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JOSH GREEN
Lt. Governor



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DEPARTMENT OF AGRICULTURE
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PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

JANUARY 31, 2020
9:00 A.M.
CONFERENCE ROOM 312

HOUSE BILL NO. 1923
RELATING TO MEASUREMENT STANDARDS

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1923, relating to measurement standards. This bill proposes to amend Chapter 486, Hawaii Revised Statutes, by adding a new section to Part V (Measurement Standards, Uniform Packaging and Labeling) to prohibit certain food labeling practices with regard to foods with non-genetically modified organisms, organic foods, and gluten-free foods. The Department offers comments and concerns regarding this measure.

Food labels can be misleading and some food manufacturers make less than factual health claims on their food labels that take advantage of a consumer's preference to eat healthy foods and unfairly lure the consumer into purchasing their products. The Department currently does not have the capability to monitor and enforce the prohibited practices proposed by this bill. Before the RIF in 2009 the measurement standards branch had inspector positions to perform various inspections and there was a package labeling and price verification section consisting of three staff. We would need additional manpower to rebuild the branch and provide such capability to monitor and enforce the proposed bill.

Thank you for the opportunity to testify on this measure.





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January 31, 2020

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 1923
RELATING TO MEASUREMENT STANDARDS

Room 312
9:00 AM

Aloha Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

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

The Hawaii Farm Bureau supports HB 1923, which prohibits certain food labeling practices with regard to foods with non-genetically-modified-organisms, organic foods, and gluten-free foods. This is a truth-in-advertising bill.

This bill is justified in that more and more consumers are being tricked into purchasing products that claim to be healthier or more nutritious than others, when in fact, they are neither. Additionally, these products are often more costly than those which make no such claims.

For example, many products now display a GMO-free label, when there is no genetically engineered crop of that kind grown, or available in the marketplace. This type of label is meaningless, confusing to consumers, and unfairly misleading.

In the case of claims that a product is "organic", a term that has no legal meaning in the U.S. unless it is USDA certified organic, consumers are being misled to believe the product is grown in a certain manner, within applicable national standards. HFB supports consumers' choice to purchase *certified* organic produce – a term that has meaning; so they know what they're getting.

Consumers deserve to know what they're purchasing and not be misled by false or misleading labels.

Thank you for your continued support of our local farmers and ranchers.



**House Committee on Agriculture
Hawai'i Center for Food Safety strongly opposes: HB1923**

Dear Chair Creagan, Vice Chair Decoite and members of the committee:

My name is Sylvia Wu and I am the Managing Attorney for the Hawai'i Center for Food Safety (CFS). CFS is a nationwide public interest, sustainable agriculture nonprofit organization whose mission centers on furthering the public's right to know how their food is produced, through labeling and other means. As part of that mission, CFS regularly analyzes and participates in federal and state regulations concerning the labeling of foods. We have over 950,000 farmer and consumer members across the country, including nearing 14,000 in Hawai'i. On behalf of CFS and our members, I thank you for the opportunity to submit testimony today regarding this important bill.

I am writing in strong opposition of HB1923, which prohibits certain food labeling practices with regard to foods with non-genetically-modified-organisms, organic foods, and gluten-free foods.

The first part of HB1923 (part (a) in the proposed new section to Chapter 486 of the Hawai'i Revised Statutes), would prohibit anyone from labeling any produce as "non-genetically-modified organism," "non-GMO," or similar terms (hereafter collectively referred to as "non-GMO"), unless "(1) [t]he produce appears on the List of Bioengineered Foods developed by the United States Department of Agriculture," and "(2) [t]he grower or producer of the produce has been issued a permit [for commercial production] by the United States Department of Agriculture," and "(3) 'the grower or producer of the produce has received 'deregulated status' by the United States Department of Agriculture to plant and distribute the produce without restriction."

HB1923's provisions regarding the labeling of non-GMO produce is factually incorrect and legally unenforceable.

First, as written, HB1923 would only allow produce to be labeled non-GMO if the produce appears on the list of bioengineered foods by the United States Department of Agriculture (USDA), meaning that the USDA deems it a genetically-engineered or genetically-modified food.¹ In other words, if passed, HB1923 would allow only bioengineered produce to bear the non-GMO claim, which is false and misleading. For example, the USDA's List of Bioengineered

¹ The term "bioengineering" and any similar term, "refers to a food-(A) that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) technique; and (B) for which the modification could not otherwise be obtained through conventional breeding or found in nature. 7 U.S.C. § 1639(1).

