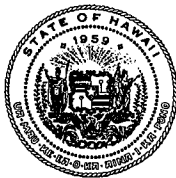


SB2380

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Health

SB 2380, RELATING TO BOTTLED WATER

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 8, 2010
2:45pm

1 **Department's Position:** The Department respectfully opposes this bill.

2 **Fiscal Implications:** As yet unquantified funds for the department to enforce the proposed amendment.

3 **Purpose and Justification:** This bill amends HRS Chapter 328D by requiring bottled water labels to
4 bear the date of bottling.

5 The Department is not aware of public health problems due to the lack of bottling dates on
6 labels. Bottled water is a highly regulated food item which is routinely tested for bacterial and chemical
7 contamination. In Hawaii it must meet the maximum contaminant level limits that apply to county
8 drinking water systems. It is considered a **non**-potentially hazardous food with a long and stable shelf
9 life. In contrast, potentially hazardous foods, such as meat, fish, milk, and dairy products, can grow
10 pathogens rapidly at room temperature.

11 Although not required, several local bottling companies indicate an expiration date on their
12 product to address quality issues, but not health issues.

13 For interstate products, the U.S. Food and Drug Administration requires that all water bottlers
14 maintain records on lot codes and distribution lists of finished product to wholesale and retail outlets. In
15 the event of a recall, specific lots can be identified and quickly removed from sale.

1 The Department must prioritize and concentrate on public health issues with the highest risk;
2 especially now that we are experiencing reductions-in-force and furloughs. Before supporting the bill,
3 we would need evidence about bottled water problems that we currently lack.

4 For this reason, we ask that the bill be held.

5 We thank you for the opportunity to testify.

Senator David Ige, Chair
Senator Josh Green, M.D., Vice Chair
Committee on Health



HEARING Monday, February 08, 2010
2:45 pm
Conference Room 016
State Capitol, Honolulu, Hawaii 96813

RE: SB2380, Relating to Bottled Water

Chair Ige, Vice Chair Green, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH opposes SBHB2380, which requires all bottled water to be labeled with the date of bottling. **Bottled water is comprehensively and stringently regulated at both federal and state levels to ensure its safety and quality.** Adding yet another requirement will result in increased costs: 1) to the bottler to produce a product specific to Hawaii; 2) to consumers because added costs must be passed on; and 3) to the State to enforce the new provision.

At the federal level, bottled water is regulated as a processed food product by the FDA under the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. §§ 301 et seq., and several parts of Title 21 of the Code of Federal Regulations (CFR). It must meet FDA's general food regulations as well as standards of identity, standards of quality, good manufacturing practices (GMP) and labeling requirements specifically promulgated for bottled water. Bottled water is one of only a few food products that must follow additional, product-specific GMPs in addition to the general food GMPs.

In Hawaii, bottled water is further regulated by the Department of Land and Natural Resources' Commission on Water Resource Management, and the Department of Health. Section 328D-3 of the Hawaii Revised Statutes specifically states that all bottled water, including mineral water, shall be filtered and processed and packaged in accordance with the FDA good manufacturing practice regulations (GMPs) 21 C.F.R. parts 110 and 129. Section 328D-6 specifically states that all bottled water shall conform to applicable federal and state labeling laws.

While not required by the FDA, water bottlers as generally include a "produced" date or "best by" date or "expiration" date when they ink or laser jet their required production lot codes on their bottle labels or shoulders. This information is far more critical for consumption than a "bottled by" date.

A bottled water labeling requirement unique to Hawaii discourages interstate and international commerce, as well as national labeling uniformity. Bottled water operates within an open distribution system, and a unique label for product sold in Hawaii would require completely separate Hawaii-only inventories at manufacturing and distribution levels, at a substantial additional cost to the manufacturers and distributors, and ultimately, consumers.

We urge you to hold HB2380. Thank you for your consideration and for the opportunity to submit testimony.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
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HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1188 Bishop St., Suite 608, Honolulu, Hawaii 96813

Phone (808)533-1292 - Fax (808)599-2606 - Email: hawaiifoodind@aol.com

Monday, February 8, 2010 @ 2:45 PM in CR 016

To: Senate Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

By: Richard C. Botti, President
Lauren Zirbel, Government Relations

Re: SB 2380 RELATING TO BOTTLED WATER

Chairs & Committee Members:

We oppose this measure based on the following concerns:

- Bottled water is regulated as a packaged food product by the U.S. Food and Drug Administration (FDA) with established standards;
- Any state law that is in conflict with FDA requirements will create implications involving movement of product in interstate and foreign commerce;
- FDA bottled water standards must be at least as rigorous and protective of public health as U.S. Environmental Protection Agency tap water standards;
- FDA requirements would be preemptive of any state conflicting law;
- If Hawaii did pass this measure, it would surely reduce the availability of product choice, as imported products would have the choice of not providing special labeling for a pocket market such as Hawaii, creating the perception that the law was passed to reduce competition by local water processors; and
- If Hawaii did pass this measure, it could well create retaliation by other jurisdictions that import Hawaii bottled water.

Hawaii is not in a position to create another law that will require resources to enforce that we do not have.



