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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS

TUESDAY FEBRUARY 17, 2026
1:05 PM
CONFERENCE ROOM 224 & VIDEOCONFERENCE

SENATE BILL NO. 3248
RELATING TO LABELING REQUIREMENTS

Chair Richards, Vice Chair Lamosao and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3248 which establishes labeling requirements for 'okolehao products. The Department of Agriculture and Biosecurity supports this bill.

Establishing labeling requirements for 'okolehao products will help the industry and benefit farmers, distillers, distributors and retailers in Hawaii. The State should regulate the traditional Hawaiian brand names and help industry grow by protecting businesses within the State. Protecting this 'okolehao product should help grow the industry from within and prevent producers from using the 'okolehao name outside of the State. We agree with the legislature that it is important to protect the State's agricultural and cultural landscape while creating an authentic visitor experience rooted in culture, place and the local production of 'okolehao.

DAB also recognizes that ki plant cultivation and 'okolehao distillation presents opportunity to support Hawaii farmers, while ensuring that consumers receive a product that is truthfully labeled and rooted in Hawaii. We are ready to work with producers to develop guidelines for inspection and certification of the product. However, since distilled spirits is a new product that DAB has not regulated before, it will be a development process to create regulation and inspection procedures for compliance.

DAB respectfully asks for 1 FTE Measurement Standards Inspector V position SR19 $65,000 initially to help develop inspection processes and regulate this product.

Thank you for the opportunity to testify on this measure.

WRITTEN TESTIMONY IN OPPOSITION TO SB3248
Relating to ʻŌkolehao; Distilled Spirits; Labelling Requirements
(Date of Hearing: 02/17/2026)

To:
Chair and Members
Hawaiian Affairs Committee
Hawaiʻi State Legislature

From:
Mr Alexander Molyneaux
Founder and Owner / Kahuna Spirits Ltd
Sunbury-on-Thames, Surrey, United Kingdom

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+44 7545 783559

Re: Oppose *SB3248* — Establishes labeling requirements for ʻōkolehao products.

POSITION: OPPOSE

My name is Alexander, and I am the founder of Kahuna Okolehao, a business based in the United Kingdom that produces an authentic and traditional form of ʻōkolehao. Our spirit is based on careful historical research and reflects a sincere commitment to cultural and historical preservation. It respectfully recognises the spirit's shared British Polynesian heritage and ensures that consumers are accurately and transparently informed about its origins, history and cultural significance. We handcraft our ʻōkolehao in close adherence to its historic roots, employing traditional pot-still distillation and ingredients historically used by early ʻōkolehao distillers. Our methods preserve the authenticity, historical integrity, and traditional character of the spirit, ensuring it remains faithful to the legacy of ʻōkolehao, while being produced responsibly and transparently by our UK-based distillery. At the heart of Kahuna Okolehao is a deep respect for the people and cultures of the Pacific Islands. With every batch we produce, we support selected Pacific organisations working to preserve and protect cultural heritage, ancestral knowledge and empower future generations across the region.

I respectfully oppose SB3248 which seeks to narrowly define and restrict the use of the term ʻōkolehao by imposing a specific production formula and geographic origin requirement for labeling purposes. While protecting cultural heritage and promoting

authentic products are laudable objectives, the bills' current formulation rests on historically and factually inaccurate assumptions about the origins and evolution of ʻōkolehao. By codifying a rigid and incomplete definition into statute, the legislation would not only misrepresent the historical record but also impose unjustified regulatory burdens on lawful producers, including those operating internationally who produce spirits in good faith under established regulatory frameworks.

I have dedicated more than half a decade to rigorous research on the history and cultural context of ʻōkolehao, including extensive fieldwork and archival study throughout the Pacific, particularly in Hawaiʻi. I am a history graduate of King's College London, and my work has involved careful examination of a broad range of primary sources, including historical newspapers, shipping records, government documents, correspondence and early firsthand accounts as well as relevant secondary scholarship. Through this research, I have developed a comprehensive understanding of the spirit's origins, production methods and evolution over time. The historical record demonstrates that many commonly held assumptions about ʻōkolehao, particularly those suggesting a single fixed formula or geographic limitation are incomplete, oversimplified, or inconsistent with documented evidence. My work is guided by a commitment to historical accuracy and cultural integrity. The product we develop and produce seeks to reflect the spirit's authentic and historically grounded reality, rather than perpetuating the simplified and selectively rewritten narratives currently about ʻōkolehao that have increasingly shaped the modern marketplace and, in doing so, risk distorting and diminishing ʻōkolehao's true historical legacy.

ʻŌkolehao origins are actually traced back to Britain and are deeply intertwined with British maritime and naval history. In the late 1700s and 1800s, British sailors, including ship captains, HMS Bounty mutineers, castaways, whalers, missionaries, beachcombers and traders travelled across the Pacific Islands, introducing the previously unknown art of distillation. Through their experiments with local ingredients, they created ʻōkolehao in its earliest forms, initially using the root of a cordyline plant known as ti. Over time, its recipes and mash bills evolved, giving rise to the many variations of ʻōkolehao throughout the Pacific.

The earliest known record of ʻōkolehao dates to the 1790s, when William Stevenson, an escaped British convict from Bo'ness, Scotland, arrived on the shores of Oʻahu, Hawaiʻi. Stevenson fashioned a makeshift still using iron whaling pots and a gun barrel to distil a spirit from the root of ti plant a type of cordyline. He is widely credited as the first person in history to produce this spirit. However, the story of ʻōkolehao does not begin and end in Hawaiʻi, as is mistakenly assumed. In the same decade, *Bounty* mutineer William McCoy arrived on Pitcairn Island and distilled a strong liquor from the same cordyline root in 1796. Today, the Pitcairn Islands Study Center, a specialized research archive and collection dedicated to the history,

culture, and people of the Pitcairn Islands and housed at Pacific Union College in Angwin, California, recognizes in its *Pitcairn Island Encyclopedia* this spirit as ‘ōkolehao, highlighting its broader historical and cultural significance across the Pacific.

Beyond the documented distillation of ‘ōkolehao on Pitcairn Island, numerous 19th century historical records describe its production by British sea captains, sailors, beachcombers, castaways, whalers, missionaries, traders, as well as local chiefs and inhabitants across the Pacific. Drawing from both primary sources and secondary historical analyses, I have traced evidence of this spirit’s distillation in Tahiti, Bora Bora, the Marquesas Islands, Fiji, the Cook Islands, Huahine, Moʻorea, Raʻiātea, Tahaʻa, Futuna, Rapa Iti, the Tuamotus, Tonga, Kosrae, and even New Zealand. Together, these records demonstrate that ‘ōkolehao was not confined to a single island group but formed part of a broader pattern of cross-cultural exchange and adaptation throughout the Pacific in the nineteenth century. Some examples of the historical sources supporting this argument include the letters and reports of the London Missionary Society, which document the presence and impact of ‘ōkolehao throughout the Society Islands. In 1852, Hawaiian missionary Luther Halsey Gulick recorded the distillation of ti root spirits on Kosrae, Micronesia. That same year, British beachcomber Thomas Clifton Lawson reported that the practice of distilling this spirit had spread widely throughout the Marquesas. British naturalist, traveler, and writer John Whetham Boddam-Whetham noted in his 1876 work *Pearls of the Pacific* that the inhabitants of Futuna were distilling ti root during his visit. Likewise, in the mid-to-late 1870s, British travel writer Herbert Stonehewer Cooper documented island life in *The Coral Lands of the Pacific*, recording the distillation of ti root spirits in Tonga. British Naval Captain John Erskine, serving aboard HMS *Havannah*, recorded during his 1849 voyage through the Western Pacific that inhabitants in Fiji were distilling a form of ‘ōkolehao from ti root as well as from banana and sugarcane. His account highlights a broader historical reality; ‘ōkolehao was never confined to just *Cordyline fruticosa*, nor was it produced according to any fixed or standardized mash bill.

