



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

S.B. NO. 2215, RELATING TO MEAT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Friday, February 22, 2008 **TIME:** 10:00 AM

LOCATION: State Capitol Room 016
Deliver to: BY FAX, Senate Sergeant-At-Arms Office, 586-6659

TESTIFIER(S): WRITTEN TESTIMONY ONLY
(For more information, contact Margaret S. Ahn,
Deputy Attorney General, at 586-1180.)

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General opposes this measure because of its similarity to a federal law that is scheduled to be implemented later this year. Not only could the federal law render this bill unnecessary, but the State would also be prohibited from passing any law that conflicts with the federal law under the United States Constitution's Supremacy Clause. Furthermore, if the federal law is by chance not implemented, then this bill may be challenged under the Constitution's Commerce Clause.

This bill seeks to impose a country of origin labeling requirement for meat produced outside of the United States. Proposed section 148-B(b) requires that meat, including packages containing a blending of foreign and domestic product, that is produced outside of the United States and offered for retail sale in Hawaii, must be labeled with the country of origin. This bill's proposed section 148-B(c) requires that products for which retail vendors cannot determine the country of origin be labeled "country of origin unknown."

The federal 2002 Farm Bill similarly includes the mandate that retailers provide country of origin labeling for foreign meats. Relevant portions of this law are scheduled to be implemented on September 30, 2008.

We respectfully recommend the Committee hold this bill in order to first consider the effect of the federal law and regulations governing the same subject.

Furthermore, in the event the federal law is not implemented as scheduled, this bill may be challenged under the U.S. Constitution's Commerce Clause. The Commerce Clause states that Congress shall have the power to regulate commerce with foreign nations and among the several states. The dormant or negative aspect of the Commerce Clause limits the power of the states to regulate both foreign and interstate commerce.

Other states, primarily beef producing states, have attempted to enact similar foreign meat labeling laws, which have been struck down based on the courts' findings that such state laws violate the Commerce Clause. See, e.g., Ness Produce Co. v. Short, 263 F. Supp. 586 (D.C. Or. 1966), *aff'd*, 385 U.S. 537 (1967) (holding that Oregon's country of origin meat labeling law unreasonably discriminated against imported meat in violation of the Commerce Clause); Tupman Thurlow Co. v. Moss, 252 F. Supp. 641, (M.D. Tenn. 1966) (holding that Tennessee's foreign origin meat labeling law violated the Commerce Clause); Armour & Co. v. State of Nebraska, 270 F. Supp. 941 (D.C. Neb. 1967) (holding that Nebraska's country of origin meat labeling law violated the Commerce Clause); International Packers Limited v. Hughes, 271 F. Supp. 430 (S.D. Iowa 1967) (holding that Iowa's country of origin meat labeling law violated the Commerce Clause).

Furthermore, the courts in Ness, 263 F. Supp. at 589, and International Packers Limited, 271 F. Supp. at 434, both noted in their opinions that neither state showed that imported meat was not fit for human consumption or resulted in harm to the consuming public, but that even if such harm had been established, the state's labeling laws related only to the origin of the meat, and not to the quality of the meat.

Similarly, this bill's country of origin labeling requirement relates only to the place of origin of the meat and not to the quality of the meat. Therefore, a court may find that this bill does not advance a legitimate state interest, or that any putative benefits are outweighed by its burden on foreign or interstate commerce.

We respectfully recommend that this bill be held by the Committee.

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR
FRIDAY, FEBRUARY 22, 2008
10:00 A.M.

SENATE BILL NO. 2215, S.D. 1
RELATING TO MEAT

Chairperson Taniguchi and Members of the Committee:

Thank you for this opportunity to provide testimony on Senate Bill No. 2215, S.D. 1, relating to the country of origin labeling (COOL) of beef, pork, poultry and lamb. The Department of Agriculture believes that COOL is important for both our producers and consumers but prefers that it is handled at the federal level rather than the state implementing its own law.

National COOL legislation has already been passed and implemented for wild and farm raised shellfish. Implementation for other commodities covered under this Act is supposed to start on September 30, 2008.



Hawaii Farm Bureau
F E D E R A T I O N

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February 22, 2008

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY & LABOR

TESTIMONY ON SB 2215
RELATING TO MEAT

Chair Taniguchi and committee members:

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation (HFBF) supports the intent of SB 2215, which requires grocers to list the country of origin of all beef, pork, poultry, and lamb sold. We believe that it is important to notify the consumer what country or origin their food is coming from. As food safety certification is being demanded by the consumers and tracing the food products down to the farm operation is becoming a requirement, we would agree that we need to know where our meats and other agricultural products are coming from, especially when it is coming in from other countries.

We also recognize the difficulty of tracing the meat when it goes through the slaughterhouse, meat packing houses and processing plants and then to the retail grocers. Labeling may be difficult as the meat product may also go through several different states. However, the country of origin labeling concept would help the U.S. and local agricultural industry in Hawaii by encouraging our local residents to buy local.

Thank you.