



GOV. MSG. NO. 1314

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 5, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2023, the following bill was signed into law:

SB746 SD1 HD2 CD1

RELATING TO COFFEE LABELING.
ACT 211

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on JUL 5 2023

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.B. NO. 746
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO COFFEE LABELING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that for over thirty
2 years, Hawaii has been the only region in the world that
3 statutorily regulates the uses of its geographic names, such as
4 "Kona", "Maui", and "Ka'ū", on labels of its specialty
5 agricultural products but requires that only ten per cent of the
6 product originate in the geographic area indicated. The
7 legislature further finds that this low ten per cent requirement
8 directly damages and degrades the reputation of world-famous
9 Hawaii-grown coffees and damages the economic interests of
10 Hawaii coffee farmers. The legislature notes that a 2018
11 publication entitled "Strengthening Sustainable Food Systems
12 Through Geographical Indications: An Analysis of Economic
13 Impacts" by the Food and Agriculture Organization of the United
14 Nations and the European Bank for Reconstruction and Development
15 concluded, among other things, that Kona coffee "does not enjoy
16 any strong protection of its name" from the State of Hawaii, and
17 as a result, downstream stakeholders, rather than farmers, "reap
18 the economic benefits of the fame of Kona".



1 The legislature also finds that more than ninety per cent
2 of Hawaii's coffee farms are located on the island of Hawaii.
3 In 2014, the Hawaii county council adopted Resolution No. 501
4 14, entitled "Requesting the Hawaii Legislature to Adopt
5 Provisions for Truth-In-Labeling for Hawaii-Grown Coffees". The
6 council's request to the legislature was based on several
7 findings, including:

8 (1) Senate Concurrent Resolution No. 102, S.D. 1, H.D. 1,
9 regular session of 2007, which stated in part that:

10 (A) Existing labeling requirements for Kona coffee
11 causes consumer fraud and degrades the "Kona
12 coffee" name; and

13 (B) Confusion as to the difference between Kona
14 coffee and Kona coffee blends caused *Consumer*
15 *Reports* magazine to rate Kona coffee as "second
16 rate";

17 (2) The fact that it is inherently deceptive and
18 misleading to label coffee as a geographically
19 identified blend, such as "Hamakua Blend", "Ka'ū
20 Blend", or "Kona Blend", unless at least a majority of
21 the coffee is from that region;



- 1 (3) The label on the package of a ten per cent Hawaii
2 coffee blend does not advise consumers that ninety per
3 cent of the coffee in the package is imported, is
4 foreign-grown, or may be a mixture of multiple
5 Hawaiian regions and foreign-grown coffee;
- 6 (4) Not identifying the origin of ninety per cent of a
7 coffee blend is inherently deceptive to consumers, who
8 are often erroneously led to believe that a package of
9 coffee blend contains a blend of coffees only from
10 farms in Kona or other regions in Hawaii, when in fact
11 a portion of the blended coffee could be foreign-grown
12 coffee;
- 13 (5) Blending cheaper commodity coffees from Vietnam,
14 Mexico, Panama, Africa, and other foreign countries to
15 fill ninety per cent of the coffee blend enriches the
16 mainland-based corporations that own the Hawaii
17 blending companies with immense excess profits,
18 without any benefit to Hawaii coffee farmers;
- 19 (6) The acknowledged blending of beans of various roasts
20 and origins by coffee roasters to create unique flavor
21 profiles is an acceptable practice and is different



1 from the deceptive labeling using misleading
2 geographic origin names of blends, which violates the
3 basic principles of consumer protection and fair
4 marketing; and

5 (7) Immediate legislative action is necessary to protect
6 the reputation of Hawaii-grown coffees as premier,
7 specialty coffees from further degradation.

8 The legislature also notes that ready-to-drink coffee
9 beverages and inner wrapping labels given, but not sold, to
10 customers are not subject to the current statutory requirements
11 for fair trade coffee labeling and advertising. These
12 requirements only apply to roasted coffee and instant coffee.

13 The legislature finds that these labeling and advertising
14 requirements were primarily intended to resolve any consumer
15 confusion and allow consumers to "make an enlightened choice",
16 as stated in Act 289, Session Laws of Hawaii 1991. These
17 statutory requirements ensure truthful representation of a
18 coffee product's geographical origin, which protects consumers
19 from fraud and deception in coffee labeling and advertising.

20 Therefore, the purpose of this Act is to support Hawaii's
21 coffee growers by:



- 1 (1) Expanding the coffee labeling and advertising
2 requirements to include ready-to-drink coffee
3 beverages and the inner packages and inner wrapping
4 labels of roasted coffee, instant coffee, and ready-
5 to-drink coffee beverages given to customers;
- 6 (2) Specifying that the coffee labeling and advertising
7 requirements apply if the applicable products are
8 produced in whole or in part from Hawaii-grown and
9 Hawaii-processed green coffee beans;
- 10 (3) Requiring disclosure on the label of coffee blends of
11 the respective geographic and regional origins and per
12 cent by weight of the blended coffees; and
- 13 (4) Prohibiting use of the term "All Hawaiian" in labeling
14 or advertising for roasted coffee, instant coffee, or
15 ready-to-drink coffee beverages not produced entirely
16 from green coffee beans grown and processed in Hawaii.