19th and early 20th century records demonstrate that ‘ōkolehao was also distilled from a wide range of ingredients, including rice, pineapple, molasses, sugarcane, sweet potato, potato, kiawe beans, pandanus, prickly pear, honey, corn, sugar, oranges, papaya, grapes, banana, breadfruit, guava, taro, watermelon, and *Cordyline australis*. Moreover, contemporary Hawaiian-language newspapers such as *Ka Nupepa Kuokoa*, *Ka Lāhui Hawaiʻi*, and *Ka Hoku o ka Pakipika*, along with English-language publications including the *Evening Star*, *The Hawaiian Star*, *The Hawaiian Gazette*, *The Pacific Commercial Advertiser*, *Evening Bulletin*, *The Honolulu Republican*, and *The Daily Astorian*, consistently reported ‘ōkolehao being produced from many different ingredients often without any reference to ti root at all. These records make it clear that the claim that ti root must be present for a spirit to be classified as ‘ōkolehao is historically inaccurate, unsupported, and a

misinterpretation of the evidence. In fact, many Pacific islands outside Hawai‘i such as Bora Bora, Fiji, the Marquesas Islands, New Zealand, and Taha‘a historically distilled versions of ‘ōkolehao using ingredients other than ti root. There is no historical record supporting a requirement that ‘ōkolehao contain 51% ti root or any other specific ratio; any such figure is entirely invented.

For over two centuries, ‘ōkolehao was distilled across the islands of the Pacific. While its production declined and disappeared on many islands over time, its historical presence demonstrates that ‘ōkolehao is far more than a uniquely Hawaiian spirit. It is a British Polynesian spirit with a geographic and cultural heritage spanning much of the Pacific. Although it was known by different names on different islands, it remained the same type of distilled spirit. Like vodka or gin, ‘ōkolehao is a generic category of spirit, defined by its method of production, typically pot distillation and usually the use of ingredients indigenous to the Pacific Islands, rather than by a single region, ingredient, or recipe. It is not the same as geographically protected spirits such as Tequila, Armagnac, Cognac, or Champagne, which are intrinsically tied to their regions and traditions, and whose names reflect that exclusive geographic origin. By contrast, ‘ōkolehao evolved across islands, adapting to local resources, and reflects a shared Pacific history of distillation and cultural exchange. It is also worth noting that ‘ōkolehao was commercially produced in California between 1987 and 2003 by the LeVecke Corporation and has been distilled in the United Kingdom since 2021 by Kahuna Okolehao.

While the intent to recognize cultural heritage is important, SB3248 would enshrine a specific production method and geographic limitation in law that is built on incorrect information about ‘ōkolehao’s history and threatens to place undue regulatory burdens on lawful producers everywhere, including those operating outside Hawai‘i who produce the spirit accurately, faithfully and legally. ‘Ōkolehao’s heritage is rooted in a centuries-old Pacific cultural exchange between British and Polynesian communities, encompassing but not limited to Hawai‘i. It is not confined to a single location or rigid formula, as SB3248 proposes. For these reasons, I respectfully oppose this bill and urge a careful re-examination of the historical record, recognizing that ‘ōkolehao is a complex British Polynesian spirit with a history and presence both in Hawai‘i and internationally. My testimony will further address specific provisions of the bill and the concerns they raise.

1. “51% Ti Root (Kī)” Requirement Is Factually Inaccurate

SB3248 defines ‘ōkolehao, in part, as a spirit that “is distilled from a fermented mash, at least fifty-one per cent of which is derived from kī root (Cordyline fruticosa) grown in the State.” This rigid percentage requirement is not supported by documented historical practice and appears to lack a clear evidentiary foundation. As drafted, it

risks conflicting with the bill's stated purpose by narrowing a historically diverse and adaptive tradition into a modern statutory formula that does not reflect the historical record. While early ʻōkolehao is widely described as being made from baked kī root, historical accounts consistently show that producers supplemented and at times entirely replaced kī with other fermentable ingredients such as sugarcane, rice, pineapple, sweet potato, honey and other locally available starches to increase alcohol yield and improve drinkability. Numerous Hawaiian and English language newspapers from the nineteenth and early twentieth centuries document recipes and prosecutions involving ʻōkolehao made without kī root at all.

Contemporary newspaper evidence from Hawaiʻi during this period clearly demonstrates that ʻōkolehao was produced from a broad range of ingredients, often with no use of kī (ti) root. For example, the *Pacific Commercial Advertiser* in an article dated May 1, 1875, reported from West Maui: "The manufacture of okolehao from molasses, prickly-pear, and water-melon, and swipes of sweet-potatoes, is very ingeniously performed all over the county". Decades later, the same paper on July 30th, 1901 featured an article titled "OKOLEHAO FROM HONEY".

The *Hawaiian Star* provides further documentation. On November 24th, 1902, page 5, in an article titled "OKOLEHAO MADE FROM KIAWE BEANS" it mentions the following "the mash is a very interesting composition. So far as it can be roughly analysed by appearance it is composed of kiawe beans, corn, bran and a few potatoes and honey." On May 26th, 1904, page 5, the paper recorded an incident involving a Japanese okolehao distiller called Takita: "Pineapples were largely used in the manufacturer of Takita's okolehao, and the pineapples were stolen, ti is believed, from the Wahiawa colonists. The Japanese hut and the still were hidden away in a gulch and the okolehao-makers evidently stole pineapples from the planters. There is no ti plant in the vicinity and no ti was used in making the okolehao. A part of the okolehao seized is 90 proof, while the rest is much weaker. It is made from beans, hops and sugar, as well as pineapple."

Additional reports reinforce this pattern. The *Hawaiian Star*, June 29th, 1906 page 8 titled "RICE OKOLEHAO" it mentions a Chinese man being arrested in Kauai for having a still in his procession. "He was using it, it is alleged to make okolehao from rice". The *Hawaiian Star*, August 16th, 1906, refers to an okolehao of a rather poor quality made from sugar only. The *Hawaiian Star* on May 21st, 1907, second edition page 6 states "had they been able to have operated the still for any time, they would have turned out okolehao in wholesale quantities. The mash consisted of bran, sugar and potatoes."

These repeated contemporaneous accounts demonstrate that ʻōkolehao was historically an adaptive and resourceful spirit, produced from a variety of locally

available fermentable ingredients. While early forms were associated with baked kī root, the historical record does not support the claim that ‘ōkolehao was exclusively or even consistently made from kī. The assertion that ‘ōkolehao can only be distilled from at least 51% kī root is therefore inconsistent with documented historical evidence and reflects a poor understanding of the spirit.

