



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 890, S.D. 1, RELATING TO BUSINESS REGULATION.

BEFORE THE:

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON
ECONOMIC DEVELOPMENT AND TOURISM

DATE: Wednesday, February 26, 2025 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Travis T. Moon or Christopher J.I. Leong, Deputy Attorneys
General

Chairs Keohokalole and DeCoite and Members of the Committee:

The Department of the Attorney General provides the following comments.

The bill proposes to add a new section to part V, chapter 486, Hawaii Revised Statutes, that prohibits the labeling of any "poi" product as poi unless the product is made entirely of taro grown in the State, and makes it a violation to sell any poi product labeled as "poi" if the poi is derived from taro grown outside of the State.

The bill could be subject to a constitutional challenge under the U.S. Constitution's dormant Commerce Clause, which authorizes the federal government to regulate commerce and exclude undue state interference, thereby precluding state laws that impermissibly burden interstate commerce (U.S. Const. art. I, § 8, cl. 3). The Supreme Court has held that a state law violates the dormant Commerce Clause if it mandates "differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." *Granholm vs. Heald*, 544 U.S. 460, 472 (2005) (citing *Oregon Waste Sys., Inc. v. Dep't of Env't Quality of Ore.*, 511 U.S. 93, 99 (1994)). "A regulation that discriminates against interstate commerce may be facially discriminatory or may be neutral on its face but discriminatory in effect". *United Egg Producers v. Dep't of Agriculture of the Commonwealth of Puerto Rico*, 77 F.3d 567, 571 (1st Cir. 1995). See also *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

The bill may be considered discriminatory on its face because it imposes a labeling requirement on taro grown out-of-state, but not on taro grown in-state. See, e.g., *United Egg Producers*, supra at 571 (imposing a labeling requirement on eggs produced outside Puerto Rico but not on eggs produced in Puerto Rico facially discriminates against interstate commerce). A "discriminatory [state] law is virtually per se invalid, and will survive only if it advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives[.]" *Dep't of Revenue of Ky. v. Davis*, 553 U.S. 328, 338–39 (2008) (internal quotation marks and citations omitted). Thus, if this bill is to advance, we recommend providing an explanation on how the bill advances a legitimate state purpose (i.e. health, safety, and general welfare), that cannot be adequately served by a reasonable nondiscriminatory alternative.

The bill may also be subject to a challenge under the Free Speech Clause of the First Amendment to the United States Constitution. The United States Supreme Court has established that product labeling or advertising constitutes commercial speech. "For commercial speech to come within the First Amendment, it at least must concern lawful activity and not be misleading." See *Rubin v. Coors Brewing Co.*, 514 U.S. 476, 481 (1995) (holding that a federal law prohibiting beer labels from displaying alcohol content violated the First Amendment). If the commercial speech is neither misleading nor relating to unlawful activity, the governmental interest in regulating such commercial speech must be substantial, and the regulation must directly advance the governmental interest asserted and not be more extensive than is necessary to serve that interest. *Id.*

The bill regulates commercial speech by prohibiting the use of the word "poi" on poi product labels if not derived from taro grown entirely in the State. If this bill is to advance, to strengthen the bill against a potential challenge, we recommend providing an explanation on the substantial governmental interest that is directly advanced by the regulation.

Thank you for the opportunity to comment on this bill.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

LATE

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State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

**BEFORE THE SENATE COMMITTEES ON COMMERCE AND CONSUMER
PROTECTION AND ECONOMIC DEVELOPMENT AND TOURISM**

WEDNESDAY, FEBRUARY 26, 2025
9:30 AM
CONFERENCE ROOM 229 AND VIDEOCONFERENCE

SENATE BILL NO. 890, SD1
RELATING TO BUSINESS REGULATION

Chairs Keohokalole and DeCoite, Vice Chairs Fukunaga and Wakai, and Members of the Committees:

Thank you for the opportunity to testify on this measure that prohibits the sale, offer for sale, display, or marketing for sale of any product labeled as "poi" unless the product is wholly derived from taro (kalo) that is grown within the State. The Department of Agriculture supports the intent of this bill and offers comments.

