

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

WEDNESDAY, FEBRUARY 14, 2024
2:00 PM
CONFERENCE ROOM 329 & VIDEOCONFERENCE

HOUSE BILL NO. 2613 HD1
RELATING TO AGRICULTURE

Chair Nakashima, Vice Chair Sayama and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2613 HD1. This bill increases the fine of a criminal offense of false labeling of Hawaii-grown coffee to \$10,000 for each separate offense and includes roasted coffee. It makes an appropriation for 1.0 FTE enforcement position within the Department of Agriculture. The Department strongly supports this measure so long as it does not impact the budget priorities set forth in the Executive Budget Submittal.

Raising the fine for a criminal offense to \$10,000 will serve as a deterrent to the counterfeiters of roasted coffees and hopefully better compliance under the law will increase the brand value and recognition of the product. With other changes possible with the coffee labeling laws this bill will help with the enforcement of those laws. In addition, we ask you to support funding a dedicated position at the SR-22 level, beginning salary of \$63,000 to enforce these laws which will help rebuild the Department of Agriculture packaging and labeling enforcement capability that was eliminated in 2010.

Thank you for the opportunity to testify on this important measure.





RE: SUPPORT for HB2613 HD1

RELATING TO AGRICULTURE

DOE Roasted Coffee; False Labeling; Fines; Expenditure Ceiling; Appropriation (\$)

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 roasted coffees highly vulnerable to counterfeiting.**

The technology to inspect roasted coffee for origin is basic and mainstream. The University of Hawaii has done studies 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.**

We appreciate the Legislature working with 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.

Mahalo nui loa for supporting this bill!

Suzanne Shriner
Administrator



PO Box 168, Kealahou, HI 96750

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 14, 2024

2:00 PM

RE: STRONG SUPPORT for HB2613 HD1; Relating to Agriculture

Aloha Chair Nakashima, Vice Chair Sayama and members of the committee,

I am Chris Manfredi, testifying on behalf of Hawaii Coffee Association.

The HCA stands in **STRONG SUPPORT** of this measure. HB2613 HD1 improves the existing law by applying it to the point in the supply chain where coffee counterfeiting occurs, and stiffens penalties for violators. This is landmark legislation for our industry.

HB2613 HD1 adds roasted coffee to the existing false-labeling statute HRS 708-871.5. When this statute was originally enacted in 2011 it was limited to green coffee, cherry coffee, and parchment coffee. Since the egregious fraud known as “false labeling” or counterfeiting overwhelmingly occurs in roasted coffee, the law had little impact. Moreover, the current statutory penalties are inadequate to produce their intended deterrent effect.

Counterfeit coffee introduced into the marketplace undermines Hawaii’s growers and legitimate producers, who are forced to compete with fake products. These fakes are often priced below the cost of production of genuine Hawaii-grown coffee. This creates downward price pressure at a time when costs are increasing for producers. Labor, fertilizer, pest control, and transportation costs have all risen sharply.

Hawaii’s growers produce some of the finest coffee grown anywhere. Exceptionally high quality is vital so producers can earn high prices for their products - to stay in business, pay their employees and feed their families. Our members are outraged that counterfeit Hawaii-grown coffee is offered on the same shelves as their own at a price less than their cost of production.

Unethical sellers introduce foreign grown coffee into the market to defraud consumers by representing these fakes as Hawaii-grown products. Hawaii’s coffee growers are squeezed between a high cost of production and unfair competition.

Moreover, these inferior fakes do not share the same quality attributes of the genuine product, further undermining Hawaii’s reputation and brands. Shockingly, they are not required to comply with Hawaii’s minimum grade standards, as Hawaii’s producers are.

We respectfully ask you to pass HB2613 HD1.

Please accept our thanks on behalf of Hawaii’s legitimate coffee producers.

The Hawaii Coffee Association’s (HCA) mission is to represent all sectors of the Hawaiian coffee industry. Our members are located throughout the State of Hawaii and positioned throughout the supply chain.