It is widely documented that ‘ōkolehao was produced from a variety of ingredients, often without any reference to kī (ti) root at all. The assertion that kī is required for a spirit to be classified as ‘ōkolehao is therefore unsupported by the historical record and reflects a misunderstanding of the spirit’s true heritage and evolution. By codifying an arbitrary fifty-one percent threshold, the statute imposes a requirement that is not grounded in cultural practice, agricultural history, or documented production standards. There is no official recipe, historic production tradition, regulatory precedent, or archival evidence establishing that at least fifty-one percent of the mash must be derived from kī root for a spirit to be considered authentic ‘ōkolehao. Such a mandate risks excluding otherwise legitimate and traditionally produced ‘ōkolehao from qualifying under the law. In doing so, the provision may ultimately undermine the credibility and cultural integrity of the statutory definition, raising serious questions about whether it genuinely reflects the character of ‘ōkolehao or merely enforces an arbitrary numerical formula.

2. The Bill’s Geographic Restriction Is Not Consistent with Proven Production History

As noted previously, ‘ōkolehao has not been produced exclusively in Hawai‘i, as the Act suggests. Historically, the spirit was made across the Pacific Islands for well over a century, reflecting a broader regional tradition rather than a single, geographically confined origin. In more recent decades, documented commercial production outside Hawai‘i further confirms this pattern and demonstrates that ‘ōkolehao has long been recognized as a spirit defined by its traditional ingredients and production methods rather than by strict geographic boundaries. Accordingly, SB3248’s proposed geographic restriction is inconsistent with the established historical production of ‘ōkolehao and risks creating an inaccurate and exclusionary statutory definition of the spirit, one that does not fully reflect its true historical development, cultural diffusion, and continued production beyond Hawai‘i.

The historical record does not support limiting ‘ōkolehao to a single location, as documented evidence shows that ‘ōkolehao was commercially produced outside Hawai’i for a substantial period of time, including manufacture in California from approximately 1987 through the early 2000s. Court proceedings in David E. Fazendin vs. Hawaiian Distillers further revealed that ‘ōkolehao was manufactured by Hawaiian Distillers at Mira Loma, California as part of the LeVecke Corporation,

reinforcing that production was not geographically confined to Hawai'i and establishing a clear precedent that the spirit has historically been defined by its ingredients and production methods rather than location alone. Because SB3248 seeks to impose a strict geographic limitation, it conflicts with this proven production history; geographic exclusivity is typically justified only when continuous, location-specific production defines a product's identity, yet 'ōkolehao's documented manufacture outside Hawai'i demonstrates that it has long been recognized and produced beyond the islands without losing its identity.

Modern production further reinforces this reality, as Kahuna Okolehao, has been actively researching, developing, and producing 'ōkolehao in the United Kingdom since 2021, reflecting the continued evolution and international recognition of 'ōkolehao as a distinct distilled spirit rather than a location-restricted commodity. Imposing a geographic restriction despite this history would contradict documented fact, create an artificial definition inconsistent with the spirit's traditional basis in raw materials and production methods, disrupt legitimate producers operating in good faith outside Hawai'i and risk legal and commercial inconsistency by codifying a definition that conflicts with historical evidence. For these reasons, SB3248's geographic restriction should be reconsidered in favor of a definition grounded in traditional raw materials, fermentation and distillation methods, which more accurately reflects the historical record.

Unlike geographically protected spirits such as Tequila, Cognac, Armagnac, or Champagne, 'ōkolehao is not inherently tied to a specific region. Spirits with geographic protection must be produced within a legally defined area, and their names explicitly indicate that origin. For example, Tequila can only be produced in the town of Tequila and its surrounding designated region in Mexico; Cognac must be distilled and aged in the Cognac region of France; and Champagne can only come from the Champagne region of France. These protections exist because the unique characteristics, quality, and reputation of these spirits are directly linked to their place of production, including local climate, soil, water, and long-established regional practices.

Geographic protection of a spirit requires a continuous and well-documented connection between the product and its place of origin. Spirits like Cognac or Tequila have been consistently produced in their designated regions for decades or even centuries, establishing a strong historical and cultural link to their geographic source. By contrast, 'ōkolehao production has been intermittent, with commercial production in Hawai'i ceasing entirely between 2003 and 2009, and with documented instances of production occurring outside the State, including in California and more recently the United Kingdom. Additionally, from the 1940s through the early 2000s, much of the 'ōkolehao produced and sold in Hawai'i was made as a substitute or imitation of the original spirit, rather than reflecting authentic traditional methods, further

breaking any continuous production history. These gaps demonstrate that ‘ōkolehao lacks the sustained, location-specific production required for geographic protection, making the proposal to codify it as a regionally protected product historically and practically unsound.

It’s defining qualities of fermentable island ingredients and distillation methods can be replicated outside the islands. Because its character does not depend on location, ‘ōkolehao lacks the legally enforceable connection to a region that geographical protections require. The name ‘ōkolehao itself is not geographic; unlike “Tequila” or “Champagne,” it does not reference a region. For a geographical protection, the name generally must identify the region of origin, which ‘ōkolehao does not. For these reasons, granting ‘ōkolehao geographic protection would be inconsistent with its historical production and defining characteristics. Legislation seeking to protect the spirit should instead focus on authentic ingredients and traditional production methods, which accurately reflect its heritage and preserve its cultural significance.

3. The Generic Character of the Term ‘Ōkolehao

The historical and commercial record demonstrates that ‘ōkolehao functions as a generic spirit, not a product that can be confined to a single formula, producer group, or narrowly defined geographic indication. From its earliest documented references in the nineteenth century, the term “‘okolehao” was used descriptively to denote a locally produced distilled spirit, rather than a fixed mash bill, uniform production method, or protected place of origin. Over time, its ingredients, production techniques, and commercial presentation evolved alongside changes in agriculture, trade, and technology. This longstanding variability is inconsistent with the legal principles underlying geographic protection, which require a stable, clearly defined product identity intrinsically linked to a specific geographic environment and consistently applied production standards.

A useful international parallel is *rakia*. Rakia developed across a broad region of Southeastern and Central Europe and has been produced in multiple countries under diverse local traditions and names. It is not made from a single fermentable ingredient; depending on the region, it may be distilled from plums, grapes, apricots, pears, quince, figs, or other fruits. While certain subcategories (such as national designations) may receive limited protections, the term “*rakia*” itself functions generically to describe a category of traditional fruit distillates rather than a single protected product tied to one country or formula. Its identity rests in a shared distilling tradition, not a rigid statutory definition.

‘Ōkolehao presents a comparable case. Historically, it has not been defined by one exclusive raw material or an unbroken, uniform production standard tied to a single locality. Instead, it emerged as a regional distilling tradition that adapted over time. Attempting to retroactively impose a narrow geographic indication framework onto such a historically fluid and commercially descriptive term risks misrepresenting its true nature. Like vodka or gin, ‘ōkolehao has long been marketed as a type of spirit rather than a protected regional brand, with broad commercial use and considerable variation in ingredients, fermentation, and distillation. It has never been consistently regulated by a formal consortium, tied to a specific production area, or codified under enforceable standards. Under both international and domestic principles, once a term becomes generic in common use, it cannot be retroactively monopolized as a geographic indication. ‘Ōkolehao’s long history as a descriptive, category-level spirit therefore weighs decisively against its eligibility for GI-style exclusivity.

