

ACT 163

S.B. NO. 2666

A Bill for an Act Relating to a Seal of Quality for Fresh and Processed Agricultural Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to protect the integrity and value of the marketing cachet for Hawaii branded farm and value-added products. The Hawaii brand, whether it is marketed as a visitor destination, manufactured product, or farm or value-added product, drives Hawaii-based sales at value-added prices. In the case of Hawaii's fresh and value-added agricultural products, the marketplace is filled with goods that bear the label "Hawaii" or "Hawaiian" with no real substantiation of the origin and quality of the product. Unsuspecting visitors and residents perceive that they are purchasing a bona fide Hawaiian agricultural product.

The legislature finds that establishing a seal of quality for fresh and value-added agricultural products that meet high quality standards, are grown, manufactured, assembled, or fabricated in Hawaii, and have a substantial amount of their wholesale value added by manufacture, assembly, fabrication, or production within the State, provides consumers with assurance in their product selection. Such a program complements section 486-119, Hawaii Revised Statutes, which requires that at least fifty-one per cent of the wholesale value of a product be added by manufacture, assembly, fabrication, or production within the State in order to use the term "made in Hawaii".

SECTION 2. Chapter 148, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . SEAL OF QUALITY

§148- Establishment of a seal of quality program. There is established within the department of agriculture a seal of quality program, which may include a certificate of origin. This program shall establish official seals of quality for fresh and processed agricultural products that are produced within the State. The seals of quality may be in the form of seals, brands, labels, or trademarks.

§148- Authorization to contract with nonprofit corporations; duties. (a) The department of agriculture may enter into contracts with nonprofit corporations to engage in the activities in subsections (b), (c), and (d). These nonprofit corporations shall:

- (1) Maintain status as a nonprofit corporation pursuant to section 501(c) of the Internal Revenue Code of 1986, as amended; and
- (2) Consist of a board of directors comprised of representatives from a cross-section of agricultural organizations, commodity groups, and governmental agencies.

(b) The nonprofit corporations contracted under subsection (a) may develop and recommend to the department of agriculture for adoption, rules relating to:

- (1) The design of a seal of quality for agricultural products that are grown, processed, or manufactured in Hawaii;

- (2) The standards and criteria for agricultural products grown, processed, or manufactured in Hawaii that must be satisfied to obtain use of the seal of quality; and
- (3) The license fees required for use of the seal of quality.
- (c) The nonprofit corporations contracted under subsection (a) shall:
 - (1) Develop and implement marketing programs for products licensed to use the seal of quality;
 - (2) Issue licenses for the use of the seal of quality and collect the license fees established by rules of the department of agriculture; and
 - (3) Develop promotional materials and establish and collect fees for the use of these promotional materials.
- (d) The nonprofit corporations contracted under subsection (a) may:
 - (1) Assist the department of agriculture in monitoring compliance with the requirements for the use of the seal of quality; and
 - (2) Accept gifts or grants in any form from any public agency or any other source.

§148- Rules. Subject to chapter 91, the department of agriculture shall adopt rules, as necessary, with respect to:

- (1) Definition of terms;
- (2) The design of the seals of quality for identifying fresh or processed agricultural commodities that are produced within the State;
- (3) The categories of fresh or processed agricultural commodities that are eligible to use the seals of quality;
- (4) The minimum quality of fresh or processed agricultural commodities that are eligible to use the seals of quality;
- (5) The minimum per cent of wholesale value added within the State to qualify for use of the seals of quality;
- (6) Minimum packaging and labeling requirements for fresh or processed agricultural commodities using a seal of quality;
- (7) Application forms for the license to use the seals of quality and the information required to be included on the application forms;
- (8) Assessment and collection of license fees for the use of the seals of quality to cover the costs of providing the service;
- (9) Assessment and collection of charges for stickers, placards, and other promotional materials provided by the department of agriculture;
- (10) Provisions for the appropriate use of seals of quality, including use in advertisements;
- (11) Record keeping requirements for parties licensed to use the seals of quality;
- (12) Administrative penalties for violation of this part; and
- (13) Enforcement of this part.

§148- Enforcement. (a) The department of agriculture, through its authorized agents and employees, shall enforce this part.

(b) The department of agriculture or its authorized agent may examine, during normal business hours, any ledgers, books, accounts, memoranda, and other documents, fresh or processed agricultural products, supplies, and equipment, and any other articles and things used in connection with the business of a person licensed under this part.

§148- Prohibited acts. No person shall:

- (1) Use a seal of quality established under this part without being licensed;

- (2) Use a seal of quality on a fresh or processed agricultural commodity that does not meet the requirements of this part;
- (3) Use a device, symbol, indicia, or by any other means imitate the seal of quality established by this part; or
- (4) Make any claim that a fresh or processed agricultural commodity is permitted to use a seal of quality when it is not.

§148- Administrative penalties. (a) The department of agriculture, after notice and opportunity for hearing, may revoke or suspend any license issued under this part for any violation of this part.

(b) The department of agriculture, after notice and opportunity for hearing, may fine any person who violates this part, not more than \$1,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 2002.)