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Foods currently include produce such as papaya and pineapple.² Yet under HB1923, only the bioengineered varieties of these produce (genetically engineered papaya and pineapple), and not the non-GMO varieties of the same fruits, can be labelled non-GMO. This is nonsensical.

Moreover, the provisions regarding labeling of non-GMO produce is also in conflict with the federal bioengineered foods labeling law, which specifically prohibit anyone from making a claim that a food item is “non-GMO” solely because the food is not identified as bioengineered by the USDA.³

Additionally, the provisions regarding labeling of non-GMO produce is also unenforceable because it requires that, in addition to being on the List of Bioengineered Foods, in order for a person to label a produce as non-GMO, the person must also have knowledge or reason to know that the produce has received both a permit for commercial production as well as deregulated status from the USDA. These two requirements are plainly inconsistent with the USDA’s existing regulatory structure of genetically-engineered organisms, and do not coexist. Under the Plant Protection Act,⁴ which forms the basis of USDA’s regulatory authority over genetically engineered foods, certain genetically engineered plants are classified as regulated articles and can only be planted with an experimental field permit or notification.⁵ Developers who want to commercially produce such GE plants must petition USDA for non-regulated status, or deregulation.⁶ USDA then determines whether it believes the GE crop to be a plant pest; if it finds that it is not, it grants the petition and grants the crop deregulated status, after which it can be commercialized without any permit, and USDA ceases to regulate or monitor it.⁷ In other words, a produce that has been deregulated does not require any permit for commercial production.

Part (c) in the proposed new section to Chapter 486 of the Hawai’i Revised Statutes would prohibit anyone from labeling any food item as “gluten-free,” “no gluten,” “free of gluten” or similar terms (hereafter collectively referred to as “gluten-free”) unless the person knows or has reason to know that the food item contains an ingredient that both “(1) uses a grain in which gluten occurs naturally;” and “(2) has been processed to remove the gluten.” However, as written, the provision is too narrow because it does not authorize the labeling of a food item as “gluten-free” where it has been made using grains or other substances for which gluten does not occur naturally. In other words, as written, if a food item normally made with wheat flour containing gluten is made instead with rice flour or coconut flour, neither of which contains any

² USDA, List of Bioengineered Foods, <https://www.ams.usda.gov/rules-regulations/be/bioengineered-foods-list>.

³ 7 U.S.C. § 1639c(c) (“A food may not be considered ‘not bioengineered,’ ‘non-GMO,’ or any other similar claim describing the absence of bioengineering in the food solely because the food is not required to bear a disclosure that the food is bioengineered under this subchapter.”)

⁴ 7 U.S.C. §§ 7701 et seq.; see *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 144-46 (2010) (explaining USDA’s regulation).

⁵ 7 C.F.R. § 340.1-.4.

⁶ 7 C.F.R. § 340.6.

⁷ *Ctr. for Food Safety v. Vilsack*, 718 F.3d 829, 835 (9th Cir. 2013).

naturally-occurring gluten, the producer or seller would not be able to label it as “gluten-free.” This does not serve the purpose of providing consumers sensitive to gluten with ways to identify products they can consume in the marketplace.

In sum, we believe that the intent of HB1923 is to eliminate misleading labels and help consumers make accurate food choices, but the bill’s numerous flaws lead to just the opposite result: it would result in misleading and false labels that are untrue and legally unenforceable. On behalf of the Center for Food Safety and its members, we strongly urge you to reject this problematic bill.

Respectfully,

A handwritten signature in blue ink, appearing to read "Sylvia Wu", followed by a horizontal line.

Sylvia Wu
Managing Attorney, Hawai'i Center for Food Safety

HB-1923

Submitted on: 1/29/2020 8:29:51 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Megan Fox	Malama Kauaâ€™i	Oppose	No

Comments:

This bill is absurd and should be killed immediately.

We have many farmers and food producers being able to charge a premium on their products by legally labeling them as non-GMO, organic, gluten-free, etc. if we want to support local agriculture this is NOT the way to do so. This will hurt our local producers.