4. Regulatory Overlap and Conflicts with Federal Law

SB3248 acknowledges that the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulates distilled spirits in interstate commerce. TTB, a federal agency, has its own classification and labeling framework for distilled spirits, including *distilled spirits specialty* designations. State-imposed definitions that override federal labeling regimes especially for interstate and imported products can create confusion for producers, importers, distributors, and consumers.

Regulatory alignment is critical to ensure fair and consistent interstate commerce, especially for alcoholic beverages that require federal COLA (Certificate of Label Approval) review before sale. Discrepancies between federal and state definitions could result in products being compliant nationally but restricted in Hawai‘i, creating unnecessary trade barriers that may violate principles of interstate commerce.

Under current TTB regulations, ‘ōkolehao is recognized as a Distilled Spirits Specialty (DSS) product with no set standard of identity like other well-established categories. This federal classification allows producers to legally make and sell ‘ōkolehao as long as they submit the appropriate formula and label applications to the TTB and provide a truthful statement of composition. In practice, this system enables Hawaiian distillers to market ‘ōkolehao nationally and internationally without being restricted by narrowly defined state standards, providing flexibility that encourages innovation and adaptation to market demand.

The existing federal approach is also cost-effective and efficient. Distillers submit their formula and label once to the TTB, and upon approval, they can distribute their product across all states without navigating multiple, potentially conflicting state

review processes. Compliance under the TTB is predictable, and the agency provides guidance and tools, such as the Distilled Spirits Formula Tool, to simplify submissions. By applying uniform standards across the United States, the TTB system avoids duplicative regulation and the associated costs of multiple label runs, re-registrations, or legal consultations. This centralization benefits Hawaii economically without the need for a separate state-level regulatory regime that could fragment markets or impose redundant administrative burdens.

Moreover, the TTB classification provides market access and legal certainty today. Hawaiian ‘ōkolehao products are already entering the national marketplace legally under the DSS designation, demonstrating that the federal system works to support economic activity while maintaining legal clarity. In contrast, SB3248’s state-specific production and labeling mandates risk creating conflicts with federal regulations. For instance, a product federally approved as DSS but not meeting the thresholds defined by SB3248 could remain legal to sell elsewhere in the U.S. while being barred from marketing as “‘ōkolehao” in Hawaii. Such a dual regulatory system could increase compliance costs, generate potential litigation, and create uncertainty for producers, ultimately discouraging investment and slowing economic development.

The TTB’s federal system already provides a workable, cost-effective framework that allows ‘ōkolehao to be legally produced, labeled, and sold nationwide while supporting Hawaiian producers and economic growth. Federal classification ensures uniform market access, predictable compliance, and regulatory clarity. Imposing a separate state labeling regime, as SB3248 proposes, risks duplicative regulation, higher costs, and legal conflicts.

5. Uncertain Economic Benefit

Supporters of SB3248 cite protections similar to those for bourbon or tequila as a model for economic growth and cultural preservation. While these spirits have indeed benefited from strong geographic and labeling protections, it is important to note key differences: bourbon and tequila have well-established global reputations, decades of market recognition, and legal protections under federal and international frameworks. ‘Ōkolehao, in contrast, is a relatively small, niche product with limited awareness in Hawai’i and globally. There is no guarantee that state-specific labeling alone will generate comparable economic gains, and the bill’s strict mandates may actually create barriers to market growth. Visitors already travel specifically for those experiences because the products are widely known and marketed internationally. ‘Ōkolehao lacks this level of global brand awareness or demand. The U.S. Supreme Court has noted in legal contexts that at least historically ‘ōkolehao sales represented well under 1 % of total liquor sales in Hawai‘i (in a 1980s case regarding taxation).

SB3248 imposes restrictive definitions, requiring at least 51% locally grown ki root, in-state distillation and bottling which may reduce market flexibility for producers. Small and medium-sized distillers could face significant costs to comply, such as sourcing ingredients exclusively from Hawai'i, investing in additional infrastructure, or reformulating existing products. These additional burdens limit experimentation and innovation, which are essential for craft and niche spirits to attract new customers and enter competitive markets.

Ultimately, while SB3248 aims to promote Hawaii's economy and protect cultural heritage, the economic benefits are uncertain, and the bill could inadvertently limit the very growth and opportunities it intends to support.

6. HB2475 Risks Violating the Foreign Commerce Clause

SB3248's requirement that 'ōkolehao be both distilled and bottled in Hawai'i is overly restrictive and poses significant legal and economic risks for foreign producers. By defining the spirit solely by its in-state production, the bill excludes foreign distillers who adhere to traditional methods, effectively granting a competitive advantage to local producers while barring legitimate international competitors. This restriction directly implicates the U.S. Constitution's Foreign Commerce Clause, which gives Congress exclusive authority to regulate trade with other nations and prohibits states from enacting laws that discriminate against or place an undue burden on foreign commerce. State laws that impede foreign trade are subject to strict judicial scrutiny and are frequently struck down unless the state can demonstrate a compelling local interest that cannot be achieved through less restrictive means. By effectively preventing foreign-produced 'ōkolehao from being marketed in Hawai'i and the United States, SB3248 not only risks legal invalidation but also limits consumer choice, reduces competition and undermines the global recognition and economic growth potential of 'ōkolehao.

7. Comment on the Agricultural Origin Requirement

The provision requiring that 'ōkolehao be "distilled from agricultural products, at least fifty-one per cent of which were cultivated and harvested within the State" appears inconsistent with the stated intent of the measure. The purpose of the bill is to recognize 'ōkolehao as a product that is distinctive to Hawai'i and to support Hawai'i's agricultural industry. However, the allowance of a substantial portion of agricultural inputs to be sourced from outside the State weakens the connection between the product and Hawai'i-based agriculture. Permitting nearly half of the agricultural components to originate elsewhere does not clearly advance the goal of

promoting or sustaining local agricultural production. This inconsistency raises concerns regarding whether the definition meaningfully reflects the cultural and geographic identity the measure seeks to protect. A statutory framework intended to affirm ‘ōkolehao as a product of Hawai‘i should maintain a clear and coherent nexus to Hawai‘i agriculture. As drafted, the definition appears to dilute that nexus and undermines the stated objectives of the Act.

If nearly half of the raw materials can be imported, a significant portion of the economic benefit leaves the state. That means local farmers miss out on potential revenue, land use opportunities, job creation, and long-term agricultural investment. Additionally, the current structure of the ‘ōkolehao industry already limits broader agricultural benefit. Most existing producers grow their own kī plants for distillation. While this supports their individual businesses, it does not meaningfully stimulate the wider agricultural economy. Independent farmers, small agricultural operators, and diversified growers are largely excluded from participation in the supply chain. As written, SB3248 risks creating a vertically integrated model where distillers import nearly half their inputs and self-supply the rest, bypassing local farmers altogether. This concentrates economic benefit within a small number of businesses rather than expanding opportunity across Hawai‘i’s agricultural sector. For these reasons, the agricultural origin requirement, as currently written, does not appear fully aligned with the measure’s expressed purpose.

