

HB 1598, HD2

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

JAMES J. NAKATANI
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE
THURSDAY, MARCH 17, 2011
2:55 P.M.
CONFERENCE ROOM 229**

**HOUSE BILL NO. 1598, H.D. 2
RELATING TO THE CACAO INDUSTRY**

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to comment on House Bill No. 1598, H.D. 2. The purpose of this bill is to temporarily exempt from the general excise tax (GET) amounts received for the sale of cacao from a producer or processed cacao from a processor; and to require the department of agriculture to collaborate with other state agencies to determine the best locations for a cacao processing facility.

The Department of Agriculture supports the intent of this bill with reservations relating to our mission to support local agricultural producers and locally grown agricultural products. The deletion of "domestic" is a concern to HDOA because all imported cacao can now qualify for the GET exemption. Another concern is that if cacao can be allowed for the GET exemption, other commodity groups may raise questions regarding the fair and equal treatment for business opportunity in the state of Hawaii.

The measure also requires the department to collaborate with the Department of Business, Economic Development and Tourism (DBEDT) and the Department of Land and Natural Resources (DLNR) to determine the best location for a cacao processing

facility on Oahu. HDOA is willing to work with DBEDT and DLNR, however, the department would require additional resources to complete the task efficiently.

Finally, since the implementation of this bill impacts state revenues and requires the input of other state agencies, the department defers to the comments of the Department of Taxation, and awaits the comments from DBEDT and DLNR.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
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SENATE COMMITTEE ON AGRICULTURE

**TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING HB 1598, HD 2
RELATING TO THE CACAO INDUSTRY**

TESTIFIER: **FREDERICK D. PABLO, DIRECTOR OF TAXATION (OR
DESIGNEE)**

COMMITTEE: **AGL**

DATE: **MARCH 17, 2011**

TIME: **2:55PM**

POSITION: **NO POSITION**

This measure provides a general excise tax exemption for amounts received from the sale of cacao from a producer or processed cacao from a processor.

The Department of Taxation defers to the Department of Agriculture as well as the Department of Business, Economic Development and Tourism on the merits of providing this exemption.

This measure will result in an estimated revenue loss of \$1,330 per year.

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SUBJECT: GENERAL EXCISE, Exempt sale of cacao

BILL NUMBER: HB 1598, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237-24 to exempt from the general excise tax, the amounts received for the sale of cacao from a producer or processed from a processor.

Requires the department of agriculture to collaborate with the department of business, economic development, and tourism and the department of land and natural resources to determine the best locations for a cacao processing facility on Oahu with a processing capacity of ten thousand to fifteen thousand pounds of cacao beans per year. The department of agriculture shall transmit its findings and recommendations to the 2012 legislature.

This act shall be applicable to gross income received after December 31, 2012 and before January 1, 2018.

EFFECTIVE DATE: July 1, 2030

STAFF COMMENTS: This measure proposes a general excise tax exemption to encourage the processing of cacao in the state. It should be remembered that the use of the tax system for such purposes is an inefficient means to accomplish such goals. Exemptions from the excise tax recognize that the imposition of the tax would impose an unusual burden or would otherwise cause the taxpayer to do business in an inefficient manner just to circumvent the tax. Exemptions from the general excise tax are also granted because the entity is a nonprofit or if the tax imposed would have a severe economic impact on the state's economy. The proposed exemption from the general excise tax meets none of these criteria.

It should be noted that the general excise tax rate imposed on producing and processing is set at the lesser 0.5% rate. Thus, the exemption being proposed in this bill will have little, if any, impact or consequence on the cacao producing industry. What this proposal does establish is a precedent for emerging agricultural industries that will also want to climb aboard the exemption train, even if means very little financially. The other point to remember is that the lesser rate does provide economists, planners, and industry officials with important information about the industry, the size, economic impact, and growth statistics. All of this information would be lost should the exemption in this measure be adopted. It should be noted that in 1977 the department of taxation discontinued asking taxpayers to allocate their general excise income by industry and activity. As a result, a year's worth of information was lost which in turn handicapped forecasters of the state's economy. Given the lesser rate and the fact that the tax does not appear to be an insurmountable barrier to the success of the cacao industry, this proposed exemption cannot be justified.

That said, lawmakers need to take a good look and see that, on one hand they are scrounging for money attempting to raise new funds with everything from user fees to taxes on specific groups of people and, on the other hand, introduce measures like this one. If all of the tax give-aways that have no rational basis were adopted they would probably bankrupt the treasury. It should be repeated over and over again that the tax system is not designed to provide some sort of lure to attract the taxpayers into doing or acting in some sort of unusual way, but the tax system exists to raise the funds necessary to operate government. Lawmakers may want to propose various tax breaks for their constituents while continuing to squander the tax resources on more public programs and personnel. However, doing so raises the question of whether or not elected officials have any clue about what their fiduciary responsibility is. This is indeed sad as the voting public has entrusted these elected officials with their hard-earned tax dollars.