Senator David Ige, Chair
Senate Committee on Health

Monday, February 8, 2010 – 2:45 PM
Hawaii State Capitol, Conference Room 016

RE: SB 2380 – Relating to Bottled Water

Chair Ige, Vice Chair Green, and members of the Committee:

Thank you for the opportunity to provide some additional information on SB 2380, a bill relating to bottled water. **The American Beverage Association opposes this bill:** the additional bottled water labeling requirements set forth in this legislation are unnecessary, would exceed, and, in some cases, violate federal requirements, and would be unnecessarily costly and burdensome to the beverage industry.

The American Beverage Association (ABA) is the trade association representing the non-alcoholic beverage industry. Founded in 1919, ABA represents hundreds of beverage producers, distributors, franchise companies and supporting businesses that employ more than 217,000 people across the country. The beverage companies throughout Hawaii directly employ over 500 workers and indirectly impact the jobs of thousands of others across the state.

Bottled Water is a Heavily Regulated Food Product

Federal bottled water regulations provide protection of consumers' health and prevent product misrepresentation. The U.S. Food and Drug Administration (FDA) sets standards for bottled water governing water quality, labeling and manufacturing practices. The U.S. Environmental Protection Agency (EPA) has separate standards for drinking (tap) water. Through the oversight exercised by both FDA and EPA, bottled water is among the most highly regulated and controlled food products.

FDA States Further Labeling Requirements are Unnecessary

The FDA has stated that bottled water is considered to have an indefinite safety shelf life if it is produced in accordance with current good manufacturing practices and quality standard regulations and is stored in an unopened, properly sealed container. Therefore, FDA does not require an expiration date for bottled water. In addition, Federal law expressly preempts non-identical state requirements for foods subject to federal food standards. However, because long-term storage of bottled water may result in aesthetic defects, such as off-odor and taste, many bottlers may voluntarily put expiration dates on their labels.

Federal Labeling Regulations Provide Uniformity

The bottled water standard of identity, established by FDA in 1995, sets forth compositional and labeling requirements that provide for one simple, easy to read label. This ensures that consumers are provided with adequate information on the composition and quality of the bottled water products they buy. These regulations also help to facilitate interstate commerce by providing manufacturers and distributors with clear directions on what types of information must be included on the label. Multiple regulations across states would result in confusion on the part of the consumer and unnecessary cost on the part of the industry.

States are Repealing Separate Requirements

In 2005, New Jersey eliminated its requirement that bottled water labels include an expiration date, bringing its regulations in line with the provisions set forth by the FDA. At that time, New Jersey was the only state to mandate that such information be included on bottled water labels.

Consumers Have Access to Product Information

Due to the extensive testing, monitoring and other requirements mandated by the FDA, bottled water producers possess a lot of information about the content of their products and how they are processed and distributed. Like all other food producers, they are also required to list company contact information, including a phone number or address, so that consumers can access additional information about the product.

American Beverage Association – 1101 16th Street, NW – Washington, DC 20036 – 202-463-6732



THE LEGISLATIVE CENTER

1188 Bishop Street, Ste. 1003
Honolulu, Hawaii 96813-3304
PHONE: (808) 537-4308 • FAX: (808)533-2739

February 8, 2010

Testimony To: Senate Committee on Health
Senator David Y. Ige, Chair

Presented By: Tim Lyons, Legislative Liaison
Anheuser Busch Companies

Subject: S.B. 2380 – RELATING TO BOTTLED WATER.

Chair Ige and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we oppose this bill as it is written.

We are not opposed to providing some date on the product although we are not sure exactly what purpose this serves however, if you would change the bill to require an expiration date opposed to a bottling date, then we would not be in opposition. Most manufacturers use an expiration date as opposed to a bottling date and it would be a very expensive proposition to have all of them change over plus, as far as we know, Hawaii would be in the minority of asking for such information.

We do not think it is outrageous to require something about freshness therefore, an expiration date, as is commonly done for other food and beverage products is not unreasonable.

Based on the above and with the change made to require an expiration date, we would have no objections to this bill.

Thank you.

From: Maurice T Morita [mauricetmorita@gmail.com]
Sent: Monday, February 08, 2010 9:26 AM
To: HTHTestimony
Subject: SB 2380-RELATING TO BOTTLE WATER

FROM: Maurice T Morita
TO: Senate Committee on Health
Monday, February 8, 2010
Conference Room 016
2:45 p.m.

RE: SB 2380-RELATING TO BOTTLE WATER

Chair Ige, and Members of the Committee:

My name is Maurice T Morita and I strongly support SB 2380 which will require the sale of bottle water in the State of Hawaii to put the "birth date" or "when the water was added into the plastic bottle".

The sale of bottle water has become a popular drink, more than soda. Many consumers assume because the water is in a plastic bottle, the water is healthy. The concern is the longer the water stays in the plastic bottle, the water becomes "acidic". The thin plastic melts into the water making the water "acidic".

I received copies of the federal regulations as the water bottle companies testified in the House Committee on Health that they are already regulated. The regulation deals mostly with the water bottle plants, and the different types of bottle water. I am glad the water bottle plants are regulated for health and safety.

My concern is not about the water bottle plants, etc. but how healthy the water is in a plastic bottle. The longer the water is in the plastic bottle, the water becomes acidic and not healthy to drink.

Hawaiian Isles have put the expiration dates on their bottle water. I understand if you want to know when the water was put into the plastic bottle, its two years from the date of expiration. I don't know if the consumers know that information.

If they can put the expiration date, why not the "birth date".

Thank you for the opportunity to testify.