8. Restrictions on Hawaiian Imagery and Marketing of ‘Ōkolehao

As a producer of ‘ōkolehao based in the United Kingdom, I intend to sell this spirit in the United States. The clause in SB3248 that restricts the use of Hawaiian imagery, place names, or motifs unless the spirit meets the bill’s narrow definition directly affects my ability to market and sell a legally and accurately produced product. Our labeling clearly states that the product is distilled and bottled in the U.K., in accordance with federal labelling regulations making it impossible for a reasonable consumer to be misled about its origin.

If enacted, this provision would impose unjustified regulatory barriers on lawful international producers, restricting commerce and undermining principles of truthful commercial speech protected under the First Amendment. U.S. law safeguards the right of producers to truthfully describe and represent their products, including the use of cultural, historical, or geographic references that are not misleading to consumers. By broadly prohibiting Hawaiian imagery, even when used honestly and transparently, the bill would limit the ability of lawful producers like myself to communicate the heritage, context, and identity of ‘ōkolehao to consumers, constraining competition and market access. For these reasons, I respectfully

oppose this clause and urge lawmakers to carefully consider its disproportionate impact on international producers operating legally and transparently.

9. Voluntary Certification Mark Program

The clause allowing the department to establish a voluntary certification mark program raises significant concerns regarding cost and administrative burden for the State of Hawaii. Even though the program is labeled “voluntary,” implementing and maintaining it would require substantial resources, including staff, training, oversight, and marketing, inspections, laboratory tests and diverting funds from other essential state services. Additionally, creating and managing a certification system introduces administrative complexity, with detailed regulations, application processes, and monitoring mechanisms that could overwhelm the department. There is also potential for confusion or legal challenges, as businesses that do not participate could still claim compliance, and inconsistent enforcement could lead to costly disputes. Ultimately, the limited benefits of a voluntary program, verifying only participating businesses and potentially confusing consumers, do not justify the financial and operational burdens it would place on the state. A more effective approach would be to focus on clear guidance and education for businesses rather than establishing a costly certification system.

10. Comment on Nonconsumer Package Labeling Clause

The labeling requirement that nonconsumer packages of ‘ōkolehao “bear a label clearly stating that the product is ‘Hawai‘i-distilled ‘ōkolehao made with Hawai‘i-grown kī’” raises significant concerns. Under the bill, up to forty nine percent of the agricultural inputs, including kī, can be sourced from outside Hawai‘i. Yet the label implies that all kī used is locally grown, which may not be accurate. This creates the potential to mislead consumers about the true origin of the product and could expose producers to unnecessary liability, even if they are following the law. In its current form, the labeling provision is inconsistent with the bill’s stated goal of promoting authentic, Hawai‘i-sourced ‘ōkolehao and risks creating confusion for both producers and consumers.

Conclusion

In closing, I respectfully submit that SB3248, while well-intentioned in its desire to honor Hawai‘i’s heritage and support local industry, is built upon historical, legal and economic assumptions that do not withstand careful scrutiny. The bill codifies a fixed 51% kī root requirement unsupported by the documented historical record; imposes

a geographic restriction inconsistent with over two centuries of production history; attempts to transform a historically generic and adaptive spirit into a narrowly confined statutory product; risks conflict with established federal regulatory frameworks; raises serious concerns under the Interstate and Foreign Commerce Clauses; creates uncertainty regarding economic benefit; and introduces labeling and certification provisions that may mislead consumers, burden producers, and strain state resources.

‘Ōkolehao’s history is complex, adaptive, and rooted in cross-cultural exchange throughout the Pacific. It has evolved over time in response to available agricultural inputs, technological development and changing markets. The historical record demonstrates variability in ingredients, production methods, and location. Attempting to retroactively impose a rigid formula and exclusive geographic boundary upon such a tradition risks misrepresenting its authentic character rather than preserving it.

If the Legislature’s objective is to support Hawai‘i agriculture and promote Hawaiian-made products, there are alternative approaches that would better achieve those goals. A framework focused on clearly defined voluntary labeling for “Hawai‘i-distilled” or “Hawai‘i-grown kī” products without excluding historically accurate forms produced elsewhere would preserve consumer transparency while avoiding constitutional concerns and regulatory conflict.

I offer this testimony not in opposition to Hawai‘i’s cultural heritage, on the contrary, my work has been motivated by deep respect for the Pacific’s history and traditions, but in opposition to a statutory definition that risks distorting that history and creating legal and commercial consequences that may ultimately undermine the spirit it seeks to protect.

For these reasons, I respectfully urge the Committee to reconsider SB3248 in its current form and to undertake a careful re-examination of the historical record, regulatory landscape and constitutional implications before codifying a definition of ‘ōkolehao into law.

Mahalo for the opportunity to provide testimony and for your thoughtful consideration of these concerns.

Respectfully submitted,

Alexander Molyneaux.

February 11, 2026

The Honorable Members
Committee on Hawaiian Affairs
Committee on Commerce and Consumer Protection
Hawai‘i State Legislature
415 South Beretania Street
Honolulu, HI 96813

Re: HB 2475 and SB 3248 – ‘Ōkolehao Labeling Requirements

Dear Chair, Vice Chair, and Members of the Committees:

I write in **strong support** of HB 2475 and SB 3248. My name is Noah von Blöm. I have spent my professional life at the intersection of food, culture, and community—as a chef, as an entrepreneur, and as a public servant. I also work with 5sentidos mezcal and have led multiple philanthropic efforts in Hawai‘i, including disaster relief operations in the aftermath of the 2023 Lahaina wildfires.

I offer this testimony because I hold two perspectives that bear directly on this legislation. The first is personal. My work in Lahaina—standing alongside families who had lost everything, helping to organize resources and rebuild hope in a community brought to its knees—left me with an enduring commitment to the long-term economic resilience of Hawai‘i’s people. Recovery funding is essential in the short term, but what sustains a community over generations is the presence of rooted, place-based industries that create dignified work and keep wealth circulating locally. A protected ‘ōkolehao industry is precisely that kind of opportunity.

The second perspective is professional. As a partner in a mezcal brand, I operate within one of the world’s most effective appellation frameworks. Mexico’s denomination of origin for mezcal transformed what was once a regional moonshine into a globally respected spirit category worth billions and, more importantly, it channeled that value back to the rural farming communities where the agave is cultivated. I have seen what happens when an indigenous spirit is given proper legal definition: farmers invest in their land, artisan producers command fair prices, and consumers trust what they are purchasing. I have also seen what happens without those protections: imitation products flood the market, erode the name, and rob the communities of origin of the economic benefit they deserve.

‘Ōkolehao is Hawai‘i’s indigenous spirit, distilled from kī root since the late eighteenth century and once honored at the world’s fairs in Paris and Chicago. As a chef, I can tell

you that the quality of what producers like Ola Brew are creating today with clean, terroir-driven, entirely Hawai‘i-grown ingredients is extraordinary. What it lacks is the legal architecture to protect its integrity and ensure that consumers receive an honest product.

