

ACT 328

H.B. NO. 280

A Bill for an Act Relating to Agriculture.

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

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§708- False labeling of Hawaii-grown coffee. (1) A person commits the offense of false labeling of Hawaii-grown coffee if the person knowingly transports, distributes, advertises, sells, or possesses with the intent to sell Hawaii-grown green coffee, cherry coffee, or parchment coffee that is falsely labeled with regard to the geographic origin of the Hawaii-grown coffee.

(2) For purposes of this section:

“Cherry coffee” means the unprocessed fruit of the coffee plant.

“Geographic origin” means the geographic areas designated as follows:

- (a) Hamakua is the Hamakua district on the island of Hawaii, as designated by the State of Hawaii tax map;
- (b) Hawaii is the State of Hawaii;
- (c) Kau is the Kau district on the island of Hawaii, as designated by the State of Hawaii tax map;
- (d) Kauai is the island of Kauai;
- (e) Kona is the north Kona and south Kona districts on the island of Hawaii, as designated by the State of Hawaii tax map;
- (f) Maui is the island of Maui;
- (g) Molokai is the island of Molokai; and
- (h) Oahu is the island of Oahu.

“Green coffee” means the agricultural commodity comprised of green coffee beans.

“Parchment coffee” means the dried product that remains when coffee cherries are processed by removing the coffee seeds from the pulp.

(3) False labeling of Hawaii-grown coffee is a class C felony.”

SECTION 2. Section 147-2, Hawaii Revised Statutes, is amended to read as follows:

“§147-2 Duties of department; violations; proceedings; penalties. The department shall administer and enforce this part and rules adopted by the department pursuant thereto.

The following penalties, remedies, procedures, and actions shall apply in instances of violations and complaints of violations of this part, or of the rules adopted by the department under the authority of this part:

- (1) Administrative penalty. The department may, after notice and opportunity for hearing, fine any person who violates this part or any rule adopted under 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 paragraph shall be considered a civil action;
- (2) Nuisance may be enjoined, abated. Violation of this part or of any rule adopted thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit court by the department or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this part or of any rule effective thereunder;
- (3) Misdemeanor. Any person who violates this part or any rule adopted under this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both;
- (4) The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, or penalties provided or allowed by law with respect to any such violation[-]; and
- (5) Nothing in this section shall prohibit the county police departments and county prosecutors or state law enforcement agencies from investigating and enforcing criminal violations of this chapter.”

SECTION 3. Section 147-4, Hawaii Revised Statutes, is amended to read as follows:

“§147-4 Rules. The department may make rules, subject to chapter 91:

- (1) Defining grades and grade labeling requirements of agricultural commodities and standard containers for packing of particular agricultural commodities;
- (2) Prohibiting the sale, offering for sale, or transportation of agricultural commodities unless packed in standard containers and labeled with the appropriate grade or offgrade designation; provided that this prohibition shall not apply to the sale, offering for sale, or transportation to a plant for grading, packing, or processing, or transportation to a warehouse for storage;
- (3) Prohibiting the use of grade terms or abbreviations of grade terms on agricultural commodities for which no grades have been established under this part;
- (4) Defining “suitable shipping condition” for agricultural commodities which are to be shipped for sale from one island to another within the State or to points outside the State, and prohibiting such shipment for sale of agricultural commodities which do not meet the minimum standards set for “suitable shipping condition”;

- (5) Prescribing records to be kept in connection with purchases of agricultural commodities by persons, other than produce dealers purchasing from a producer or producers, for purposes of resale five or more tons of agricultural commodities during any one calendar month; ~~and~~
- (6) Prescribing records to be kept by produce dealers in connection with the purchase, sale, transport for sale, solicitation, or negotiation of sale with respect to an agricultural commodity~~[-]; and~~
- (7) Relating to the inspection and documentation of the geographic origin of Hawaii-grown green coffee beans.

In making the rules the department shall take into account, among other things, the factors of maturity, condition, soundness, color, shape, size, and freedom from defects of the agricultural commodity in question and shall also take into consideration the official standards, grades or classifications adopted by the secretary of the Department of Agriculture of the United States, commonly known as U.S. Grades.”

SECTION 4. Section 147-7, Hawaii Revised Statutes, is amended to read as follows:

“§147-7 Inspection and classification of agricultural commodities; fees.

(a) The department may contract with the United States Department of Agriculture for obtaining the services of a supervising inspector employed by the federal department and the establishment of a cooperative inspection service with the United States government. The department, or the supervising inspector~~[-]~~ with the approval of the department, may designate any competent employee or agent of the department as an inspector to inspect or classify agricultural commodities in accordance with rules of the department, and at the time and places designated by the supervising inspector or the department.

(b) The inspectors shall be authorized to inspect or classify agricultural commodities at the request of persons having a financial interest in the commodities~~[-; or as mandated by subsection (d).]~~ and to ascertain and certify to the persons the grade, classification, quality, condition, or origin of them and other pertinent facts.

(c) The department may fix, assess, and collect or cause to be collected fees for the services when they are performed by employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part; provided that the department may prescribe a reasonable charge for traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance. No fee shall be charged for an inspection unless the inspection was requested by a person having a financial interest in the inspected commodity ~~[or the inspection was mandated by subsection (d).]~~

~~(d) All Hawaii-grown green coffee beans shall be inspected and certified by the department for grade and origin unless otherwise specified by rules of the department].~~

~~(e)]~~ (d) The department may adopt rules establishing the requirements, procedures, restrictions, and other criteria necessary for establishing a program of self inspection and certification of agricultural commodities.”

SECTION 5. Section 147-23, Hawaii Revised Statutes, is amended to read as follows:

“§147-23 Prohibited acts. (a) No commercial exporter shall ship any fresh or processed agricultural commodities to points outside the State unless such products meet the quality, condition, and labeling requirements of the rules adopted under this part.

(b) No Hawaii-grown ~~[green]~~ coffee beans shall be shipped outside the area of their geographic origin to any point within the State or outside the State unless ~~[they have] the coffee bean package containing the beans has been [inspected and certified as required in section 147-7(d) or by rules adopted under section [147-7(e)]. Areas of geographic origin shall be defined by rules of the department.]~~ marked with or contains documentation of geographic origin approved by the department.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Became law on July 10, 2012, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.