inspector will help rebuild DOA's capability to address labeling enforcement challenges in various Hawaii products especially with roasted coffee. The inspector will take the lead in researching and utilizing new recognized testing measures to identify different products geographically such as Oritain technology (<https://oritain.com>), which can generate science-based data from specific coffee growing regions as a proof and confirmation of truth or false labeling. Thank you for the opportunity to testify on this measure.





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March 3, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY
SENATE COMMITTEE ON WAYS AND MEANS

**TESTIMONY ON SB 745, SD1
RELATING TO AGRICULTURE**

Conference Room 211 & Videoconference
10:00 AM

Aloha Chairs Rhoads and Dela Cruz, Vice-Chairs Gabbard and Keith-Agaran, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 745, SD1, which extends the offense of false labeling of Hawai'i-grown coffee to include roasted coffee, imposes a \$10,000 fine for each separate offense of false labeling of Hawai'i-grown roasted coffee, and makes an appropriation for one enforcement position.

Hawai'i-grown coffee is recognized for its high quality and aromatic flavor. Hawai'i-grown coffee is held to a set of quality standards that makes it one of the most expensive coffees in the world. It is one of Hawai'i's signature crops.

The 2021-2022 USDA National Agriculture Statistics Service (NASS) of Hawai'i Agriculture estimated the value of Hawai'i-grown coffee at \$61.9 million and ranked as coffee fifth in the top twenty agricultural commodities in the State.

To protect the Hawai'i coffee industry from counterfeiting, the legislature in 2012, enacted Act 323, which established criminal penalties for Hawai'i-grown cherry, parchment, and green coffee that is falsely labeled with regard to the geographic origin. However, in addition to the geographic origin, stricter enforcement of the labeling restrictions based on the quality of the coffee being sold is critical to prevent further counterfeiting of Hawai'i's recognized high-quality coffee. Furthermore, the criminal penalties for false labeling should apply not only to cherry, parchment, and green coffee but also to roasted coffee.

Thank you for the opportunity to testify on this measure.



Officers

Kaipo Kekona
State President

Anabella Bruch
Vice-President

Maureen Datta
Secretary

Reba Lopez
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Chapter Presidents

Madeline Ross
Kohala, Hawai'i

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Kona, Hawai'i

Fawn Helekahi-Burns
Hana, Maui

Reba Lopez
Haleakala, Maui

Kaiea Medeiros
Mauna Kahalawai,
Maui

Kaipo Kekona
Lahaina, Maui

Rufina Kaauwai
Molokai

Negus Manna
Lāna'i

Brynn Foster
North Shore, O'ahu

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Ray Maki
Kauai

Aloha Chair Rhoads, Dela Cruz, Vice Chair Gabbard, Keith-Agaran, and Members of the Senate, Senate Judiciary, Ways and Means Committee,

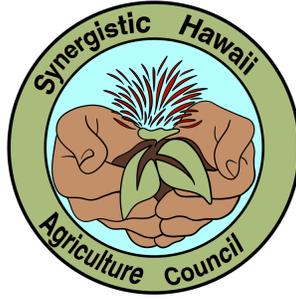
The Hawaii Farmers Union United (HFUU) is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports SB745.**

We believe that it is time for Hawaii's coffee industry to have the same protections as the many other agricultural industries in the state. We understand that honest labeling in the coffee industry is widely regarded as important in maintaining trust among consumers, and this bill will help ensure that all coffee labeled as "Hawaii Grown" is actually grown in the islands. This level of transparency is necessary in order to protect the reputation of Hawaii's coffee industry.

Furthermore, we believe that the \$10,000 fine for each separate offense of false labeling is necessary in order to ensure that farmers are adequately protected and to discourage any future fraudulent labeling of Hawaii-grown coffee. The proposed appropriation of 1.0 FTE enforcement position to enforce the bill is also essential to make sure that the legal protections offered by SB745 Agriculture are enforced properly. Therefore, we strongly support this bill and urge the legislature to pass it in order to ensure the growth of Hawaii's coffee industry and adequate legal protection for the farmers.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF



RE: SUPPORT for SB745
RELATING TO AGRICULTURE
Coffee Labeling

Aloha Chair, Vice Chair, and Committee Members,

The Synergistic Hawai'i Agriculture Council (SHAC) stands in support of this Bill. Our consortium represents 1,500 agribusinesses, from growers to processors and shippers, stretching across the State.

SHAC receives Federal marketing funds to promote 100% Hawaiian origin products around the world, including coffee, papaya, floriculture and macadamia nuts. Frequently we find that the demand for 100% Hawaiian products far exceeds available supply. **Quite simply, there is not enough Kona, Ka'u or Maui coffee to meet the global desire for Hawaiian coffee. This makes our coffees highly vulnerable to counterfeiting.**

We appreciate the Legislature working to protect the coffee industry through protection of origin products from cherry all the way through roasted coffee. The technology exists to test the authenticity of both grade and origin of Hawaiian coffee. Enforcement of this bill is expected to be on an as-needed basis, such as a consumer complaint.

Please pass this bill. Mahalo nui loa!

Suzanne Shriner
Administrator

SB-745-SD-1

Submitted on: 3/1/2023 7:47:56 PM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Bruce Corker	Testifying for Rancho Aloha Coffee Farm	Support	Written Testimony Only

Comments:

Members of the JDC and WAM Committees:

I am a coffee farmer in the North Kona District of Hawaii County and **support** the passage of SB745.

However, I recommend two amendments to the SB745, SD1:

(1) **Instant and RTD Coffee:** In 708-871.5(1) it would clarify the intended scope of the bill to add to the list of covered products not only “roasted coffee”, but also “instant coffee” and “ready to drink coffee” to make clear that latter two products (which are made from roasted coffee) are also covered by the proposed law. [Ready to Drink (RTD) coffee is brewed coffee sold in cans or other containers and RTD coffee has often been deceptively labeled as brewed from Kona or other Hawaii-Grown roasted coffees.]

(2) **Enforcement in Other States:** The Hawaii Department of Agriculture has long taken the position that it does not have the authority to enforce Hawaii’s labeling laws against counterfeiters in other states. However, other states have developed systems for bringing enforcement actions against out of state marketers of counterfeit products using their state-protected names for agricultural products. Examples are the Idaho Potato Commission which pursues legal actions against marketers that sell counterfeit Idaho potatoes in other states; and similarly, Georgia brings legal actions against those selling counterfeit Vidalia Onions in other states. My suggestion is that the bill be expanded (1) to include \$20,000 appropriation for the HDOA to review the systems used by other states (including Idaho and Georgia) to bring legal action against those marketing counterfeit agricultural products in other parts of the country; and (2) that the HDOA report its findings and recommendations from those findings to the Legislature prior to the 2024 Session. Counterfeiting of Hawaii-grown agricultural crops affects not just coffee growers, but producers of many other Hawaii specialty crops such as macadamia nuts, cacao, tea, hemp and other more. Hawaii needs to follow the examples of other states to protect the "Hawaii Brand" and protect the intesests of its specialty crop farmers.

Please amend and pass SB745.

Thank you,

Bruce Corker

Rancho Aloha

Holualoa, Hawaii County

SB-745-SD-1

Submitted on: 3/1/2023 8:20:40 AM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of SD1. Thank you.



IN SUPPORT OF SB745
RELATING TO AGRICULTURE
Roasted Coffee, False Labeling, Fines, Appropriations

Aloha Chair, and Esteemed Committee Members,

The Kona Coffee Farmers Association stands in support of SB745, alongside the Hawaii Coffee Association and other industry associations. The KCFA represent nearly 200 farms and agribusinesses in the Kona districts and our mission is to protect the economic interests of our growers.

As you may be aware, there is was successful class action lawsuit by Kona growers against mainland and Hawaiian roasters for allegedly counterfeiting roasted coffee as “Kona”. It is time that the State establishes protocols to prosecute bad actors in the roasting community.

This Bill closes a gap where imitators have escaped oversight. By granting HDOA the ability to verify the authenticity of a roasted coffee’s origin, it opens the door for better enforcement and improve price discovery likely leading to higher profits to farmers. The less counterfeit coffee in the marketplace, the greater the demand for real Hawaiian coffee.

The technology to inspect roasted coffee for origin is basic and mainstream. The Kona Coffee Farmers is in the process of collaborating with a technology company to use mass spectrophotometry to uniquely identify Kona coffee characteristics. There is a completed study with the University of Hawaii on roasted coffee, where they use readily-available lab equipment to successfully differentiate between Kona and non-Kona beans (Jun Wang, et al., Vol. 74, Nr. 5, 2009—JOURNAL OF FOOD SCIENCE). Other mainland studies confirm that “coffee DNA” testing is scientifically valid, including a project by the Hawaii Coffee Association to build a “fingerprint” of all coffees statewide through the Oritain database. **Granting HDOA the authority to inspect roasted coffee is a necessary step to protect Hawaiian coffees from counterfeiting.**

Thank you for considering a hearing on this bill. Your attention makes a difference in the lives of hundreds of farmers.

Mahalo nui loa!



Suzanne Shriner
President