17 SECTION 2. Section 486-120.6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§486-120.6 Hawaii-grown [~~roasted or instant~~] and Hawaii-
20 processed coffee; labeling or advertising requirements. (a) In
21 addition to all other labeling requirements, the identity



1 statement used for labeling or advertising roasted [~~or~~] coffee,
2 instant coffee, or ready-to-drink coffee beverages produced in
3 whole or in part from Hawaii-grown and Hawaii-processed green
4 coffee beans shall meet the following requirements:

5 (1) For roasted [~~or~~] coffee, instant coffee, or ready-to-
6 drink coffee beverages that [~~contains~~] contain one
7 hundred per cent Hawaii-grown and Hawaii-processed
8 coffee by weight, the identity statement shall consist
9 of either:

10 (A) The geographic origin of the Hawaii-grown and
11 Hawaii-processed coffee, in coffee consisting of
12 beans from only one geographic origin, followed
13 by the word "Coffee"; provided that the
14 geographic origin may be immediately preceded by
15 the term "100%"; or

16 (B) The per cent coffee by weight of one of the
17 Hawaii-grown and Hawaii-processed coffees, used
18 in coffee consisting of beans from several
19 geographic origins, followed by the geographic
20 origin of the weight-specified coffee and the
21 terms "Coffee" and "All Hawaiian";



- 1 (2) For roasted [~~or~~] coffee, instant coffee, or ready-to-
2 drink coffee beverages consisting of a blend of one or
3 more Hawaii-grown and Hawaii-processed coffees and
4 coffee not grown or processed in Hawaii, the per cent
5 coffee by weight of one of the Hawaii-grown and
6 Hawaii-processed coffees used in the blend, followed
7 by the geographic origin of the weight-specified
8 coffee and the term "Coffee Blend"; and
- 9 (3) Each word or character in the identity statement shall
10 be of the same type size and shall be contiguous. The
11 smallest letter or character of the identity statement
12 on packages of sixteen ounces or less net weight shall
13 be at least one and one-half times the type size
14 required under federal law for the statement of net
15 weight or three-sixteenths of an inch in height,
16 whichever is smaller. The smallest letter or
17 character of the identity statement on packages of
18 greater than sixteen ounces net weight shall be at
19 least one and one-half times the type size required
20 under federal law for the statement of net weight.
21 The identity statement shall be conspicuously



1 displayed without any intervening material in a
2 position above the statement of net weight. Upper and
3 lower case letters may be used interchangeably in the
4 identity statement.

5 (b) A listing of the geographic origins of the various
6 Hawaii-grown and Hawaii-processed coffees and the regional
7 origins of the various coffees not grown or processed in Hawaii
8 that are included in a blend [~~may~~] shall be shown on the label.
9 [~~If used, this~~] This list shall consist of the term "Contains:",
10 followed by, in descending order of per cent coffee by weight
11 and separated by commas, the respective geographic origin or
12 regional origin of the various coffees in the blend [~~that the~~
13 ~~manufacturer chooses to list~~]. Each geographic origin or
14 regional origin [~~may~~] shall be preceded by the per cent [~~of~~]
15 coffee by weight represented by that geographic origin or
16 regional origin, expressed as a number followed by the per cent
17 sign. In place of separate listings of regional origins of
18 coffee not grown or processed in Hawaii in the blend, the list
19 may include the words "Foreign-grown Coffee", preceded by the
20 per cent coffee by weight in the blend. The type size used for
21 this list shall [~~not exceed~~] be no less than half that of the



1 identity statement. This list shall appear below the identity
2 statement [~~if included~~] on the front panel of the label.

3 (c) The requirements of subsections (a) and (b) shall
4 apply to the labeling of any inner package or inner wrapping of
5 the roasted coffee, instant coffee, or ready-to-drink coffee
6 beverages that includes any geographic origin of Hawaii-grown
7 and Hawaii-processed coffee, regardless of whether the inner
8 package or inner wrapping is intended to be individually sold.

