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In reply, please refer to:
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House Committee on Health

SB 1265, SD 1, RELATING TO LABELING OF MEAT AND FISH PRODUCTS

Testimony of Chiyome Leinaala Fukino, M.D.
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11:00am

1 **Department's Position:** We respectfully oppose the bill's amendment of HRS Chapter 328. The
2 Department appreciates the intent of the bill, but has concerns regarding its application to the
3 Department.

4 **Fiscal Implications:** As yet unquantified funds to support the proposed amendments.

5 **Purpose and Justification:** In part, this bill amends HRS Chapter 328 by introducing new language
6 that labeling be required for fish products that have been gas-treated to enhance the product's color.

7 This testimony only addresses the proposed changes to HRS Chapter 328, a health statute. We defer to
8 the Department of Agriculture regarding the proposed changes to HRS Chapter 159 regarding meat
9 labeling.

10 We appreciate that consumers may think that the carbon monoxide treated food is younger than
11 it is and that consumers may want to know if it has been treated.

12 The proposed change to HRS chapter 328 is unnecessary, because HRS section 328-10 and
13 Chapter 11-19, Hawaii Administrative (HAR) already address the issue of proper labeling of products
14 treated with chemical preservatives, including gases.

1 HAR section 11-29-8 includes by reference is 21 CFR, Part 101; which addresses proper labeling
2 of food products. Specifically 21 CFR Section 101.22(j) states:

3 "A food to which a chemical preservative(s) is added shall, except when exempt pursuant to
4 101.100 bear a label declaration stating both the common or usual name of the ingredient(s) and
5 a separate description of its function, e.g., 'preservative', 'to retard spoilage', 'a mold inhibitor',
6 'to help protect flavor' or 'to promote color retention'."

7 Therefore, at a minimum, if a fish product has been gas-treated to promote color
8 retention, the label must include the name of the product, what it has been treated with and the reason
9 for using this type of preservative.

10 Fish products sold in packages by themselves (Ahi filets, Tombo cubes, Frozen Tilapia filets -
11 No other ingredients) that were treated with carbon monoxide for color retention must be properly
12 labeled like other processed foods in package form. The treatment must be declared in the ingredient
13 statement of the label - "Ahi preserved with carbon monoxide to promote color retention".

14 When sold in unpackaged form (poke sold in trays in markets or fish filets in display cases)
15 carbon monoxide-treated fish must be accompanied by a counter card or sign disclosing the treatment.
16 For example, signage for ahi poke would read - "Ahi preserved with carbon monoxide to promote color
17 retention".

18 The Department checks for proper labeling requirements through routine food safety inspections
19 and will remind firms to comply, or take stronger action as appropriate. We also check to see that
20 products are not offered for sale beyond their expiration date. During a food safety inspection, should a
21 firm be discovered using an improper expiration date, an investigation of the firm's policies and
22 procedures regarding food handling practices will be initiated. However, we doubt that a labeling
23 requirement will stop this type of misconduct.

1 Labeling has other limits. Any food product that has an expiration date (use, sell or freeze by
2 date) can have high bacterial levels and still be within the expiration date if the food product has been
3 mishandled (e.g., food held at improper temperature for too long). The concept that a food product can
4 appear “fresh” and still have the potential to cause foodborne illness is not unique to CO-treated fish or
5 meats; as the major outbreak associated with consuming fresh spinach has shown. Locally caught fresh
6 fish have the potential to cause ciguatera intoxication and there no way the fisherman or the consumer
7 can determine which fish will cause illness based on appearance.

8 Education of commercial firms and consumers on proper food handling and preservation, in
9 relation to time and temperature, remain important.

10 We thank you for the opportunity to testify.