

MAR 14 2007

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM TO PROVIDE AN ECONOMIC ANALYSIS OF THE IMPACT OF
CHANGES TO HAWAII'S KONA COFFEE MINIMUM CONTENT LAWS, AND
REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO STUDY
WAYS TO IMPROVE ENFORCEMENT OF THOSE LAWS.

1 WHEREAS, there is strong support for changing Hawaii's Kona
2 coffee minimum content laws, in particular, for increasing from
3 ten to at least fifty per cent the required percentage of Kona-
4 grown coffee that entitles a coffee to be called "Kona" coffee;
5 and
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7 WHEREAS, the Legislature is aware that support among
8 persons and entities within Hawaii's coffee industry for
9 increasing the minimum content requirement to fifty per cent is
10 not unanimous; and
11

12 WHEREAS, the Legislature believes that in order to minimize
13 disruption in this important local industry, it is important to
14 proceed with caution, and only after obtaining important facts
15 on the possible economic impacts that such a change would have
16 on Kona coffee farmers, processors, retailers, and consumers,
17 not to mention upon other coffee growing regions in the State
18 such as Ka'u and Kauai; and
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20 WHEREAS, the statutory responsibilities of the Department
21 of Business, Economic Development, and Tourism include, among
22 others, to "provide economic research and analysis"; and
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24 WHEREAS, many in the Kona coffee industry have expressed
25 frustration at the apparent lack of enforcement of the minimum
26 content law, which is intended to protect the State's Kona
27 coffee industry; and
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1 WHEREAS, at least one national fast-food chain has
2 advertised that it serves "brisk Kona coffee", while other
3 retailers claim through outdoor signs and other advertising
4 media that they sell "Kona coffee"--under circumstances that
5 make it highly unlikely that the coffee being sold or served is
6 one hundred per cent Kona coffee; and
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8 WHEREAS, however, the Legislature is also not insensitive
9 to the fact that state laws, in order to be enforceable, cannot
10 run afoul of constitutional protections afforded to commercial
11 speech; now, therefore,
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13 BE IT RESOLVED by the Senate of the Twenty-fourth
14 Legislature of the State of Hawaii, Regular Session of 2007,
15 Senate concurring, the House of Representatives concurring, that
16 the Department of Business, Economic Development, and Tourism is
17 requested to submit a report to the Legislature on the coffee
18 industry in Hawaii that includes the following:
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20 (1) A description of the coffee industry in Hawaii, with
21 particular emphasis on the Kona coffee industry, and
22 the roles played by each segment of the industry, such
23 as the farmers, processors, retailers, and others;
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25 (2) A description of how the respective segments of the
26 Kona coffee have fared under the present law
27 establishing a minimum content requirement of ten per
28 cent in order for coffee to be called "Kona coffee";
29

30 (3) A thorough economic analysis of the probable impact of
31 increasing the minimum content requirement to fifty
32 per cent upon:
33

34 (A) Each segment of the Kona coffee industry; and
35

36 (B) Each segment of the coffee industry in the rest
37 of the State, such as in Ka'u and on islands
38 other than the island of Hawaii; and
39

40 BE IT FURTHER RESOLVED that the Department of the Attorney
41 General is requested to review existing statutes and rules
42 relating to the enforcement of the Kona coffee minimum content
43 requirements, including present enforcement programs and efforts
44 presently carried out by the Department of Agriculture; and



1
2 BE IT FURTHER RESOLVED that the Department of the Attorney
3 General is requested to report to the Legislature on:

- 4
5 (1) Identifying all statutes and rules that can presently
6 be applied to address the enforcement of violations of
7 the Kona coffee minimum content requirements,
8 including claims made in labeling, and advertising
9 claims in both local and national media;
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11 (2) Modifications that can be made to criminal or civil
12 enforcement statutes in terms of promoting ease of
13 enforcement and effectiveness of deterrence against
14 violations of the State's Kona coffee laws;
15
16 (3) Specific provisions and procedures, if any, that need
17 to be enacted to enable the State or aggrieved persons
18 to take action against persons or entities who make
19 advertising claims in local or national media that
20 violate Kona coffee minimum content requirements;
21
22 (4) Other recommendations in terms of personnel or other
23 resources needed by the Department of Agriculture and
24 other appropriate state agencies in order to more
25 aggressively and effectively enforce Kona coffee
26 minimum content requirements; and
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28 BE IT FURTHER RESOLVED that, upon request, the Department
29 of Agriculture is requested to cooperate with and assist the
30 Department of Business, Economic Development, and Tourism and
31 the Department of the Attorney General, as necessary, in their
32 response to this Resolution in conducting their studies; and
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34 BE IT FURTHER RESOLVED that the Department of Business,
35 Economic Development, and Tourism and the Department of the
36 Attorney General are requested to seek input from as many
37 stakeholders as possible; and
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39 BE IT FURTHER RESOLVED that the Department of Business,
40 Economic Development, and Tourism and the Department of the
41 Attorney General are requested to submit separate reports of
42 their findings, recommendations, and any proposed legislation to
43 the Legislature not later than twenty days prior to the
44 convening of the Regular Session of 2008; and



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 2 BE IT FURTHER RESOLVED that certified copies of this
 3 Concurrent Concurrent Resolution be transmitted to the Governor,
 4 the Director of Business, Economic Development, and Tourism, the
 5 Attorney General, and the Chairperson of the Board of
 6 Agriculture.
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