Currently, the Department of Agriculture does not have the capability of inspection or enforcement in this area. If this measure should move forward into law and change HRS 486- to include Poi; labeling requirements, DOA respectfully asks for one FTE and that funds be added to this bill to support one Measurement Standards Inspector V SR-19 \$65,000, to support and restore enforcement capability for labeling regulations for Hawaii products such as coffee, macadamia nuts, mamaki tea, and poi labeling requirements. This inspector will inspect and enforce the new laws.

Thank you for the opportunity to testify on this measure.



LATE

SB-890-SD-1

Submitted on: 2/24/2025 11:40:42 PM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Keanue Kekaula	Testifying for Pomai Kulolo, LLC.	Oppose	In Person

Comments:

Testimony in Opposition to Senate Bill 890

To: Senate Committee on Commerce and Consumer Protection

From: Keanue Kekaula, Owner, Pomai Kulolo, LLC

Date: February 24, 2025

Subject: Opposition to SB 890 ; Restrictive Regulation on Poi Labeling

Dear Chair and Members of the Committee,

I am submitting this testimony in strong opposition to SB 890, which seeks to regulate the use of the term poi; exclusively for products made from taro (kalo) grown in Hawai'i. While I recognize and deeply respect the cultural and historical importance of kalo poi, I firmly believe that this bill misrepresents the broader historical and linguistic use of the term; poi; in Hawai'i and imposes unnecessary and restrictive regulations on local businesses.

Poi Is a Method, Not Just an Ingredient

Historically, poi; in Hawaiian tradition has referred not solely to taro-based food but to a method of food preparation; pounding and mixing starches with water to create a smooth, paste-like staple. While kalo poi is by far the most culturally significant and widely known, breadfruit poi (poi 'ulu) and sweet potato poi (poi 'uala) were also traditional and essential foods, particularly in areas where taro was scarce. The term poi itself comes from the Hawaiian verb poi; (to pound or mash), highlighting the preparation process rather than the ingredient itself.

Early Hawaiian historians such as Samuel Kamakau and David Malo documented that, depending on region and environmental conditions, poi was made from a variety of starchy crops. Even missionary and explorer accounts from the 19th century reference alternative forms of poi, including:

- Poi 'ulu (Breadfruit poi): Common in Puna, Hawai'i Island, and other areas where breadfruit thrived.
- Poi 'uala (Sweet potato poi): Used in drier areas or during food shortages.
- Poi pala'ai (Pumpkin)
- Poi palaoa (Flour): Used to stretch poi
- Poi from other starches: Yam (uhi) and even plantains were occasionally used.

This linguistic and historical evidence proves that poi was never strictly limited to kalo, making this bill's narrow definition of poi not only inaccurate but also culturally reductive.

Restricting Poi Hurts Local Businesses and Consumers

SB 890, by enforcing a narrow definition of poi, would:

1. Create Unnecessary Market Barriers
 - Many local food businesses use variations of poi in their products, including blends with breadfruit or sweet potato. This bill would force relabeling and potentially ban long-standing traditional foods from being marketed as poi, disrupting small businesses
2. Limit Consumer Choice and Access to Affordable Food
 - Poi made from kalo is already expensive due to limited taro supply. Alternative poi varieties have historically provided affordable, nutritious food options. Restricting the term to kalo-only products will drive up prices and limit accessibility for local families.
3. Erase a Legitimate Part of Hawaiian Food Culture
 - The bill seeks to “protect”; poi, but in doing so, it erases the broader historical and cultural reality of poi as a concept beyond kalo.

A More Balanced Approach

Rather than an overly restrictive law, I urge the legislature to consider an alternative approach that supports local taro farmers without erasing the cultural diversity of poi:

- Encourage more kalo farming through state incentives instead of restricting product labeling.
- Allow poi; to remain a broad category while implementing clear labeling standards, such as Poi (Kalo); Poi (Ulu); or Poi (Uala) to respect both historical accuracy and modern transparency.

Conclusion

SB 890 is based on a narrow, revisionist definition of poi that does not align with Hawaiian history or linguistic tradition. Poi is more than just kalo ;it is a preparation method that has included multiple traditional starches for centuries. Restricting its definition will harm local businesses, increase food costs, and erase a significant part of Hawaiian food history. For these reasons, I strongly oppose SB 890 and urge the committee to reject it in favor of more balanced solutions.

Mahalo for your time and consideration.