Instead of attempting to give away the state treasury with such myopic tax breaks, lawmakers need to pay more attention to the overall economic climate of the state which currently suffers from a continuing burden of taxes and regulations. Lawmakers should remember, giving a tax break to one type of activity comes at a cost to all other taxpayers not so favored unless they are willing to effect a commensurate decrease in state spending. So one has to ask what is the unusual burden of taxes borne by this particular industry or activity or is this proposal nothing more than pandering to the fad industry of the day? There is literally no justification for this proposal.

Digested 3/15/11



Food Company Hawaii

1116 Whitmore Avenue Wahiawa, Hawaii 96786

HB 1598, Relating to the Cacao Industry

Senate Agriculture Committee

March 17, 2011

2:55 am – Room 229

Position: Support

Chair Nishihara, Vice Chair Kahele and Members of the Senate Agriculture Committee.

My name is Michael Conway, Agriculture Manager for Dole Food Company Hawaii and related business units, Waialua Coffee & Cacao.

As Hawaii's largest cacao grower and producer of Waialua Estate Single Origin Chocolate I can state with confidence that interest and momentum for Hawaiian grown chocolate is growing at a brisk pace. The economics of growing have been determined and it is clear that Hawaii is capable of producing world class chocolate. There are currently about 50+ producing acres island-wide which is considered small acreage. And while small amounts of cocoa bean can be converted into chocolate locally, any large scale manufacturing of chocolate must take place outside the state and returned for sale. It is estimated that a minimum 150 producing acres is needed to justify construction of a medium size chocolate manufacturing facility in Hawaii. Dole Food Company Hawaii has been working to expand its' twenty acre base and work with potential growers to increase the supply of cocoa bean in order to achieve an economy of scale that is sustainable. Our business plan assumes Hawaiian chocolate must be manufactured within the state.

One of the most attractive incentives for new growers is assurance of markets for their product. And, just like Hawaiian coffees, a strong recognition for quality and flavor is the absolute key for success. Assistance in the form of a tax break for growers to sell their cocoa bean is needed and much appreciated. Passage of HB 1598 will therefore send a positive message to new and existing entrepreneurs that Hawaii's policy makers are behind their chocolate dreams.

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Transmitted by facsimile: March 16, 2011

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Testimony on Behalf of The Original Hawaiian Chocolate Factory
(78-6772 Makenawai St, Kailua-Kona, HI 96740 Ph: (808) 322-2626)
For HB 1598

March 17, 2011 2:55 PM Conference Room 229 State Capitol

TO: The Honorable Senator Clarence K. Nishihara, Chair
The Honorable Senator Gilbert Kahele, Vice Chair

We are Robert and Pamela Cooper. We established and operate Hawaii's first local tree to bar chocolate manufacturing facility on the Kona side of Hawaii Island, which was initially funded by the Department of Business, Economic Development and Tourism. For more than a decade now, there has been significant interest in the commercial production of cacao in Hawaii which we support in every way. We have given over 65,000 cacao seeds and plants to anyone who indicated interest or requested information in the State of Hawaii.

We continue to purchase raw product and our studies and interactions with sometimes 60 growers on Hawaii Island alone indicate that they farm in excess of 48 acres. With the equipment we now have at our facility we can produce approximately 80,000 pounds of chocolate or 40,000 pounds of beans annually if you are making dark chocolate and much more if you are making milk chocolate.

With that said, we support the first part of this bill in regard to temporarily exempting from the general excise tax amounts received for the sale of cacao from a producer or processed cacao from a processor. This will give a monetary incentive to small and large holders alike.

We cannot support the second part of the bill to require the Department of Agriculture, Department of Economic Development and Tourism and the Department of Land and Natural Resources to determine the best location on Oahu for a cacao processing facility with the capacity to process ten thousand to fifteen thousand pounds of cacao beans per annum. With the economic climate surrounding our state to take resources from three major departments, who at this point are understaffed and under funded, and have enormous workloads, is counter productive. If you find this necessary, our request is that you look at all the Islands, particularly, Hawaii Island, inasmuch as the number of growers and acreage of production is greater and has more potential for

Chocolate is Aloha!

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growth. The consideration of a farmers and producers cooperative here on Hawaii would be more productive than on Oahu as a factory already exists here. Simply stated, there are more growers, more acreage and more room for growth on Hawaii Island than anywhere else in the state. We also have the support of the Hawaii Tropical Fruit Growers in developing a cooperative and processing facility on Hawaii Island.

Thank you for the opportunity to allow this testimony. It would be a pleasure to have you visit our farm and chocolate processing facility. We would hope that this letter is useful to you because we are very concerned that any intervention the state decides on taking to support the cacao industry will work in everyone's favor.

Chocolate is Aloha!

Pam and Robert Cooper

Chocolate is Aloha!