HB 2475 and SB 3248 provide that architecture. They protect Hawai‘i’s farmers, they protect consumers, and they lay the groundwork for an industry that can generate meaningful agricultural employment, destination tourism, and export revenue for the State. I am committed to supporting the structural economic opportunities that make these communities stronger and more self-sufficient over time.

I respectfully urge the committee to advance both measures.

With respect and appreciation,

Noah von Blöm

Former Mayor, Newport Beach

Partner, 5Sentidos

Dear Chair, Vice Chair, and Members of the Committee,

My name is Ilenia Chiaviello. Before addressing the substance of the bill, I wish to note that I am an Italian national with a longstanding interest in the history, culture, and traditional craft practices of Hawai‘i and the wider Pacific. I visited Hawai‘i in 2023 and travelled extensively across Pacific islands in 2024. My testimony is offered in good faith and out of respect for the historical and cultural integrity of okolehao.

I first encountered okolehao during my initial visit to Hawai‘i and have since consumed okolehao produced by Island Distillers and Hanalei Distillers. I also visited the Hanalei distillery on Kaua‘i, where I was disappointed to learn that there appeared to be little understanding of the documented history of okolehao. They described it as an “ancient Hawaiian spirit,” which does not align with the historical record. Despite producing and marketing the spirit, there seemed to be no awareness of William Stevenson, who is widely associated with its early development, nor of the broader historical context of the spirit.

I observed similar inaccuracies from Island Distillers on their public communications following my purchase of their product, including claims that an escaped Australian convict created the spirit, a statement that does not align with historical timelines as Australia did not exist as a nation in this period. This pattern of misinformation raised broader concerns for me about the state of historical knowledge surrounding the okolehao industry in Hawai‘i. While I am encouraged to see new interest in okolehao, including a new distillery in Hilo, I am also concerned by repeated historical inaccuracies from Ola Brew, including claims that Polynesians practiced distillation prior to external contact and may have independently produced the spirit. I encountered the following published statement: “Jacobson and Breeland are in the camp that believes the Hawaiians had likely already discerned the process of distillation for themselves, as there is evidence of early distilleries in places throughout Polynesia, such as Tahiti.” Narratives of this kind appear unsupported by verifiable historical evidence. The continued circulation of such claims risks undermining the credibility and reputation of okolehao. History and facts should not be shaped by marketing narratives at the expense of accuracy. Transparency and authenticity are essential principles, and in Italy, where I am from, these values are treated with great seriousness in the protection of artisanal food and drink heritage.

I mean no disrespect to current producers, and I am pleased that they continue to produce this rare spirit. However, the broader historical understanding of okolehao remains limited, and in some cases appears based on superficial or insufficient research. Claims that it is an ancient Hawaiian spirit are particularly problematic, as distilled alcohol was a post-contact introduction and is not recognized as part of traditional Native Hawaiian culture. This raises an important question: how can producers market a historic craft spirit without a clear understanding of its origins or authentic methods of production? Historically, production involved an imu, open-air fermentation and pot still distillation.

I respectfully oppose SB3248.

I oppose redefining okolehao in a way that does not reflect its true history or heritage. In one distillery, I observed the use of a continuous column still to produce okolehao, a method associated with industrial-scale alcohol production rather than traditional craft practice. Pot still distillation was historically the primary method available in the region for over a century. This experience highlighted, in my view, a broader lack of historical awareness. Any statutory definition should consider historically grounded production practices, rather than focusing narrowly on unsupported ingredient ratios.

The historical record does not support the narrow definition proposed in this bill. Okolehao is associated as early as the 1790s with William Stevenson, a British figure in Hawai‘i. Its development occurred during a period of maritime exchange and foreign influence. It was not created in isolation, nor was it confined to a single fixed formula as it rapidly evolved to use other ingredients. Historically, okolehao has been produced using different ingredients and methods. There was no uniform 51 % ti-root requirement. I read an article from 2003 where a company called Sandwich Island Distilling released the recipe of their okolehao they were bringing to the market where the mash bill was to be 25% ti root, 20% rice, and 55% cane sugar. I am fairly confident the okolehao I drank was not 51% ti root as it was very sweet and made with sugarcane as well. Historic production varied depending on availability of fermentables, that variation is part of its history and should be honoured not overwritten.

SB3248 imposes a rigid statutory definition that does not account for that historical flexibility. In doing so, it risks transforming a living, evolving product into a legally restricted category based on a modern formulation rather than documented tradition.

SB3248 also appears to assume strict geographic exclusivity. However, the historical record shows that okolehao developed in a context of international maritime contact and exchange with British sailors. Given these influences, it is not historically inconsistent for variations of okolehao or related spirits to have appeared beyond Hawai‘i. Historical references indicate similar distillation practices in other parts of the Pacific, including Tahiti and Pitcairn. A geographically rigid definition may therefore not fully reflect the historical reality of the spirit’s development.

As someone with a deep interest in history and traditional craft spirits, I took care to study okolehao before offering this testimony. My opposition is grounded not in criticism, but in respect — respect for historical accuracy, for cultural heritage, and for the importance of preserving traditional products in a way that reflects their true origins and evolution.

For these reasons, I respectfully urge the Committee to reconsider SB3248 and avoid adopting a definition that may unintentionally misrepresent the historical development and character of okolehao.

Warm regards,
Ilenia Chiaviello

SB-3248
Submitted on: 2/12/2026 9:23:17 AM
Testimony for HWN on 2/17/2026 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Les Breeland	Individual	Support	Written Testimony Only

Comments:

Aloha, members of the committee.

I urge your support for Senate Bill 3248 to protect ‘Okolehao. We’ve witnessed the economic struggles Kona coffee faced due to delayed protections. For years, Kona coffee could appear on a label with only 10% Kona-grown beans, diluting authenticity. Only after a long legal battle, with settlements exceeding 41 million dollars, did stricter labeling emerge. That mislabeling cost the Kona coffee sector dearly. By 2023, court approvals estimated 81 million dollars in economic benefits over the next five years, reclaiming lost value.

Another great example is the Napa Valley wine industry that generates billions in economic impact, supporting hundreds of thousands of jobs and contributing significantly to local and state revenues. This success is rooted in strict regulations and geographic designations that protect quality and uniqueness. Similarly, Kentucky bourbon’s global reputation is built on its distinct production standards, including geographic origin and specific aging processes.

We cannot wait for ‘Okolehao to face similar economic losses or lose the potential economic benefit to Hawaii based jobs, Agriculture and the local farmers who grow the Ki that is the source of ‘Okolehao. By passing this bill, you protect ‘Okolehao’s identity from the start, ensuring local producers reap the full economic rewards. But this is bigger than Hawaii. This bill is the first step toward federal TTB recognition, leading to national and global protections. By acting now, you build a foundation for an industry that could drive economic growth. Your leadership today sets Hawai‘i on a path where ‘Okolehao’s future economic success is secured from the outset both locally and far beyond.

Mahalo for your consideration and for reading my testimony, Les Breeland

Objection to Proposed Legislation Establishing "'Okolehao" as a Protected Hawaii-Only Spirit with Prescribed Composition and Labelling Requirements

To the Members of the Legislature,

My name is Sean Molyneaux

I am resident in the United Kingdom and I write in my capacity as a business owner and someone with a strong interest in the history and development of Okolehao. I have been working in collaboration with a master distiller with extensive experience in the historical research, production methodology and international trade of cane and root-derived spirits.