HB-2613-HD-1

Submitted on: 2/12/2024 8:31:50 PM

Testimony for CPC on 2/14/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
bruce corker	Rancho Aloha Coffee Farm	Support	Written Testimony Only

Comments:

Dear Chair Nakashima and Members of the CPC Committee:

I am a coffee farmer in the Kona region of Hawaii Island and strongly support the enactment of HB2613.

Inclusion of roasted coffee within the scope of penalties for falsely labeling Hawaii-Grown coffee is an important step forward toward protecting the economic interests of Hawaii coffee farmers.

With regard to enforcement by the HDOA--for more than 15 years the Hawaii Department of Agriculture has been without a standards specialist/inspector for the purpose of labeling and packaging enforcement. As shown by the more than \$41 million in settlement payments made by defendants in the recent class action lawsuit brought by Kona farmers alleging fraudulent labeling of coffee, the mislabeling of Hawaii's specialty agricultural products is all too common. See, for example, the 2022 SF Chronicle article entitled "How US Businesses Are Cashing In On The Made in Hawaii Label". <https://www.sfgate.com/hawaii/article/hawaii-products-not-from-islands-17312415.php> Hawaii needs to actively provide protections for its farmers that other states provide to theirs--for example, **Idaho** for its potato farmers; **Vermont** for its maple syrup producers; **Georgia** for its Vidalia Onion farmers; **California** for its wine grape growers.

Please support Hawaii farmers by passing this bill.

Thank you,

Bruce Corker, Rancho Aloha, Holualoa

HB-2613-HD-1

Submitted on: 2/13/2024 8:03:27 AM

Testimony for CPC on 2/14/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colehour Bondera	Kanalani Ohana Farm	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members:

Please support this important piece of legislation (HB2613).

All Hawaii products, including all Hawaii coffe products must be protected in terms of proper labels and enforcement of rules in place.

As a long-time Kona coffe farmer, it is important to see that Hawaii looks out for what carries our name on products.

Thank you for standing up with the farmers and protcting Hawaii.

Sincerely,

Colehour Bondera

KANALANI OHANA FARM

colemel2@gmail.com

HAWAII COFFEE COMPANY™

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TO: Representative Mark Nakashima, Chair
Representative Jackson Sayama, Vice Chair
Committee on Consumer Protection & Commerce

FROM: Gerard Bastiaanse
President- Hawaii Coffee Company

RE: **HB 2613 HD1 Relating to Agriculture – Comments**
Wednesday, February 14, 2024; 2:00 p.m.

Aloha Chair Nakashima, Vice Chair Sayama and members of the committee:

Hawaii Coffee Company is offering comments regarding HB 2613 HD1, which extends the offense of false labeling of Hawai‘i-grown coffee to include roasted coffee, and imposes a \$10,000 fine for each separate offense of false labeling of Hawai‘i-grown coffee.

Our company complies with the FDA’s strict food labeling laws, as well as Hawai‘i state labeling regulations. False labeling of Hawai‘i coffee products is a serious matter that harms both consumers as well as the coffee industry in Hawai‘i.

HB 2613 HD1 provides in part that “In addition to any penalties imposed pursuant to section 706-605, the court shall impose on any defendant convicted of false labeling of Hawaii-grown coffee a mandatory fine of \$10,000 for each separate offense. The mandatory fine imposed shall not be suspended or waived.”

This language would divest the Hawai‘i courts of the ability to exercise discretion to waive or suspend the mandatory fine, including where exigent circumstances might warrant doing so. Further, it is unclear whether it is intended that penalties imposed result in a judgment that cannot be discharged in bankruptcy.



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e-mail info@hfbf.org; www.hfbf.org

February 14, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TESTIMONY ON HB 2613, HD1
RELATING TO AGRICULTURE

Conference Room 329 & Via Videoconference
2:00 PM

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

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 HB 2613, HD1, which expands the criminal offense of false labeling of Hawaii-grown coffee to include roasted coffee. Imposes a \$10,000 fine for each separate offense of false-labeling of Hawaii-grown roasted coffee and makes an appropriation for 1.0 FTE enforcement position within the Department of Agriculture.

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.