Furthermore, this bill creates expensive challenges for major companies that import food here, with unknown food access consequences.

Please kill this bill. Mahalo.

HB-1923

Submitted on: 1/29/2020 3:41:10 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole K Galase	Hawaii Cattlemen's Council	Support	No

Comments:

HB-1923

Submitted on: 1/30/2020 10:49:26 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
sharon	GMO Free Hawaiâ€™ [™] i Island ~ Protect the keiki!	Oppose	No

Comments:

WE NEED to know !!!

dont you want to know?

HB-1923

Submitted on: 1/29/2020 9:08:28 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marion McHenry	Individual	Oppose	No

Comments:

I strongly oppose this bill. Hawaii consumers deserve clear and honest labeling of foods so that we may make our personal nutritional and health choices. We deserve the right to know what is in our food.

Marion McHenry

Kauai

HB-1923

Submitted on: 1/30/2020 12:09:14 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Yoshicedo	Individual	Support	No

Comments:

I support protecting consumers from misleading or unsubstantiated claims on food labels.

HB-1923

Submitted on: 1/30/2020 1:49:59 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Support	No

Comments:

This bill makes sense. It should be passed at the national level.

HB-1923

Submitted on: 1/29/2020 5:27:29 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Marie Jacintho	Individual	Support	No

Comments:

HB-1923

Submitted on: 1/30/2020 8:58:32 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Oppose	No

Comments:

Please kill non-nonsensical, unenforceable HB 1923, which would only confuse residents and consumers alike when attempting to make healthy food decisions for their families. With the rise in food-borne and gut-intolerant illnesses, the confusion this bill would create could potentially cause even greater human suffering.

HB-1923

Submitted on: 1/30/2020 9:00:38 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuenue Holland	Individual	Oppose	Yes

Comments:

This is ridiculous. Please kill this bill. Mahalo.

HB-1923

Submitted on: 1/30/2020 9:35:26 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Aria Juliet Castillo	Individual	Oppose	No

Comments:

Please stop wasting taxpayers time with this nonsense.

HB-1923

Submitted on: 1/30/2020 10:11:30 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mitsuko Hayakawa	Individual	Comments	No

Comments:

Aloha Members of the House Agriculture Committee,

I support accurate and fair food labeling laws. However, there should be a stronger effort to label transgenic crops and pesticide-laden foods to inform consumers. Why restrict health-conscious labeling while ignoring the disclosure of risky or unwanted products on our food?

Thank you for your consideration.

Mitsuko Hayakawa

HB-1923

Submitted on: 1/30/2020 11:21:01 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Peggy McArdle	Individual	Oppose	No

Comments:

Aloha.

This bill is a disgrace. I strongly oppose bill hb1923. Prohibiting labels on food products that a person ingests, which one pays for and has a right to know it's contents, is backwards. This bill benefits Big Ag that pander in genetically engineered seeds that are pesticide resistant, which they wish to push in mainstream foods on an unsuspecting public, using their toxic chemicals.

Legislators, who introduced this measure need to be voted out of office this year and to never return. These legislators represent the corporations and not the well being of the citizens of Hawaii.

HB-1923

Submitted on: 1/30/2020 12:38:35 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Mitchell	Individual	Oppose	No

Comments:

We have a right to know what is in our food

decoite2 - Aurielle

From: noelanikaui@gmail.com
Sent: Thursday, January 30, 2020 9:03 AM
To: AGRtestimony
Subject: I opposed HB1923

Been trying to submit on-line and haven't been successful. I strongly opposed HB1923.

Mahalo

Sent from my iPhone
Noelani Kau'i Naumu

decoite2 - Aurielle

From: Heidi Schemp <hithereheidi@gmail.com>
Sent: Wednesday, January 29, 2020 9:13 PM
To: AGRtestimony
Subject: Hb1923 oppose!!!

Categories: Blue Category

People have the right to know what they are buying. I'm in shock that this is even given one moment of your time. Obviously this is brought to you by big AG companies that don't want to label food. You work for the people. Don't forget it. Oppose this nonsense! Wow.

