

To: Representative Clift Tsuji, Chair  
Committee on Agriculture  
House of Representatives  
Twenty-Fourth Legislature  
Regular Session of 2008

From: Ralph C. Boyea  
Legislative Advocate, Hawai'i County Council

Subject: Testimony Regarding SB 2905, SD2 –RELATING TO AGRICULTURE

For: Hearing on March 12, 2008  
9:30 a.m. CR #325

Chair Tsuji, Vice Chair Brower and Honored Representatives,

Senate Bill 2905, SD2 requires the Department of Agriculture to conduct a study on the effect of regulations of Kona coffee blends.

On December 20, 2006, the Hawaii County Council adopted Resolution #18-06 requesting that the Hawaii State Legislature revise and clarify HRS 486-120.6 and recommending that any coffee labeled "Kona Coffee Blend" have at a minimum 75% of Kona coffee, and that it should be labeled accordingly.

In 2007, HB 72 was introduced by Representative Herkes and SB 661 was introduced by Senator Kokubun. These Bills call for changing the labeling requirements for Kona coffee by specifying the term "Kona" or "Kona Coffee" shall not be used on a package label unless the content of the package contains at least 75 percent of Kona coffee. These Bills addressed and incorporated the concerns raised by the Hawaii County Council.

On April 27, 2007, the Legislature passed SCR 102, SD1, HD1 REQUESTING THE DEPARTMENT OF AGRICULTURE TO STUDY LABELING REQUIREMENTS RELATING TO THE USE OF HAWAII-GROWN COFFEE NAMES AND STUDY THE EFFECTIVENESS OF THE ADMINISTRATIVE RULES RELATING TO INSPECTION, CERTIFICATION AND AUDIT REQUIREMENTS FOR HAWAII-GROWN COFFEE. SCR102, SD1, HD1 calls for the completion of this study no later than 20 days prior to the start of the 2009 Regular Session. SCR 102 was introduced by Senators Kokubun and Tokuda.

SCR 102 states, among other things, that "existing labeling requirements for Kona coffee causes consumer fraud and confusion and degrades the "Kona coffee" name.

On November 20, 2007, the Hawaii County Council passed Resolution \$417-07 calling on the State Legislature to schedule committee hearings on HB72 and SB661. The Hawaii County Council Resolution referenced SCR 102 and pointed out three of the conclusions in SCR 102, specifically:

1. Existing labeling requirements for Kona coffee causes Consumer Fraud;
2. Existing labeling requirements for Kona coffee degrades the "Kona coffee" name; and,
3. Confusion as to the difference between Kona coffee blends and Kona coffee caused Consumer Reports magazine to rate Kona coffee as "second rate"...

The Hawaii County Council believes it is essential for the Legislature to act immediately to stop the consumer fraud, deception and confusion that is now being caused by existing labeling requirements for Kona coffee. the Hawaii County Council believes that immediate action is necessary to protect

Kona coffee's reputation as a premier specialty coffee, and to avoid further degradation of the Kona coffee name. The Hawaii County Council calls upon the Legislature to adopt into law provisions that will provide truth in labeling of coffees bearing the "Kona" name.

Why is a study needed to do this?

Is it OK that the current state of Kona coffee labeling constitutes consumer fraud?

Is it OK that residents and visitors can walk into MacDonalds [and other establishments], be offered "Kona coffee" and receive a blend where only one [1] bean in ten [10] is from Kona?

Is it OK there aren't any signs saying this is a coffee blend, much less indicating that a "Kona coffee blend" is not a blend of Kona coffees but a mixture of one Kona coffee bean to nine, cheap imported beans.

Is it OK that coffee 'hot pots' in hotels, airports and other business establishments are labeled "Kona coffee" when the contents, more often than not, are a one in ten blend? All but the most consumer conscious drinkers believe they are getting Kona coffee from these containers, and most of those consumers are not impressed by the quality of coffee these containers dispense. Please take a look at the attached photographs, look at the labeling and ask yourself, what am I buying, is it Kona coffee?

Is it OK that Kona coffee is rated as "second rate" based on 'tasting of one of these 10% blends? Are coffee drinkers inspired to buy the real Kona coffee after drinking these second rate blends?

Would it be OK to sell a bag of "Maui" onions wherein only one onion in ten is from Maui?

Would it be OK to sell a package of "Hawaii" antheriums wherein only one antherium in ten is from Hawaii?