Sincerely, Keanue Kekaula
Owner, Pomaikulolo LLC

www.pomaikulolo.com

To: Committee on Commerce and Consumer Protection

Chair: Senator Jarrett Keohokalole Vice-chair: Senator Carol Fukunaga

Committee on Economic Development and Tourism

Chair: Senator Lynn DeCoite Vice-chair: Senator Glenn Wakai

From: Jo-Ann Leong

Support for Senate Bill 890, SD1 Relating to Business Regulation

Ensuring Authenticity and Local Agriculture

I write in support of Senate Bill 890, SD1 Relating to Business Regulation, which seeks to prohibit the sale, offer for sale, display, or marketing for sale of any product labeled as "poi" unless the product is wholly derived from taro (kalo) that is grown within the state of Hawaii.

This bill is more than just a regulatory measure; it is a powerful statement in favor of preserving Hawaii's cultural heritage, supporting local agriculture, and ensuring the authenticity of one of our most cherished traditional foods. Poi, made from kalo, holds a sacred place in Hawaiian culture, not only as a staple food but also as a symbol of life, lineage, and identity. Allowing products that do not meet these standards to be marketed as "poi" dilutes its cultural significance and misleads consumers.

Supporting Senate Bill 890, SD1 ensures that the term "poi" is reserved for products that genuinely reflect the traditional practices and agricultural methods of our state. This measure would also provide critical support to local farmers who cultivate kalo, often through labor-intensive processes that sustain our economy and environmental stewardship.

Moreover, the bill emphasizes the importance of transparency and honesty in product labeling, giving consumers confidence in the origins and authenticity of the poi they purchase. This is particularly significant in a time when many consumers are growing increasingly conscious of the sources and quality of their food.

In conclusion, Senate Bill 890, SD1 is a necessary step in protecting not only the integrity of poi but also the agricultural heritage and economic wellbeing of Hawaii. I urge the legislature to pass this bill and ensure that the true essence of poi is preserved for future generations.

SB-890-SD-1

Submitted on: 2/24/2025 9:09:54 AM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

It is high time we protect Hawaii's agricultural products and make sure those from outside Hawaii nei do not take advantage of us. The coffee growers fought for years to get the point across that 10% Hawaii grown coffee should not be labeled Hawaii.

Please move this bill forward.

SB-890-SD-1

Submitted on: 2/24/2025 9:29:08 AM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha Senators of the Senate Committee on Commerce and Consumer Protection and the Committee on Economic Development and Tourism,

I am testifying in support of SB890.

Poi, traditionally a major staple food for our people, was made 100% of Hawaiian kalo. The use of the term “Poi” for a product not made of 100% Hawaiian kalo would be misleading. Thus I agree with this bill.

I do suggest amending the bill to allow for products termed “Ulu Poi” or “Uala Poi” to refer to products made with wholly derived locally grown ulu - breadfruit (for “Ulu Poi”), and wholly derived locally grown ‘uala - sweet potato (for “Uala Poi”). These were less common, but traditional dishes, that if sourced with other products, would also be misleading.

Mahalo for your consideration.
Keoni Shizuma, Kāne‘ohe, O‘ahu



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**TESTIMONY IN SUPPORT OF SENATE BILL 890 SD1
RELATING TO BUSINESS REGULATION**

Senate Committee on Commerce and Consumer Protection
Senate Committee on Economic Development and Tourism
Hawai'i State Capitol

February 26, 2025

9:30 AM

Room 229

Dear Chairs Keohokalole and DeCoite, Vice Chairs Fukunaga and Wakai, and members of the Senate Committees:

The Office of Hawaiian Affairs (OHA) submits testimony in **SUPPORT of SB890 SD1**, which would prohibit the sale and marketing of any product labeled as “poi” unless the product is wholly derived from kalo (taro) that is grown within the State.

Kalo farming is a Native Hawaiian tradition, dating back thousands of years, and was one of the most fine-tuned production systems in the Pacific. Kalo was Hawaiians' most important staple crop, used to produce poi, and fed up to an estimated 1 million people.¹ Kalo farming is a central to Native Hawaiian tradition and cultural history, and is reflected through the Hawaiian origin story:

In the mo‘olelo of Hāloa, the first-born child of the gods Wākea and Ho‘ohokukalani is stillborn. The stillborn child Hāloa Naka was buried and then grew into the first kalo plant. Their second born child, Hāloa, became the progenitor of the Native Hawaiian people. The mo‘olelo shares the close familial relationship between kalo, ‘āina, and kānaka.