HB-2613-HD-1

Submitted on: 2/13/2024 11:00:42 AM

Testimony for CPC on 2/14/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
James Kimo Falconer	Hawaii Coffee Growers Association	Support	Written Testimony Only

Comments:

Aloha Chair Nakashima, Vicec Chair Sayama and members of the CPC committee,

On behalf of the Hawaii Coffee Growers Association, I am asking for your support to move this measure forward. The coffee industry struggles to fight pests, drought and high costs all to ensure to our buyers that Hawaii grown coffee maintains it's quality integrity. This added hurdle of some retailers "blending out" the true Hawaii origin coffee with cheaper foreign coffee only to falsely keep the Hawaii origin on the package needs your attention and better enforcement.

Mahalo for considering this and for giving me the opportunity to testify.



IN SUPPORT OF SB2613
RELATING TO AGRICULTURE
Roasted Coffee, False Labeling, Fines, Appropriations

Aloha Chair, and Esteemed Committee Members,

The Kona Coffee Farmers Association stands in support of **SB2613**, 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!

A handwritten signature in black ink that reads "Mark Petersen". The signature is written in a cursive style with a long horizontal line extending from the end.

Mark Petersen
President



LATE

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Kaipo Kekona
State President

Anabella Bruch
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Fawn Helekahi-Burns
Hana, Maui

Mason Scharer
Haleakala, Maui

Kaiea Medeiros
Mauna Kahalawai,
Maui

Kaipo Kekona
Lahaina, Maui

Rufina Kaauiwai
Molokai

Negus Manna
Lāna'i

India Clark
North Shore, O'ahu

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Natalie Urminska
Kauai

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the House Consumer Protection & Commerce Committee,

The Hawaii Farmers Union 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 HB2613.**

We believe that the expansion of the criminal offense of false labeling of Hawaii-grown coffee to include roasted coffee is an essential step towards protecting the integrity of our local agricultural products.

This bill is crucial in ensuring that consumers can trust the authenticity of the coffee they are purchasing. By imposing a significant fine of \$10,000 for each separate offense of false-labeling Hawaii-grown roasted coffee, it sends a clear message that deceptive practices will not be tolerated. This will act as a deterrent for those who seek to mislead consumers and will help maintain the reputation of Hawaii coffee as a premium product.

Having a dedicated enforcement position within the Department of Agriculture to investigate and penalize offenders will greatly enhance the effectiveness of this bill and ensure its successful implementation. We urge the committee to consider the interests of our farmers and support this bill, as it will safeguard the reputation of our local agricultural products and provide consumers with the confidence they deserve.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

LATE

HB-2613-HD-1

Submitted on: 2/13/2024 4:16:35 PM

Testimony for CPC on 2/14/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Support	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I support the intent of H.B. 2316, but am suggesting changes.

The intent of the bill is good, but the wording needs to be modified for clarification. The term candidate needs to be defined to include both nominees and write-in candidates. The reference to the governing documents should be changed to the bylaws. Additionally, subsection (a) should be modified for clarification. Please consider amending the bill to read as follows:

[§514B-124.5] Voting for elections; cumulative voting. (a) If an election is to be held by cumulative voting pursuant to the bylaws, [~~If the bylaws provide for cumulative voting for an election at a meeting,~~] each unit owner present in person or represented by proxy shall have a number of votes equal to the unit owner's voting percentage multiplied by the number of positions to be filled at the election.

(b) Each unit owner shall be entitled to cumulate the individual votes of the unit owner and give all of the votes to one [~~nominee~~] candidate or distribute the individual votes among any or all of the [~~nominees~~] candidates.

(c) The [~~nominee or nominees~~] candidate or candidates receiving the highest number of votes under this section, up to the total number of positions to be filled, shall be deemed elected and shall be given the longest term.

(d) This section shall not prevent the filling of vacancies on the board of directors in accordance with this chapter and the association's bylaws [governing documents].

For purposes of this section, the term candidates shall mean and include both nominees and write-in candidates.

Please consider passing H.B. 2316 with the above amendments.

Respectfully submitted,

Mary Freeman

Ewa Beach