Heidi Schemp
Kilauea, Hi

HB-1923

Submitted on: 1/30/2020 1:24:40 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Silva	Individual	Oppose	No

Comments:

I OPPOSE HB1923, I deserve to know what I put in my body and think everything should be labeled

HB-1923

Submitted on: 1/30/2020 2:23:23 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lori Nakamura-Higa	Individual	Oppose	No

Comments:

Thursday, Jan. 30, 2020

Aloha! Thank you for the opportunity to submit testimony.

I STRONGLY OPPOSE HB1923

With carcinogens positively identified in GMO foods and many with Gluten allergies and intolerances, why would you prevent open and clear communication labeling on said products that tell us where these toxins are not, especially products that are outright consumed/ingested? Let us be clear that we all understand that CANCER today is 1 in 2 men, 1 in 3 women and the NUMBER 1 disease among newborns to age 15. Sadly, I have family members and friends in every single one of those categories. The argument in years past legislations was that labeling cost too much to change and therefore GMO labeling was "shot down" by the entire legislative body. Now that we have otherwise, why would you want to create added costs to these manufactures to dictate to them how they cannot provide pertinent, necessary information to their customers by forcing them to change their labels and by doing so, who does this serve to please? You would be CONTRADICTING your previous "costly" argument of years past. Please as your constituents (us), I ask you, who does this piece of legislation serve to please, because it's NOT serving THE PEOPLE you represent? Please genuinely work for THE PEOPLE who have to deal with such issues on a daily basis and don't deny them full disclosure, this makes, especially moms who have to take care of family members with special dietary needs and illnesses all the more complicating. Please OPPOSE this hideous, unnecessary bill.

Thank you and kind regards

HB-1923

Submitted on: 1/30/2020 2:40:38 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments:

OPPOSE. We have every right to know what we're eating. Voting for this bill will tell us that you don't think we deserve the right to choose what we're eating - but that YOU should choose. Not cool.

AGRtestimony

LATE

From: Sylvia Dolena <sylviadolena@gmail.com>
Sent: Thursday, January 30, 2020 10:09 PM
To: AGRtestimony
Subject: OPPOSE HB1923 Transparency NEEDED We need to know what we are eating

HB 1923 is an effort to prohibit non-GMO food labels and other labels relating to organic & gluten free foods. Yes, instead of requiring labels on GE/GMO Foods, HB1923 is attempting to prohibit disclosure and the right to know by prohibiting labels! It is a blatant attempt by corporations to put profit of people's choice and knowledge.

Mahalo,
Sylvia Dolena
Pele Lani Farm
Pahoa, HI

HB-1923

Submitted on: 1/30/2020 3:38:13 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Megan Blazak	Individual	Oppose	No

Comments:

LATE

HB-1923

Submitted on: 1/30/2020 3:39:10 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ken Burch	Individual	Oppose	No

Comments:

Please do not pass such a bill. This bill is of absolutely NO BENEFIT to consumers and the general public. It violates our right to know what is in our food and how it is produced. It is only of benefit to corporations. As legislators, your primary responsibility is to the public, not to corporations. Passage of such a bill would be a grave mistake on your part, and will create a serious backlash from the public. Please support your constituents by voting NO on this bill.

HB-1923

Submitted on: 1/30/2020 8:27:37 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Lehmann	Individual	Oppose	No

Comments:

The National Bioengineered Food Disclosure Standard acknowledges in 83 FR 65814 "that entities may participate in voluntary labeling initiatives such as the non-GMO Project"; whose scrutiny is not limited to foods on a List of Bioengineered Foods. That specific label is also in widespread use. This measure therefore, if passed, is quite susceptible to federal preemption, or similar invalidation.

Thanks for the opportunity to give testimony.

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LATE

HB-1923

Submitted on: 1/31/2020 8:10:04 AM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Noa Lincoln	Individual	Oppose	No

Comments:

A product is non-GMO whether or not GMO cultivars of the species exist. It is therefore a true label and there is no reason that it should be restricted. Likewise for the gluten-free label. Consumer information and awareness will be restricted, not bolstered, by this approach of prohibiting labels.

decoite2 - Aurielle

From: Janice Glennie <palmtree7@hawaiiantel.net>
Sent: Friday, January 31, 2020 12:58 PM
To: AGRtestimony
Subject: Oppose HB 1923

Importance: High

Aloha representatives,

HB 1923 is deceitful, backdoor madness - a blatant corporate-backed attempted coup on consumers' rights to know what's in their food (and what's not).