9 [~~e~~] (d) It shall be a violation of this section to:

- 10 (1) Use the identity statement specified in subsection
11 (a)(1)(A) or similar terms in labeling or advertising
12 unless the package of roasted [~~e~~] coffee, instant
13 coffee, or ready-to-drink coffee beverage contains one
14 hundred per cent coffee by weight from that one
15 geographic origin;
- 16 (2) Use a geographic origin in labeling or advertising,
17 including in conjunction with a coffee style or in any
18 other manner, if the roasted [~~e~~] coffee, instant
19 coffee, or ready-to-drink coffee beverage contains
20 less than ten per cent coffee by weight from that
21 geographic origin;



- 1 (3) Use a geographic origin in labeling or advertising
2 roasted [œ] coffee, instant coffee, or ready-to-drink
3 coffee beverages, including advertising in conjunction
4 with a coffee style or in any other manner, without
5 disclosing the [~~percentage of~~] per cent coffee by
6 weight used from that geographic origin as described
7 in subsection (a) (1) (B) and (a) (2);
- 8 (4) Use a geographic origin in labeling or advertising
9 roasted [œ] coffee, instant coffee, or ready-to-drink
10 coffee beverages, including in conjunction with a
11 coffee style or in any other manner, if the green
12 coffee beans used in that roasted [œ] coffee, instant
13 coffee, or ready-to-drink coffee beverage do not meet
14 the grade standard requirements of rules adopted under
15 chapter 147;
- 16 (5) Misrepresent, on a label or in advertising of a
17 roasted [œ] coffee, instant coffee, or ready-to-drink
18 coffee beverage, the per cent coffee by weight of any
19 coffee from a geographic origin or regional origin;
- 20 (6) Use the term "All Hawaiian" on a label or in
21 advertising of a roasted [œ] coffee, instant coffee,



1 or ready-to-drink coffee beverage if [the] that
2 roasted [œ] coffee, instant coffee, or ready-to-drink
3 coffee beverage is not produced entirely from green
4 coffee beans [produced in geographic origins defined
5 in this chapter,] grown and processed in Hawaii;

6 (7) Use a geographic origin on the front label panel of a
7 package of roasted [œ] coffee, instant coffee, or
8 ready-to-drink coffee beverage other than in the
9 trademark or in the identity statement as authorized
10 in subsection (a) (1) and (2) unless [~~one hundred per~~
11 ~~cent of~~] the roasted [œ] coffee, instant coffee
12 [contained in the package is], or ready-to-drink
13 coffee beverage contains one hundred per cent coffee
14 by weight from that geographic origin;

15 (8) Use more than one trademark on a package of roasted
16 [œ] coffee, instant coffee, or ready-to-drink coffee
17 beverage unless [~~one hundred per cent of~~] the roasted
18 [œ] coffee, instant coffee [contained in the package
19 is], or ready-to-drink coffee beverage contains one
20 hundred per cent coffee by weight from that geographic
21 origin specified by the trademark;



- 1 (9) Use a trademark that begins with the name of a
2 geographic origin on a package of roasted [~~or~~] coffee,
3 instant coffee, or ready-to-drink coffee beverage
4 unless [~~one hundred per cent of~~] the roasted [~~or~~]
5 coffee, instant coffee [contained in the package
6 comes], or ready-to-drink coffee beverage contains one
7 hundred per cent coffee by weight from that geographic
8 origin or the trademark ends with words that indicate
9 a business entity; or
- 10 (10) Print the identity statement required by subsection
11 (a) in a smaller font than that used for a trademark
12 that includes the name of a geographic origin pursuant
13 to paragraph (7) and in a location other than the
14 front label panel of a package of roasted [~~or~~] coffee,
15 instant coffee[-], or ready-to-drink coffee beverage.
- 16 [~~d~~] (e) Roasters, manufacturers, or other persons who
17 package roasted [~~or~~] coffee, instant coffee, or ready-to-drink
18 coffee beverages covered by this section shall maintain, for a
19 period of two years, records on the volume and geographic origin
20 or regional origin of coffees purchased [~~and~~], sold, and used
21 and any other records required by the department for the purpose



1 of enforcing this section. Authorized employees of the
2 department shall have access to these records during normal
3 business hours.

4 ~~[(e) For the purpose of]~~ (f) As used in this section:

5 "Geographic origin" means the geographic regions in which
6 Hawaii-grown green coffee beans are produced, as defined in
7 rules adopted under chapter 147; provided that the term
8 "Hawaiian" may be substituted for the geographic origin
9 "Hawaii".

10 "Per cent coffee by weight" means the percentage calculated
11 by dividing the weight in pounds of roasted green coffee beans
12 of one geographic or regional origin used in a production run of
13 roasted ~~[or]~~ coffee, instant coffee, or ready-to-drink coffee
14 beverages by the total weight in pounds of the roasted green
15 coffee beans used in that production run of roasted ~~[or]~~ coffee,
16 instant coffee, or ready-to-drink coffee beverages, and
17 multiplying the quotient by one hundred.

18 "Ready-to-drink coffee beverage" means a prepackaged
19 beverage that consists of or includes coffee and is sold in a
20 prepared form that can be immediately consumed upon purchase.



1 "Ready-to-drink coffee beverage" does not include made-to-order
2 beverages."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2024.

APPROVED this **5th** day of **July**, 2023



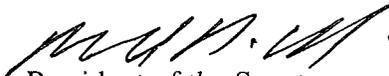
GOVERNOR OF THE STATE OF HAWAII



THE SENATE OF THE STATE OF HAWAI‘I

Date: May 2, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.


President of the Senate


Clerk of the Senate

SB No. 746, SD 1, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives