

STAND. COM. REP. NO.

231

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1265

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 1265 entitled:

"A BILL FOR AN ACT RELATING TO LABELING OF MEAT AND FISH PRODUCTS, "

begs leave to report as follows:

The purpose of this measure is to require truthful labeling of meat and fish that have been gas-treated.

Testimony in support of this measure was submitted by one organization. One state agency supported the intent of this measure. One state agency and one organization submitted comments, and one organization submitted testimony in opposition. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that the United States Food and Drug Administration has determined that use of safe levels of carbon monoxide in treating meat is not harmful to human health. However, it is possible for the meat to appear fresh to the consumer due to the gas treatment but still have high bacteria levels, indicative of spoilage. It has been suggested that the "use, sell, or freeze by" date listed on the package is sometimes extended due solely to the color of the meat rather than the freshness.

The Department of Health checks for proper labeling requirements through routine food safety inspections. The Department of Health also ensures that products are not offered

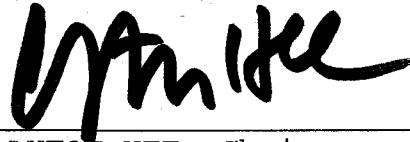


for sale beyond their expiration date. However, the Department of Health admits that it focuses most enforcement efforts on the accurate labeling of fish products. The Department of Health relies upon the United States Department of Agriculture to enforce regulations for meat labeling.

Your Committee notes that this measure is intended to focus primarily on the accurate labeling of meat products sold in Hawaii.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1265 and recommends that it pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



CLAYTON HEE, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL

Bill / Resolution No.:* SB 1265	Committee Referral: WTL, CPN	Date: 2/13/09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)	✓			
BUNDA, Robert				✓
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.				✓
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred				✓
TOTAL	4	0	0	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

JAN 28 2009

A BILL FOR AN ACT

RELATING TO LABELING OF MEAT AND FISH PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 159-3, Hawaii Revised Statutes, is
2 amended by amending the definition of "misbranded" to read as
3 follows:

4 ""Misbranded" shall apply to any carcass, part thereof,
5 meat, or meat products under one or more of the following
6 circumstances:

- 7 (1) If its labeling is false or misleading in any
8 particular[-];
- 9 (2) If it is offered for sale under the name of another
10 food[-];
- 11 (3) If it is an imitation of another food, unless its
12 label bears, in type of uniform size and prominence,
13 the word "imitation" and immediately thereafter, the
14 name of the food imitated[-];
- 15 (4) If its container is made, formed, or filled as to be
16 misleading[-];



- 1 (5) If in a package or other container unless it bears a
2 label showing:
- 3 (A) The name and place of business of the
4 manufacturer, packer, or distributor[-]; and
- 5 (B) An accurate statement of the quantity of the
6 contents in terms of weight, measure, or
7 numerical count; provided that reasonable
8 variations may be permitted and exemptions as to
9 small packages may be prescribed by the board[-];
- 10 (6) If any word, statement, or other information required
11 by or under authority of this chapter to appear on the
12 label or other labeling is not prominently placed
13 thereon with the conspicuousness as compared with
14 other words, statements, designs, or devices, in the
15 labeling and in the terms as to render it likely to be
16 read and understood by the ordinary individual under
17 customary conditions of purchase and use[-];
- 18 (7) If it purports to be or is represented as a food for
19 which a definition and standard of identity or
20 composition has been prescribed by the board under
21 this chapter unless:



- 1 (A) It conforms to the definition and standard[-];
2 and
- 3 (B) Its label bears the name of the food specified in
4 the definition and standard and, insofar as may
5 be required by the regulations, the common names
6 of optional ingredients (other than spices,
7 flavoring, and coloring) present in the food[-];
- 8 (8) If it purports to be or is represented as a food for
9 which a standard of fill of container has been
10 prescribed by the board under this chapter, and it
11 falls below the standard of fill of container
12 applicable thereto, unless its label bears, in the
13 manner and form as the board prescribes, a statement
14 that it falls below the standard[-];
- 15 (9) If it is not subject to paragraph (7), unless its
16 label bears:
- 17 (A) The common or usual name of the food, if any
18 there be[-]; or
- 19 (B) In case it is fabricated from two or more
20 ingredients, the common or usual name of each
21 ingredient; except that spices, flavorings, and
22 colorings may with the approval of the board be



1 designated as spices, flavorings, and colorings
2 without naming each; provided that to the extent
3 that compliance with the requirements of this
4 subparagraph is impracticable, or results in
5 deception or unfair competition, exemptions shall
6 be established by the board[-];

7 (10) If it purports to be or is represented for special
8 dietary uses, unless its label bears the information
9 concerning its vitamin, mineral, and other dietary
10 properties as the board, after consultation with the
11 Secretary of Agriculture and concurrence by the
12 department of health, determines to be and prescribes
13 as necessary in order fully to inform purchasers as to
14 its value for the uses[-];

15 (11) If it bears or contains any artificial flavoring,
16 artificial coloring, or chemical preservative, unless
17 it bears labeling stating that fact; provided that to
18 the extent that compliance with this paragraph is
19 impracticable, exemptions shall be established by the
20 board[-];

21 (12) If it fails to bear, directly thereon or on its
22 container, as the board may prescribe, the inspection



1 legend and, unrestricted by any of the foregoing,
2 other information as the board may require to assure
3 that it will not have false or misleading labeling and
4 that the public will be informed of the manner of
5 handling required to maintain the meat or meat
6 products in a wholesome condition[+]; or

7 (13) If the meat or meat products, or the meat or meat
8 products derived from exotic animals, have been
9 gas-treated to enhance the product color, but does not
10 bear a truthful label indicating:

11 (1) The type of gas that was used; and

12 (2) A statement that the gas treatment was used to
13 approximate the appearance of freshness."

14 SECTION 2. Section 328-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§328-3 Same; misbranding or misleading advertisement.**

17 (a) If an article is alleged to be misbranded because the
18 labeling is misleading, or if an advertisement is alleged to be
19 false because it is misleading, then in determining whether the
20 labeling or advertisement is misleading, there shall be taken
21 into account [+], among other things[+], not only representations
22 made or suggested by statement, word, design, device, sound, or



1 in any combination thereof, but also the extent to which the
2 labeling or advertisement fails to reveal facts material in the
3 light of the representations or material with respect to
4 consequences which may result from the use of the article to
5 which the labeling or advertisement relates under the conditions
6 of use prescribed in the labeling or advertisement thereof or
7 under such conditions of use as are customary or usual.

8 (b) Fish products that have been gas-treated to enhance
9 the product color shall bear a truthful label indicating:

10 (1) The type of gas that was used; and

11 (2) A statement that the gas treatment was used to
12 approximate the appearance of freshness.

13 [~~b~~] (c) "Advertisement" means all representations
14 disseminated in any manner or by any means, other than by
15 labeling, for the purpose of inducing, or which are likely to
16 induce, directly or indirectly, the purchase of food, drugs,
17 devices, or cosmetics."

18 SECTION 3. Section 328-29, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Any person who violates section 328-3 or section 328-
21 6 shall be fined not more than \$500, or imprisoned not more than
22 one year, or both."



S.B. NO. 1265

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.
4

INTRODUCED BY:

Amid Y. Ige

John P. ...

Elizabeth Chun Oakland

Michelle N. Kadani

D

...

Alan ...

Clarence ...



S.B. NO.

1265

Report Title:

Fish; Meat; Labeling

Description:

Requires truthful labeling of meat and fish that has been gas-treated.

2009-0826 SB SMA.doc



LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

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

**BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
FRIDAY, FEBRUARY 27, 2009
9:30 A.M.
ROOM 229**

**SENATE BILL NO. 1265
RELATING TO LABELING OF MEAT AND FISH PRODUCTS**

Chairperson Baker and Members of the Committee:

Thank you for this opportunity to provide testimony on Senate Bill No. 1265, relating to the treatment of pre-packaged meat with gas or other technology to enhance its color only. The Department of Agriculture supports the intent and offers comments. We defer to the Department of Health as to their ability and authority to enforce this bill if passed into law.

The Food and Drug Administration has determined that use of safe levels of carbon monoxide in treating meat is not harmful to human health. However, the department notes that it is possible for the meat to appear fresh to the consumer because of the gas treatment but still 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. This bill would provide information to the consumer that appearance alone may not guarantee freshness.

HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996

Affiliated with the International Brotherhood of Teamsters

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Sen. Rosalyn Baker, Chair
Sen. David Ige, Vice-Chair
Committee on Commerce and Consumer Protection (CPN)

Glenn Ida
Representative
Friday, Feb. 27, 2009, at 9:30 AM
Conference Room

The Hawaii Teamsters Local 996 strongly supports the passage of SB 1265, Relating to Labeling of Meat and Fish Products.

Currently packages of meat that have gas technology applied to them are not required to list it on the label and most disturbing it is placed in same area of the meat case with meat products that have been traditionally processed as fresh cut or within the store premises.

Gas technology only enhances the color of the meat product allowing the expiration date to be moved by up to 5 days depending on the cut of meat. Gas technology does nothing to maintain the sanitation of the product. By placing the packages of the gas and fresh cut in the same place may be deceiving the consumers in thinking that the gassed meat is fresher because of the appearance and expiration date, which will be the only basis of the consumers' decision to purchase that Meat Product. Compare that to purchasing fresh fruit which can be directly handled, inspection of all sides and/or sniffed for freshness.

SB 1265 will require that gassed meat products to be appropriately labeled to advise the consumer what has been added to the meat in processing just like the requirements of labeling fish products containing Carbon Monoxide Gas.

The Hawaii Teamsters Local 996 strongly supports SB 1265, Relating to the Labeling of Meat and Fish Products.

Thank you for allowing me to comment on this important matter.