Our master distiller is an expert in recipe development, distilling, fermenting, storage and bottling and labelling who specialises in technically complex projects, recreating historical recipes, and category innovation. Over many years, he and his team have built a "state of the art" distillery which enables them to produce a wide variety of spirits and liqueurs including gin, vodka, eau de vie, amaretto and walnut liqueur.

In conjunction with me, he has developed a particular interest in the many spirits that have been created across Polynesia following the introduction of the art of distillation and has researched in particular, the origin of Okolehao and its development in many forms since its creation in the late 18th century.

I respectfully object to the proposed bill seeking to designate Okolehao as a geographically restricted product that may only be produced in Hawaii, with a mandatory minimum 51% ti root content and defined labelling standards, as a precursor to pursuing regional protection analogous to Tequila or Bourbon.

My objection is grounded in historical fact, linguistic usage, production reality and the economic consequences of imposing an artificial and ahistorical standard.

1. Okolehao Is Not an Indigenous Distilled Spirit in the Technical Sense

While ti root (Cordyline fruticosa) fermentation predates Western contact, the process of distillation, the defining technological step that transforms fermented substrate into a distilled spirit was introduced to Hawaii by Europeans in the late 18th century.

Pre-contact Hawaiian society did not possess copper pot stills, condensers, or the metallurgical knowledge necessary for spirit distillation. Historical accounts consistently attribute the first distilled Okolehao to post-contact experimentation using salvaged metal from ships and adapted Western still designs. In other words:

- The raw material (ti root) may be indigenous
- The distilled product is a post-contact hybrid, technologically dependent upon European methods.

It is historically inaccurate to frame Okolehao as an exclusively traditional Hawaiian distilled category. It is a product of cultural exchange between indigenous Hawaiians and British national over 200 years ago.

2. The Term "'Okolehao" Is Generic in Usage and Has Been Applied Broadly Across Polynesia

Over the past two centuries, the term "Okolehao" (and variant spellings including "Okalehao") has been used generically in:

- Academic literature;
- Ethnographic studies;
- Newspaper reporting;
- Trade references.

In these sources, the term has not been restricted to a single formula or geographic origin. Rather, it has been used to describe:

- Ti-root based spirits;
- Mixed vegetal mash spirits;
- Improvised "moonshine" style distillates;
- Spirituous liquors of Polynesian origin or inspiration.

The historical record shows linguistic drift and variation. Okolehao has functioned descriptively, not as a tightly controlled appellation. Attempting to retrospectively impose exclusivity on a term that has been used generically for over 200 years risks conflict with established principles of genericness in trademark and GI law.

A designation cannot legitimately be converted into a protected geographic indication if it has entered common descriptive usage across regions and producers.

3. There Has Never Been a Single Authoritative Production Standard

The historical production of Okolehao was neither uniform nor standardized. Early distillers utilised whatever fermentable substrates were available, including:

- Ti root;
- Banana;
- Rice;
- Bran;
- Pineapple;
- Breadfruit;
- Sugarcane;
- Taro;
- Sweet Potato.

Migrants, including Europeans and Chinese settlers contributed techniques, ingredients, and fermentation knowledge. The result was not a fixed formula, but a category of frontier distillates. Imposing a statutory 51% ti root requirement:

- Artificially narrows a historically fluid category;
- Rewrites production history;
- Excludes legitimate traditional variations;
- Converts a culturally adaptive spirit into a rigid industrial standard.

Unlike Tequila (which is fundamentally agave-based) or Bourbon (which is legally defined by grain composition but evolved within a more consistent mash bill tradition), Okolehao historically lacked a

singular compositional identity. Historic Hawaiian newspapers have verified to a spirit being Okolehao when no ti root has even been used.

Codifying one formula risks distorting the product's authentic historical diversity.

4. Okolehao Has Been Produced Outside Hawaii

There is documented evidence of:

- Commercial production in California in the 1990s;
- Commercial production in the United Kingdom.

It is clear that the production of Okolehao is not geographically confined to Hawaii. This demonstrates:

- The term has not been recognised as geographically exclusive;
- The market has recognized non-Hawaiian Okolehao as legitimate;
- The name has functioned as a style descriptor rather than a protected origin term.

In GI jurisprudence, prolonged acquiescence to external production materially weakens the argument for exclusive geographic protection.

5. The Bill Would Harm Existing Hawaiian Producers

Paradoxically, the bill risks harming the very industry it purports to protect by mandating:

- A minimum 51% ti root content;
- Prescribed production standards;
- Specific labelling restrictions;

The legislation would:

- Exclude innovative or historically legitimate variations;
- Increase raw material cost burdens;
- Disadvantage smaller craft producers;
- Restrict mash bill experimentation;
- Potentially eliminate producers whose formulations fall outside the mandated ratio.

Rather than strengthening local agriculture, such rigidity could:

- Reduce production diversity;
- Limit export adaptability;
- Create regulatory compliance barriers;
- Fragment the existing Hawaiian producer base.

A GI regime should unify and elevate producers, not impose arbitrary compositional thresholds that disadvantage some in favour of others.

6. Enforcement and Regulatory Oversight Will Impose Material Costs on the State of Hawaii

The proposed bill contemplates not merely a definitional statement, but an enforceable production standard - a minimum 51% ti root content, prescribed labelling conditions and the groundwork for regional protection analogous to established geographic indications. Such a framework necessarily creates an ongoing regulatory obligation for the State.

Unlike Bourbon, regulated federally by the TTB within an established national spirits compliance regime or Tequila, which operates through a well-funded Consejo Regulador del Tequila (CRT), Hawaii does not currently maintain a dedicated spirit-specific regulatory body with technical capacity for ingredient verification and process auditing.

To meaningfully enforce the proposed standards, the State would need to fund and administer:

a) Production Audits and Inspections

- On-site verification of mash bills and fermentation records;
- Review of distillation logs and batch documentation;
- Oversight of blending operations.

b) Laboratory Testing and Analytical Verification

- Quantitative analysis to confirm 51% ti root content;
- Isotope or compositional profiling where disputes arise;
- Ongoing sampling of commercial batches.

This would require either:

- Expansion of existing state laboratory capacity, or
- Contracting with accredited third-party laboratories.

Both options entail recurring expenditure.

c) Labelling Compliance Monitoring

- Pre-market label approval review;
- Retail market surveillance;
- Enforcement actions for non-compliant packaging.

d) Dispute Resolution and Litigation Exposure

- Administrative hearings;
- Civil enforcement proceedings;
- Defence against constitutional or interstate commerce challenges;
- Potential international trade disputes if foreign producers contest restrictions.

e) External Enforcement Efforts

If Hawaii seeks recognition comparable to Tequila or other GIs, the State would need to:

- Register and defend the designation domestically and internationally;
- Monitor global misuse;
- Fund enforcement actions abroad.

Such enforcement regimes are resource-intensive and sustained over decades, not symbolic exercises.

Cost-Benefit Consideration

Given that:

- The number of Okolehao producers is limited;
- Production volumes are comparatively small;
- The category lacks a standardized compositional identity;
- The term may face credible challenge as generic.