We call upon the Hawaii State Legislature to take action this session to provide real truth in labeling for Kona coffee. Doing so would be a strong first step in insuring the integrity and purity of products bearing regional names associated with Hawaii.

We ask you to amend SB 2905 to require that any coffee bearing the "Kona" name contain not less than 75% of Kona coffee. We ask that any product labeled as a "Kona coffee blend" identify the country or region of origin of all coffees contained in the blend and identify the percentage of each of these coffees contained in the blend.

Should the Legislature choose not to honor this request, we then ask that rather than allowing the current situation to continue unaddressed, you pass SB2905, SD2 to provide funding for the study that was already ordered by SCR 102, SD1, HD1. We ask that you include the following language in SB2905, SD2:

"The department of agriculture's study of fiscal impacts shall include analysis of the impacts of existing labeling requirements on consumers, prices paid to farmers, and the reputation of Kona coffee. The department of agriculture is directed to seek input from the coffee organizations identified in the last paragraph of SCR102, SD1, HD1 [SLH2007.]"

Thank you for this opportunity to testify.

What are you buying?



Hilo Airport - Aloha Executive Club Lounge



Hawaii State Capitol  
Snack Shop



**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  
Honolulu, Hawaii 96814-2512

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

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE  
WEDNESDAY, MARCH 12, 2008  
9:30 A.M.**

**SENATE BILL NO. 2905, S.D. 2  
RELATING TO AGRICULTURE**

Chairperson Tsuji and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 2905, S.D. 2, directing the legislative reference bureau to undertake a study to evaluate possible impacts on farmers, processors, retailers, and consumers if certain changes are made to the current Hawaii Kona coffee blend laws; to identify strategies to strengthen labeling laws, and provide recommendations on supporting and cultivating regional specialty coffee in Hawaii. The department supports the intent of this bill; however, we have concerns about the possible adverse budgetary impact that this bill may have on the Executive Supplemental Budget request.

As called for in the bill, the department will assist the legislative reference bureau in conducting this study. The department is currently attempting to address some of the requirements of Senate Concurrent Resolution (SCR) 102, SLH 2007 which will address Hawaii-grown coffee labeling and inspection issues, and the economic impact of potential changes to minimum content requirements. We recommend that since an economic impact analysis is called for in both the concurrent resolution and this bill, that the appropriation be used for a study that will satisfy both this bill and SCR 102, SLH 2007.

HAWAII FARM BUREAU FEDERATION  
2343 ROSE STREET  
HONOLULU, HI 96819

MARCH 12, 2008

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON SB 2905, SD 2  
RELATING TO AGRICULTURE

Chairs Tsuji 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.

Thank you for allowing us to comment on SB 2905, which appropriates funds to support the economic analysis and fiscal impact portions of the study being conducted by the department of agriculture pursuant to SCR 102.

There have been many discussions on changing Hawaii's Kona coffee blend laws, in particular, increasing the percentage of Kona coffee that entitles a coffee to be called Kona coffee. There is also enforcement issues with the labeling of Kona coffee and how it is currently been regulated.

Within the past few years, the law has also changed to address the different regions of Hawaii where coffee is now grown. Since coffee is now grown on the island of Kauai, Maui, Oahu, and different areas on the Big Island, the coffee laws have since been broaden to regulate all coffee grown in Hawaii.

We are not sure whether a study will accomplish all the aspects of this very complicated issue. The marketing of Kona coffee along with other coffee grown throughout the State and World should also be considered in this site specific bill. The global economy and market is rapidly changing and increase competition from other countries has been a factor.

We agree with our Kona County Farm Bureau chapter comments as one way to substantiate the facts of this issue.

Thank you.



**KONA COUNTY FARM BUREAU**  
P.O. Box 2341 • Kealahou, Hawaii 96750  
Phone: 324-6011

March 11, 2008

House of Representatives Committee on Agriculture

Testimony on SB 2905, SD2  
(Relating to Agriculture)

Chairman Clift Tsuji and Committee Members:

The Kona County Farm Bureau respectfully submits testimony requesting amendments to the scope of the proposed research regarding Kona Coffee, as described in SB 2905, SD2.

It has been our long-standing position that the **primary issue** that needs to be the focus of research must be:

**What is the retail sales potential (volume and price) of 100% Kona Coffee, in Hawaii as well as the mainland?**

The request for funding, nor the scope of the study pursuant to Senate Concurrent Resolution 102, as currently structured, mandates research that will provide this critically needed information.

