

**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**  
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**TESTIMONY OF SHARON HURD  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT  
AND COMMERCE AND CONSUMER PROTECTION**

**WEDNESDAY, APRIL 17, 2024  
9:30 AM  
CONFERENCE ROOM 225**

**HOUSE CONCURRENT RESOLUTION NO. 161**

**REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A WORKING  
GROUP TO REVIEW THE EFFECTIVENESS OF THE RELEVANT STATE LAWS  
GOVERNING AGRICULTURAL-BASED COMMERCIAL OPERATIONS.**

Chairs Gabbard and Keohokalole, Vice Chairs Richards and Fukunaga and Members of the Committees:

Thank you for the opportunity to testify on House Concurrent Resolution No. 161 that requests the Department of Agriculture (Department) to convene a working group to review the effectiveness of the relevant State laws governing agricultural-based commercial operations (Section 205-2(d)(15)).

The Department appreciates the concerns expressed in this resolution however we respectfully decline the request to convene a working group to review the effectiveness of the relevant State laws governing agricultural-based commercial operations. The Department has no regulatory authority within the Agricultural District and had no input into the ordinances adopted by those counties to carry out Section 205-2(d)(15).



It appears the incidents of alleged abuse described in the resolution arise from the lack of a statutory requirement that the agricultural products and value-added products that are displayed, sold, prepared and served, stored, processed, and distributed are grown exclusively or some other amount on the lot or property where the agricultural-based commercial operation is proposed. The alleged abuses themselves do not appear to be contrary to Section 205-2(d)(15).

The Department comments that the proponents of the resolution may wish to consult with the county planning departments to determine the characteristics of permitted agricultural-based commercial operations where there is no evidence that agricultural products are grown on the property and used by the commercial operation located thereon.

Thank you for the opportunity to testify on this resolution.

# Keep the North Shore Country

Senate Committee on Agriculture and Energy  
Senate Committee on Consumer Protection  
Wednesday, April 17, 2024  
9:30 a.m., Room 225

## Testimony in Support of HCR 161

Aloha, Chairs Gabbard, Keohokalole, and Committee Members.

Keep the North Shore Country is in **strong support of HCR 161**.

Prior to 2012, Hawaii law protected agricultural lands from non-agricultural retail operations by allowing only open-air roadside stands to sell produce grown on the subject property. In an effort to allow additional revenue streams to support farming profitability, Act 113 in 2012 established “agricultural-based commercial operations.”

**The problem with the existing law is that it does not require any food to be grown on the subject property!** Rather, HRS 205-2 (d) 15 requires merely the sale of “products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.”

Consider a coffee shop justifying its location on ag land because it sells coffee grown on another island; a retail operation selling smoothies and acai bowls based on their use of bananas grown somewhere else in Hawaii; someone trying to sell pizza and sandwiches on fallow land. These are real examples, today, that defy efforts to protect agricultural land for local food production.

**Who could possibly argue that at least some food should be grown on the subject ag land?**

There should be some minimum standard in the law for these retail activities on agricultural land. This resolution would bring stakeholders together to define a rational requirement for locally grown food used by agricultural-based commercial operations. This needs to happen.

Thank you for helping reduce this this giant loophole that allows the proliferation of non-agricultural use of Hawaii’s agricultural lands.



# Hui o Kamananui

Protecting & Preserving Agricultural Lands on the North Shore

## COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

## COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M. "Tim" Richards, III, Vice Chair

Wednesday, April 17, 2024

9:30 a.m., Room 225

## Testimony in Support of HCR 161

Hui o Kamananui is a community group in Waialua committed to protecting and preserving agricultural lands on the North Shore of Oahu. We stand in **strong support of HCR 161**.

HRS 205-2(d)15 allows agricultural-based commercial operations to display and sell “agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii.” There is no nexus to agricultural production on the subject agricultural land.

**Example:** Last year, the City and County of Honolulu granted a conditional use permit, minor, and special management area permit, minor, to a landowner who proposes to operate an agricultural-based commercial operation along Kaukonahua Road in Waialua. The land is fallow, yet the owner plans to sell coffee and tea from one new storefront, pizza and sandwiches from a second window, and distilled products from a third business. **None, or virtually none, of the items sold will be grown on-site.** Besides buying Kona coffee and maybe some tomatoes, it is unclear how these businesses support agricultural production anywhere in Hawaii, let alone on-site. These businesses should be located on urban zoned land, not agricultural.

Non-agricultural commercial operations on agricultural lands sidestep county planning considerations, defy statewide efforts to protect agricultural land for agricultural production, and ultimately harm real farmers by competing for precious land.

Thank you for supporting this resolution to encourage stakeholder discussions to update the statute. Let’s continue to support true agricultural producers and close the proverbial barn door on unscrupulous actors who would exploit the existing loopholes.



## *Hawaii's Thousand Friends*

335 Hahani Street #342132 \* Kailua, HI 96734 \* Phone/Fax (808) 262-0682 E-Mail: [htf3000@gmail.com](mailto:htf3000@gmail.com)

April 17, 2024

### COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

### COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator Herbert M. "Tim" Richards, III, Vice Chair  
Committee Members

HCR 161

REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A WORKING GROUP TO REVIEW THE EFFECTIVENESS OF THE RELEVANT STATE LAWS GOVERNING AGRICULTURAL-BASED COMMERCIAL OPERATIONS.

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization dedicated to protecting the environment, human health, and cultural and natural resources is in **strong support** of HCR 161.

"Agricultural-based commercial operations" is a permitted use in the agricultural district, as defined in HRS 205-2 (d) 15. The Legislation establishing this type of business activity was meant to help bona fide farmers stay profitable and continue to farm in Hawaii.

Curiously, this law to support local farming production allows retail activities and food establishments on agricultural land without a requirement to produce agricultural on the land. The requirement that these businesses feature "agricultural products grown in Hawaii, and value-added products that were produced using agricultural products grown in Hawaii" is virtually no requirement at all.

Why is there no minimum requirement of agricultural activity on the land for agricultural-based commercial operations? Who could argue against a requirement that agricultural activity occurs on ag land?

Businesses now sell coffee, acai bowls, and prepared food on agricultural lands along busy highways without any nexus to farming, on land not zoned for commercial activity. This could not have been the intent of Act 113 back in 2012, when the effort was made to augment farmer income opportunities. Unfortunately, a gigantic loophole that hurts, rather than helps farming, was created. Non-agricultural use of ag land hurts legitimate agriculture production.

Now is a good time for stakeholders to consider and recommend updates to the agricultural-based commercial operations statutes. Please pass HCR 161.

**HCR-161**

Submitted on: 4/12/2024 1:44:49 PM

Testimony for AEN on 4/17/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes to:- REQUESTING THE DEPARTMENT OF AGRICULTURE TO  
CONVENE A WORKING GROUP TO REVIEW THE  
EFFECTIVENESS OF THE RELEVANT STATE LAWS  
GOVERNING AGRICULTURAL-BASED COMMERCIAL  
OPERATIONS