Prohibiting the marketing of foreign-grown kalo as poi protects sacred Native Hawaiian cultural history and traditions. We should support all efforts to promote Kalo farming here in Hawai‘i, for both cultural and economic reasons. A legislative report done in 2010 found that kalo imports posed increased risks for pests and disease and would threaten the local growers' market.² Imports are also more likely to contain GMO kalo strains.

¹ Taro.Security.and.Purity.Task.Force.Legislative.Report.8676, 12 (Dec. 29, 2009), https://www.oha.org/wp-content/uploads/2014/09/NRLC_REPORT_FINAL-web.pdf

² Id; at 14-15.

This bill would provide vital cultural protections, livelihood and lifestyle protections, economic protections for local kalo farmers, and inform consumers of the potential impurities in products.

We urge the committees to **pass SB890 SD1**. Mahalo for the opportunity to testify.

LATE

SB-890-SD-1

Submitted on: 2/24/2025 9:19:26 PM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kawika Winter	Testifying for Heʻeia National Estuary Research Reserve	Support	Written Testimony Only

Comments:

I strongly support this bill, which will not only help to protect kalo from imported diseases, but will also support our local farmers. I urge you to support it as well.

Mahalo for your consideration,

Kawika Winter, Ph.D.

Director, Heʻeia National Estuarine Research Reserve

SB-890-SD-1

Submitted on: 2/25/2025 9:51:26 AM

Testimony for CPN on 2/26/2025 9:30:00 AM

LATE **LATE**

Submitted By	Organization	Testifier Position	Testify
Mahealani Cypher	Testifying for Ko`olau Foundation	Support	Written Testimony Only

Comments:

Aloha Chair and Members of this Committee,

On behalf of the Ko`olau Foundation, I offer our strong support for this bill and urge all of you to join us in supporting passage of this legislation.

Our organization works hard to ensure that the rich history and heritage of our Native Hawaiian people is preserved in perpetuity. Among the most treasured cultural practices and values of our people is our language and the names we attribute to our people, places, and - indeed - the cultural practices of kanaka maoli.

Just as our community rose up in opposition to the attempts to co-opt the words "poke bowl" by businesses in other states a few years ago, so too are we concerned about the loss of our own island identity and connection with the precious Hawaiian product and name, "poi".

We agree with the maker of this bill that marketing this product here in the islands should be restricted only to kalo, poi, that is grown and produced here in the Hawaiian islands. There is great concern about similar products being imported from other places and being sold and perhaps even trademarked as Hawaiian poi.

We support transparency and honesty in marketing, and urge that you also support restricting use of the word, "poi", to the products grown, harvested and produced here in the Hawaiian islands.

Mahalo for considering our mana`o.

Mahealani Cypher

Ko`olau Foundation



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 25, 2025

Testimony in Support of SB890 SD1 RELATING TO BUSINESS REGULATION

Senator Jarrett Keohokalole, Chair – Senate Committee on
Commerce and Consumer Protection

LATE

Senator Lynn DeCoite, Chair - Senate Committee on

Economic Development and Tourism
Members of the Committees

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The Ko'olaupoko Hawaiian Civic Club (KPHCC) submits this testimony in support of SB890. KPHCC is a not-for-profit community organization established in 1937 by a group of kama'āina residents in the Ko'olaupoko area. Our membership exceeds 100 adult and 'ōpio members including cultural practitioners, community leaders, lawai'a, and descendants of konohiki families with roots in the Ko'olaupoko community dating back to time immemorial. KPHCC's primary mission is to perpetuate and cultivate Native Hawaiian culture and values, including lawai'a pono, mālama 'āina, 'āina momona, and aloha 'āina. KPHCC furthers its mission through advocacy, volunteerism, community engagement, and education.

SB890 supports our local kalo farmers and allows consumers to be able to identify locally grown/sourced products and make sustainable choices when making food purchases. Poi is universally understood to mean the traditional staple food of indigenous Hawaiians. SB890 protects consumers from intentionally misleading packaging that undermines the value of the work and investment of local kalo farmers.

The cultural connection between native Hawaiians and kalo, our staple crop, is foundational. It's a staple food, a symbol of relationships, and a part of Hawaiian mythology and spirituality. Poi was so important to Hawaiian culture that Hawaiians believed the spirit of Hāloa, the “elder brother” of all Hawaiians, was present when poi was served at a meal. Through Hāloa, Hawaiians are related to the kalo, the land, and the rest of the natural world. This bill safeguards traditional knowledge, practices and cultural heritage by preventing the further commodification of our culture.

The Ko'olaupoko Hawaiian Civic Club respectfully urges you to stand with Hawaii's kalo farmers in order to protect their worldwide reputation of growing authentic Hawaiian kalo to be made into authentic poi.

Me ke aloha 'āina,

Charles Na'umu Pelekikena (President)
Ko'olaupoko Hawaiian Civic Club

The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko'olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are “Hawaiian at heart.”



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko'olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart."

P. O. Box 664 * Kaneohe, HI 96744
Email: koolaupokohcc@gmail.com * Website: www.koolaupoko-hcc.org

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SB-890-SD-1

Submitted on: 2/25/2025 9:36:25 AM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Pomaika'i Kekaula	Individual	Oppose	Written Testimony Only

Comments:

Aloha kakou!

My name is Pomaikai Kekaula and I would like to submit testimony in opposition of SB890 SD1. Although I appreciate the effort to protect poi, the narrow definition being forced through SB890 SD1 excludes other variations of poi not made with taro but other locally sourced starches such as ulu, uala, and uhi.

Poi, although most popularly associated with taro, has been for generations made with other starchy plants. There's record of non-taro poi variations being consumed for generations by our kupuna. SB890 SD1 aims to protect but with its extremely narrow definition of poi, threatens to disregard and erase the rich history of poi and the perseverance of our kupuna that could not, at times, access kalo and used other available starches to make or stretch their poi.

Finally, SB890 SD1 would limit the possibility for local businesses to produce for sale other poi variations therefore limiting the people's access to these culturally significant goods. This bill will create barriers to entry for small, niche—possibly Native Hawaiian—businesses with intentions to popularize the non-taro poi variations.

With much Aloha,

Pomai

LATE

SB-890-SD-1

Submitted on: 2/25/2025 7:17:58 AM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kamaile Turcan	Individual	Support	Written Testimony Only

Comments:

I write in support of Senate Bill 890, SD1 Relating to Business Regulation, which seeks to prohibit the sale, offer for sale, display, or marketing for sale of any product labeled as “poi” unless the product is wholly derived from taro (kalo) that is grown within the state of Hawai‘i.

This bill supports local agriculture, Hawai‘i’s burgeoning efforts to achieve food security, and ensures the authenticity of one of our most cherished traditional foods. This measure would also provide critical support to local farmers who cultivate kalo, often through labor-intensive processes that sustain our economy and environmental stewardship. This bill thereby reserves the term poi for products that genuinely reflect the traditional practices and agricultural methods of our state.

Moreover, the bill emphasizes the importance of transparency and honesty in product labeling, giving consumers confidence in the origins and authenticity of the poi they purchase. This is particularly significant in a time when many consumers are growing increasingly conscious of the sources and quality of their food.

I urge the legislature to pass this bill.

LATE **LATE**

SB-890-SD-1

Submitted on: 2/25/2025 12:24:09 PM

Testimony for CPN on 2/26/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Vivien Lee and Charlie Reppun	Individual	Support	Written Testimony Only

Comments:

We think that Kalo is a product that defines Hawaii, and it's history. Making poi is what was, and still is done all over the islands. It is much more than just a food product. It We support this bill that says "poi" can only be on the label if it is made in Hawaii

SB-890-SD-1

Submitted on: 2/25/2025 3:42:05 PM

Testimony for CPN on 2/26/2025 9:30:00 AM

LATE **LATE**

Submitted By	Organization	Testifier Position	Testify
RICHARD COHEN	Individual	Comments	Written Testimony Only

Comments:

Aloha, Chairs, Vice Chairs and members of the committees.

DOA will stand on our submitted written testimony.

I am available to answer questions.

Mahalo