Please amend SB 2905, SB 2 to require that appropriated funds shall provide research data to address the following:

- 1. The retail sales potential (volume and price) of 100% Kona Coffee, in Hawaii as well as the mainland;**
- 2. To customers who now purchase blended Kona Coffee: If lower priced blended coffee were now longer being available, how much would they be willing to pay for a pound of 100% Kona Coffee.**

**Benefits / Values of the survey/analysis:**

Farmers involved in various types of direct sales believe that there is significant upside potential associated with marketing and retailing Kona-grown as a 100% product; compared to selling it as a 10% blend. However, farmers who sell their cherry only on the wholesale market question whether the market for 100% Kona Coffee is sufficient to increase farm-gate prices and the demand in coffee cherry.

The problem is that neither side has the information to substantiate their perspectives and to even participate or generate a fact-based debate about the future of the Kona Coffee industry.

An industry which provides so much revenue and employment and contributes to the positive image of the state and its agricultural products should have access to scientifically conducted research to guide investment and marketing decisions.

This research would provide a number of benefits including reducing uncertainty and barriers associated with marketing and policy decisions related to Kona Coffee. Coffee farmers, processors and retailers would be in a better position to (1) evaluate increasing the acreage in coffee production, (2) assess the sales and revenue potential of direct sales and wholesale markets, (2) evaluate the return on investment for coffee-processing equipment, such as coffee pulpers and roasters. Legislators would have more objective information to evaluate the likely impact of proposed coffee related policies and regulations. Answers to this critical question regarding the Kona Coffee industry will provide us with the knowledge to increase our competitive edge within the market and to expand the viability of Hawaii's agriculture.

Thank you for providing this opportunity to share with you the position of the Kona County Farm Bureau.

Sincerely yours,

Nancy Pisicchio  
President

Cynthia Nyross

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**From:** Bruce Corker [corkclan@msn.com]  
**Sent:** Monday, March 10, 2008 9:28 PM  
**To:** AGRtestimony  
**Subject:** Testimony in Opposition to SB2905/SD2--House Agriculture Committee Hearing

## **Testimony of the KONA COFFEE FARMERS ASSOCIATION**

### **In Opposition to SB2905/SD2-- (Relating to a Study of Regulations of Kona Coffee Blends)**

**House Agriculture Committee**

**Date: March 12, 2008**

**Time: 9:30 am**

**Place: Conference Room 325**

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**To: Chair Tsuji, Vice-Chairperson Bower, and members of the Committee**  
**From: Bruce Corker, President, Kona Coffee Farmers Association**

**The Kona Coffee Farmers Association OPPOSES SB2905/SD2.**

**The KCFA is a membership organization with close to 200 members. The purpose of the Association is to protect the interests of Kona coffee growers. Voting membership is limited to coffee farmers.**

**1) We oppose the Bill because a study would be a waste of public funds. Last year the Legislature made a factual determination that:**

**"existing labeling requirements for Kona coffee causes CONSUMER FRAUD and CONFUSION and DEGRADES the 'Kona coffee' name." (SCR102/SD1/HD1).**

**Fraud is fraud. The Legislature does not need a study to know that it has an obligation to put an end to fraud. The points made by Senator Clayton Hee in Senate Agriculture Committee hearings on this Bill are clearly correct: This is not a complicated issue. A study is not needed. Don't waste money on a study. Fix the fraud. Protect the name of the farmers' crop.**

**2) If, nonetheless, a study is to be done, we ask that the economic analysis and fiscal impact portions of the study focus not just on the impacts of proposed changes to the labeling law, but expressly include an analysis of the adverse impact of the status quo on consumers, farmers and the reputation of Kona coffee. We also ask that the Department of Agriculture expressly be directed to seek input of coffee farmer organizations on all issues to be examined in a study. SCR102/SD1/HD1 appears to request input only on the narrow topics of inspection, certification and audit requirements. We ask that the following language be added to the Bill as the next to the last paragraph in Section 1:**

**"The department of agriculture's study of fiscal impacts shall include analysis of the impacts of existing (status quo) labeling requirements on consumers, prices paid to farmers, and the reputation of Kona coffee. The department of agriculture is directed to seek input from the coffee organizations identified in the last paragraph of SCR102, HD1 on all issues examined in the study."**



**SB2905 SD2: Kona Coffee; Economic Analysis: Appropriation**

Testimony in opposition , submitted to the House Agriculture Committee

Hearing Date March 12, 2008, 9:30 AM, Conference Room 325

Submitted by: Charles Moss  
Aina na Hoku Kai Farm

Dear Chairperson Tsuji, Vice Chair Brower, and members of the committee:

- Background
  - Kona coffee farmer, estate grown, estate processed, and estate retailed
  - Retired, third generation Kona Coffee grower
  - Eight acres, since 1930's, coffee & livestock, 100% hands on
  - Farming because its right for the aina, right for quality of life, and pride in a world class product
  - Like many Kona Coffee farmers, the income from the coffee is supplemental
- Opposed to this bill
  - It is wasteful, unneeded, and probably largely counterproductive
  - Last year the legislature found as fact in SCR102/SD1/HD1 that "existing labeling requirements for Kona coffee causes consumer fraud and confusion and degrades the 'Kona coffee' name."
  - What is needed is passage of a simple fix to the labeling requirements as contained in HB72 and SB661. Although dead for this year, the issue can be addressed next year without wasting money on this study.
  - Once that is done, then perhaps some study work would be appropriate, although not necessarily as scoped in SCR102/SB2905.



- Proposed study is wasteful, unneeded & probably counterproductive
  - Studies “feel good”, how can you be opposed?
    - The focus is wrong and it is a waste of money in a tight time.
      - Flooding the retail market with around 5 million pounds of deceptively labeled blends is a known issue, vs the less than that of Kona that is grown.
      - Free market of properly labeled products (blended or not) should determine the fiscal results, not a study and legislation.
      - Waste is when you use resources to do something that isn’t needed. Last year the legislature determined that the current labeling practice causes fraud, therefore a study isn’t needed before action.
      - The study is potentially counterproductive as it will delay action on the biggest issue
        - Past studies have been inconclusive, other than establishing that the current practices are deceptive to consumers
        - Is it realistic to expect funds appropriated in July of 2008 will result in a definitive study by December when all other studies on coffee labeling/market effects to date have failed?
- Some other thoughts
  - Stated purpose is: “to appropriate funds to support the economic analysis and fiscal impact portions of the study that the department of agriculture is currently conducting pursuant to Senate Concurrent Resolution No. 102 (2007).”
    - Establishing winners & losers relating to a move from the status quo will not move the community toward consensus.
      - Those that are exploiting the legalized fraud permitted by the current labeling requirements will be the losers, and they won’t like that.
      - It is the job of the legislature to provide laws that provide a level playing field for truthfully labeled products to compete, and the free markets job is to sort out the winners & losers.
- Red Herrings I hear from time to time on the subject
  - The small cherry farmer is concerned about a glut of Kona coffee if the blend rules are changed
    - Probably true, but not warranted
      - Told to be worried by processors who buy their coffee
      - Not plausible given only about 15% of the crop goes into the blends, and the crop sells out each year, and about 5 million pounds of Kona blends are on the market

- Even if the 15% were to be on the low side, the nine to one ratio stays the same, for every 10 pounds of blend not sold, only one pound of true Kona coffee needs to be sold to market the crop, which gets sold out year after year.
- You may hear processors say they “represent” the cherry farmers
  - Just about as likely as the used car seller “represents” the car buyer
- Demand for 100% Kona is small, therefore sale to blenders is needed
  - Only about 15% of the crop goes to the blends, easily absorbed by the demand that had been getting filled by the 5 Million pounds of “Kona blends”. As noted before the nine to one ratio will make it easy to sell
- The hotels can’t afford to supply 100% in the room
  - Possibly true, but is that worse than providing a 90% foreign coffee blend deceptively labeled implying it is Kona?
  - The hotels may well be able to afford some other way of creating a positive Hawaiian experience
- Consensus is required before action
  - It would be nice, but is unrealistic to expect
    - The stakeholders have different interests, any change will involve “winners & losers”
  - The current law, in the words of the legislature “causes consumer fraud and confusion, and degrades the ‘Kona coffee’ name.
  - Stopping fraud should not require the concurrence of the beneficiary of that fraud!
- Conclusion
  - Funding an economic impact analysis study is not required, or appropriate until the underlying truth in labeling problem is fixed.
  - Although this legislative season may have progressed to the point that addressing the number one truth in labeling issue isn’t feasible this year, I beg that the committee focus next year on issue number 1 next year.

Mahalo,

Charles Moss  
 Aina na Hoku Kai Farm  
 74-4993 Mamalahoa Hwy, Holualoa, HI 96725