The projected enforcement cost may exceed any realistic incremental tax revenue or agricultural benefit generated by the designation.

Without a self-funded regulatory council supported by industry levies, similar to the CRT for Tequila, the fiscal burden would likely fall upon the general taxpayer.

Risk of Under-Enforcement

Equally concerning is the risk of under-resourced enforcement. A statute that cannot be consistently enforced:

- Creates regulatory uncertainty;
- Disadvantages compliant producers;
- Encourages uneven application of the law;
- Promotes illicit production of the spirit taking it back to the time when Okolehao was prohibit by law;
- Undermines the credibility of the designation.

Poorly funded protection is worse than no protection at all, as it invites legal challenge and market confusion.

Conclusion on Fiscal Grounds

Before advancing the bill, the Legislature should require:

- A full fiscal impact assessment;
- Projected administrative costs over a 10-year period;
- Identification of funding sources;
- Legal analysis of enforceability and genericness risk.

Absent such analysis, the proposal risks creating a permanent financial and administrative obligation disproportionate to the size and structure of the Okolehao category.

Respectfully submitted,

Sean Molyneaux
South-Western House
Southampton
Hampshire SO14 3AL
England, UK

Dear Chair, Vice Chair and Members of the Committee,

I am writing to formally object to SB3248, which seeks to protect the name Okolehao by restricting its production exclusively to Hawaii, mandating a minimum Ti root content of 51%, and imposing specific labelling requirements. My objection is based on the following grounds:

I respectfully object to the proposed bill on the following grounds:

1. Provenance

a) Okolehao is a generic name across Polynesia. The term Okolehao has historically been used across Polynesia to describe a type of distilled spirit derived from various roots or sugars. Restricting its use to a single formula or geographic origin ignores its established status as a generic term for a type of spirit, rather than a proprietary or regionally unique product.

b) Okolehao is not a traditional Hawaiian distilled spirit as the art of distillation was introduced to Hawaii by Europeans in the 18th Century.

c) Okolehao has been produced outside Hawaii. Records show that Okolehao has been produced in locations outside of Hawaii, including California and Great Britain. Okolehao was produced in California in the 1990's by the LeVecke corporation in Mira Loma and there are court records available to confirm this fact. Imposing geographic restrictions on the name would unfairly restrict producers outside Hawaii who are legally producing a product long recognised by this name. Furthermore, restricting the name, ingredients, and place of origin ignores history and imposes unnecessary limits on free trade and competition.

d) Traditional ingredients have always varied and no single formulation defines Okolehao. It is very well known that a wide range of roots, vegetables and fruits have been used in the production of Okolehao. While Ti root and sugar cane are commonly used in modern formulations, the historical production of Okolehao has included a wide variety of ingredients including banana, bran, kiwae beans, rice, pineapple, sugar cane, oranges and taro for over two hundred years. Limiting production exclusively to 51% Ti root imposes an artificial and unnecessary constraint on a traditional beverage that has always exhibited diversity in its formulation.

   Mandating a single formula and geographic origin does not protect Hawaiian heritage, it restricts innovation and unfairly prevents legitimate producers both inside and outside Hawaii from using a name long recognised internationally.

e) Conflict with free trade principle. SB3248's proposed protections restrict competition and innovation by dictating specific ingredients and labelling. Such restrictions go against the spirit of free trade and open commerce, which allows producers to create and market products under widely recognised, generic names.

2. Constitutional & Regulatory Issues

I would draw committee members attention to the following issues:

a) Federal Pre-emption Under the Supremacy Clause

   The Supremacy Clause of the United States Constitution (U.S. Const. art. VI, cl. 2) provides that federal law pre-empts conflicting state law. Distilled spirits labelling for products entering interstate commerce is governed by the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.) and its implementing regulations at 27 C.F.R. Part 5, administered exclusively by the Alcohol and Tobacco Tax and Trade Bureau (TTB).

   Under this framework, any distilled spirit sold in interstate commerce must obtain a Certificate of Label Approval (COLA) from TTB. Federal courts have consistently held that where Congress establishes a comprehensive regulatory scheme intended to ensure national uniformity, conflicting state requirements are pre-empted. See, e.g., Capital Cities Cable, Inc.

v. Crisp, 467 U.S. 691 (1984) (holding that state alcohol regulation may not conflict with federal law governing interstate commerce).

SB3248 seeks to establish a state-specific definition and labelling requirements for Okolehao. However, there is currently no federal standard of identity for Okolehao under 27 C.F.R. Part 5. If the State mandates labelling terminology or production thresholds that differ from or exceed what TTB recognises, small producers could be placed in the untenable position of complying with state law while being denied federal COLA approval for interstate sales.

Such a conflict would trigger obstacle pre-emption because the state law would stand as an obstacle to Congress's objective of maintaining uniform national labelling standards for distilled spirits.

b) Absence of Geographic Exclusivity and Global Production History

Unlike federally recognised geographic indications such as "Cognac" or "Tequila," there are currently no federal or international legal restrictions preventing producers in other states or countries from producing and marketing a product as Okolehao, subject to general labelling rules.

Historically, products identified as Okolehao have been produced not only in Hawaii but also in other jurisdictions, including the State of California. I have also consumed Okolehao that has been made in Great Britain and the name has not been legally restricted to a single geographic origin under federal law or any international agreement.

Attempting to impose state-level exclusivity without corresponding federal recognition may therefore create confusion rather than clarity. Without federal action through TTB rulemaking, a Hawaii statutory definition cannot prevent producers elsewhere from manufacturing a similarly named product for markets outside Hawaii. This raises questions about the practical enforceability and effectiveness of SB3248's approach.

c) Limits of the Twenty-First Amendment

While the Twenty-First Amendment grants states authority over the importation and distribution of alcohol within their borders, the Supreme Court has repeatedly held that it does not authorise states to enact protectionist or discriminatory measures that burden interstate commerce. See Granholm v. Heald, 544 U.S. 460 (2005); Tennessee Wine & Spirits Retailers Ass'n v. Thomas, 588 U.S. (2019).

If SB3248's production and ingredient mandates effectively condition the use of the term Okolehao on in-state production and state-grown inputs, the statute risks scrutiny under the Dormant Commerce Clause if it burdens out-of-state commerce or interferes with federally regulated labelling in interstate markets.

Small distillers rely heavily on federal uniformity. Any state law that introduces uncertainty into the COLA process or restricts how a product may be labelled in interstate commerce directly affects economic viability.

3. Conclusions

I respectfully urge the Committee to reconsider or amend SB3248:

a) In light of long-established historical usage and free trade principles.

b) To avoid constitutional pre-emption issues, Commerce Clause concerns and regulatory conflicts with TTB's exclusive authority over interstate labelling.

c) To consider the costs to the state from the bill. Okolehao is currently classified by the TTB is as a Distilled Spirit Speciality which is provided at minimal cost to the state. SB3248 will significantly alter the classification exposing the state of Hawaii to significant additional

costs for a bureaucracy to administer laboratory testing, labelling compliance, litigation exposure and enforcement.

d) To consider that its intentions overreach and risk harming commerce, tradition and consumer choice.

I thank you for accepting this submission and your careful consideration.

Graeme Lamb
1 Russet Way
Nottingham
NG8 3QD
England