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DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON HEALTH
FRIDAY, MARCH 14, 2008
8:30 A.M.
ROOM 329**

**SENATE BILL NO. 2804, S.D. 1
RELATING TO PRE-PACKAGED MEAT**

Chairpersons Green and Members of the Committee:

Thank you for this opportunity to provide testimony on Senate Bill No. 2804, S.D. 1 relating to pre-packaged meat with gas or other technology to enhance its color only. The Department of Agriculture offers a comment on this measure and notes that the issue raised is within the jurisdiction of the USDA.

While it may be generally accepted that treating meat with safe levels of carbon monoxide is not harmful, there are other concerns surrounding the treatment of meat in this manner. The red meat color resulting from the gas treatment may deceive the consumer into thinking that the meat is fresher than it is. It is possible for the meat to appear fresh but to have high bacterial levels indicative of spoilage even though the meat is within the labeled 'use, sell or freeze by' date listed on the package.

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NATIONAL MEAT ASSOCIATION

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The National Meat Association (NMA) respectfully submits these comments on S B 2804 to amend section 159-3 of the Hawaii Revised Statutes dealing with prepackaged meat.

NMA represents companies, both large and small, who produce meat products under federal inspection conducted by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS), pursuant to the Federal Meat Inspection Act, 21 USC § 601, *et. seq.* We are proud to have members in Hawaii.

It would appear that the current Hawaii statute parallels the FMIA in terms of what constitutes adulteration. However, the change under consideration does not appear in the FMIA. S B 2804 would amend the statute to provide that meat is adulterated, and illegal, if the meat product "is treated with gas or other technology to enhance its color only."

As an initial matter, we are uncertain as to the exact scope of the proposed amendment. Virtually all "case ready" products are treated with a variety of gasses to *maintain* color during distribution. As we understand the process, none of these gases, whether it is oxygen, nitrogen or carbon monoxide, is used "solely" to *enhance* color.

In addition, we respectfully direct your attention to § 408 of the FMIA (21 USC § 678). This section provides that "Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under the [FMIA] may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any establishment under inspection"

FSIS permits the use of gasses in the packaging of case ready product. The Hawaii proposal would prohibit such use (by deeming products using this form of packaging adulterated). Accordingly, the Hawaii proposal adopts a packaging requirement which is different than the federal requirements. On this basis, we respectfully submit that the proposed amendment contained in S B 2804 as regards to any product manufactured under inspection (and bearing the federal mark or inspection) would be preempted under § 408 of the FMIA and cannot be enforced.

We would welcome the opportunity to discuss this matter in more detail if you desire.

Respectfully,

Kenneth Mastracchio, Associate Director
National Meat Association

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The Hawaii Teamsters and Allied Workers, Local 996

1817 Hart Street
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Representative Josh Green, Chair
Representative John Mizuno, Vice-Chair
Committee on Health

Representative Maile Shimabukuro, Chair
Representative Karl Rhoads, Vice-Chair
Committee on Human Services and Housing

Date: March 14, 2008, 8:30am, room 329

Re: Support of SB2804, SD1

The Hawaii Teamsters Local 996 negotiates and enforces over 50 contracts serving 6000 members in various industries in Hawaii and Guam. We represent the meat cutters, Fish cutters and wrappers at Don Quiote (formerly Daiei, Hi.) and Times Market, which is still in a Labor dispute with Local 996.

SB2804, SD1, will amend the definition of Adulterated Meat, to include, when treated with gas or other technology for color enhancement only. The use of gas is not a process for sanitation yet the packaging company is allowed to extend the expiration date from fresh cut meat, (Meat cut at the store) which is 4 to 5 days, according to most professionals and store policies, except at Times Market. Expiration dates are extended for gas treated, Pre-packaged meat to over 10 days.

FDA, Code of Federal Regulations, Title 21, Volume 3, or 21CFR173.350, prohibits the use of carbon monoxide gas on Fresh Meat.

Since the mid- 1990's the USDA assumed the inspection functions in the State of Hawaii. The state inspected plants would normally qualify for federal inspections due to the "Equal to" requirements that States comply with federal regulations. State and local governments have an increasingly important role in helping improve public health through food safety and security.

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Food Safety and Inspection Service (FSIS) provides guidance and assistance on the use of science driven, risk-based approaches to the control of food borne hazards.

State and local governments help oversee the administration of inspections to intrastate meat and poultry processing facilities, and the regulatory oversight of retail and inspection-exempt businesses handling those products.

The State has a Meat and Poultry Inspection program in place to enforce requirements “at least equal to” those of the FSIS’ Federal Inspection Program.

The position of Local 996 on Sec.408 [21 U.S.C. 678] is that it establishes the base standard and that no other jurisdiction will do anything to weaken the intent of the Federal Meat Inspection Act.

The Hawaii Teamsters Local 996, Supports SB2804, SD1.

Thank you for allowing me to testify.

Glenn Ida
Local 996 PAC Co-Chair
295-1280