As you know, this bill would prohibit non-GMO food labels and other labels relating to organic & gluten free foods. Instead of requiring labels on GE/GMO Foods, HB1923 is attempting to prohibit disclosure and the right to know by prohibiting labels! It is a blatant attempt by corporations to put profit of people's choice and knowledge.

Please strongly and vociferously OPPOSE HB1923 and push instead for mandatory labeling and disclosure of GE foods in Hawai'i!

Mahalo and sincerely,

Janice Palma-Glennie

P.O. Box 4849

Kailua-Kona, Hawai'i 96745

Tel#808-324-0093

LATE

HB-1923

Submitted on: 1/30/2020 10:26:21 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sylvia Dolena	Pele Lani Farm LLC	Oppose	No

Comments:

HB 1923 is an effort to prohibit non-GMO food labels and other labels relating to organic & gluten free foods. Yes, instead of requiring labels on GE/GMO Foods, HB1923 is attempting to prohibit disclosure and the right to know by prohibiting labels! It is a blatant attempt by corporations to put profit of people's choice and knowledge.

We need to know what is in our food.

We need greater transparency from our government agencies.

HB-1923

Submitted on: 1/31/2020 1:29:44 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Oppose	No

Comments:

We strongly OPPOSE HB1923 and push instead for mandatory labeling and disclosure of GE foods in Hawai`i!

www.WeAreOne.cc

HB-1923

Submitted on: 1/31/2020 1:39:33 PM

Testimony for AGR on 1/31/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
ChristopherMcCullough	Individual	Oppose	No

Comments:

From: Lauren Elaine <laurenelaine721@yahoo.com>
Sent: Wednesday, January 29, 2020 9:12 PM
To: AGRtestimony
Subject: HB1392 - OPPOSE

Categories: Blue Category

LATE

To Whom It May Concern:

Please accept this written testimony in opposition to the proposed legislation HB1392 as it is currently written.

I am completely in favor of accurate labeling, and I worry that the way this legislation is written could adversely affect individual health.

I depend on labels to help me make decisions that will best support my health. Not all products that contain gluten-free ingredients are completely gluten free. In fact, I made a mistake of not buying gluten free oats a few months ago because of an oversight on my part, and ended up having an allergic reaction that showed up as gluten exposure on consequent lab results. So for example, oats themselves do not contain gluten, but can be contaminated as a result of how they are processed.

Additionally, I have reactions to some foods that are grown conventionally and/or are genetically engineered/bioengineered. I want to know when something is organic and when something does not contain "GMOs". Sometimes it is unclear based on just reading the ingredients. For example, I have serious adverse reactions to GE corn, but not organic corn. I want to know if the corn-derived citric acid was made from GE corn or not. Based on the legislation as it is written, it seems unclear if this will be addressed.

While I agree that we don't want to make superfluous and confusing health claims on foods, it is also important that we have clear understandings of allergen-free, reaction-free foods.

Thank you for your consideration to this matter.

Warmly,
Lauren Ampolos, PhD

Sent from my iPhone

Sent from my iPhone

decoite2 - Aurielle

From: Janice Glennie <palmtree7@hawaiiantel.net>
Sent: Wednesday, February 5, 2020 3:59 PM
To: AGRtestimony
Subject: "No" to labeling law HB1923



Hearing: Friday, Jan 31st 2020 at 9:00AM in the House Conference Room #312

Aloha,

It's so interesting - the lengths corporate interests will go to to subvert the rights of residents to know what's in their food.

HB 1923 would perversely prohibit non-GMO food labels and other labels relating to organic & gluten free foods from stating that they are safe, non-GMO and organic. Instead of requiring labels on GE/GMO Foods, HB1923 would prohibit disclosure and the right to know by prohibiting labeling at all. How clever!

I ask that you strongly OPPOSE HB1923 and push instead for mandatory labeling and disclosure of GE foods in Hawai'i.

Mahalo and sincerely,

Janice Palma-Glennie
Keauhou Gardens and Irrigation
P.O. Box 4849
Kailua-Kona, Hawai'i 96745

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Cell#808-989-3549

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