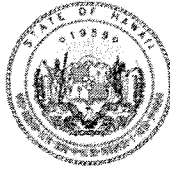


NEIL ABERCROMBIE
Governor



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

RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

JAMES J. NAKATANI
Deputy to the Chairperson

TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON HEALTH
TUESDAY, FEBRUARY 8, 2011
9:30 A.M.
CONFERENCE ROOM 329

HOUSE BILL NO. 606
RELATING TO MILK LABELING

Thank you for the opportunity to testify on House Bill 606, relating to milk labeling. The bill proposes to require milk offered for sale in Hawaii to be labeled with the date of pasteurization or the date the milk was packaged for distribution for sale. The Department of Agriculture supports the intent of truth in labeling provisions but would bring important concerns to your attention.

Section 11-15-39, Hawaii Administrative Rules, requires every container of processed milk held in retail and wholesale stores, restaurants, schools or similar establishments for sale with the designation of the month and day of the month after which the milk shall not be sold for human consumption ("sell-by" date). Manufacturers and processors of dairy products follow strict in-house protocols regulated by the Department of Health to establish the shelf-life intervals.

Furthermore, bulk milk from the mainland is pasteurized before being shipped to Hawaii and is **pasteurized again** before packaged for sale. This proposed bill could result in having both pasteurization dates and the "sell-by" date on the package, which would cause increased confusion to the consumer if not clearly delineated.

Thank you for the opportunity to testify on this measure.





HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)
1050 Bishop St. Box 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

DATE: Tuesday February 8, 2011 TIME: 9:30 a.m. PLACE: CR 329

TO: COMMITTEE ON HEALTH

Senator Rep. Ryan Yamane, Chair; Rep. Dee Morikawa, Vice Chair

FROM: Hawaii Food Industry Association - Lauren Zirbel, Government Relations

RE: HB 606 RELATING TO MILK LABELING

Chairs & Committee Members:

In opposition.

The federal Interstate Commerce Act is a controlling component to the milk labeling regulations in the United States. Although each state is responsible for enforcing the law and regulations of the labeling requirements and is given leeway to expand upon them, that discretion can result in a patchwork of rules from state to state which ultimately may run in contradiction with the Interstate Commerce Act.

In serving the best interest for the State, if the Legislature doesn't like the current labeling of milk, they should adopt a joint resolution urging the federal Food and Drug Administration to revisit its labeling guidelines.

Current date labeling ("Use by" or "Best when used") is deemed preferred by consumers, especially when certain milk products are pasteurized a multiple times. The proposed measure would confuse consumers.

Thank you for the opportunity to provide this testimony.

February 7, 2011

To: House Committee on Health

From: Susan Houghton, Director of Public Affairs and Government Relations

Re: Safeway Opposition to HB 606

I am writing to notify you of Safeway's opposition to HB 606.

As you are aware, Safeway operates 19 stores in Hawaii and provides milk for consumers under a number of different labels (O' Organics, Lucerne, etc.)

More than 90 percent of all milk sold in Hawaii originates on the mainland. Local dairies simply cannot provide or handle the volume needed.

Our Lucerne brand is bottled and distributed by Meadow Gold. It is their practice to pasteurize milk twice – once when it leaves the mainland and then again, upon arrival in Hawaii.

Under this bill, the second pasteurization date would incorrectly confuse customers as to the quality and the freshness of the milk – when in fact, the milk going under both labels was really shipped at the very same time. As you can see, consumers would be confused to believe that the milk that has been pasteurized twice is somehow both “fresher” and “better” than it really is.

We urge you to keep the current practice – essentially federal law – of the “use by” date. Consumers across the nation have come to rely on this information as the preferred source of information when it comes to product freshness. Creating a new guideline that does not apply uniformly to the common bottling practices of all dairies involved would not only lead to misinformation for consumers, but a competitive disadvantage.

Please do not hesitate to contact me at (925) 467-2212 or our Hawaii District Manager, George Glukfeld at (808) 524-4554 if you desire further information. Thank you for your consideration of our opinion on this important legislation.

Sincerely,

Susan M. Houghton
Director of Public Affairs and Government Relations



February 7, 2011

To: House Committee on Health

VIA E-MAIL: HLTtestimony@Capitol.hawaii.gov

From: John Kenley
Assistant General Counsel
Darigold, Inc.

Re: Darigold Opposition to HB 606

Dear House Committee:

I am writing to express Darigold's opposition to HB 606 and the reasons for our opposition.

Darigold currently serves Hawaii retailers and consumers through its distribution center located in Aiea. More than 90 percent of all milk sold in Hawaii originates on the mainland, and our products constitute a part of that mainland milk. We care about our customers and we take pride in the fact that we are always innovating to ensure that our products are of the highest quality.

HB 606 does not protect Hawaii consumers and it does not protect local dairy farmers. Rather, HB 606 would reward company's who "double pasteurize" mainland milk by allowing such companies to label their products in a misleading manner by marking such products with only the second pasteurization date. Hawaii consumers will very likely believe that the second pasteurization date is a "born on" date and will have no way of knowing that the product is actually several days older than the stated pasteurization date. In addition, customers may mistakenly believe that a very recent date indicates that the product originates from Hawaii dairy farms. HB 606 will thus enable companies to engage in a "double pasteurization" practice that is misleading.

We request that Hawaii continue to follow the current "use by" date practice that is federally recognized and employed by virtually all of the states. This practice is well-tested and supplies the customer with what is generally the most relevant information to him or her – the date when the milk may begin to degrade in its taste quality.

Please do not hesitate to contact me at (206) 286-6725 if you desire more information.

Thank you for your consideration.



February 5, 2011

Committee on Health

To: Chair Representative Ryan Yamane
Representative Della Au Belatti
Representative Faye P. Hanohano
Representative John Mizuno
Representative Corrine W.L. Ching

Vice Chair Representative Dee Morikawa,
Representative Chris Lee
Representative Jo Jordan
Representative Jessica Wooley
Representative Kimberly Marcos Pine

From: Chad Buck
Hawaii Foodservice Alliance LLC

Re: **Opposition to HB 606 (as currently written)**

BILL AS WRITTEN ALLOWS FOR A MISLEADING BORN ON DATE

The bill as currently written will allow mainland milk that is weeks old before bottling here in Hawaii to be labeled with a "born on date" that is inaccurate and misleading to Hawaii families. In addition, this inaccurate labeling will put Hawaii's Dairy Farmer's at a disadvantage to this older mainland milk simply because they can be labeled with the same "born on date" as the real island milk.

Specifically, page 2, lines 4 and 5, the wording "date of pasteurized or the date the milk was packaged for distribution or sale" allows for a misleading born on date.

WORDING CORRECTION NEEDED FOR ACCURACY

In order to provide an accurate born on date, the wording should simply read, **'to be labeled with the date of FIRST pasteurization'** and to NOT INCLUDE "or packaged for distribution or sale". Including the packaged date or not specifying FIRST pasteurization, will allow older mainland milk to be labeled with a date that would be the same as fresher Hawaii milk simply because the older milk was packaged or the bottler chose the second pasteurization date as the date to use as the "born on date". This change in wording will accurately communicate when the milk was actually processed. With this revised language, the island dairy farmer will have the closest dates of production to the Hawaii consumer.

INJUSTICE FOR HAWAII DAIRY FARMERS (without wording change)

Without changing this language, the older mainland milk that is reprocessed, repasteurized and packaged here that is significantly older, will be able to stamp a born on date that is the same as the milk from island cows raised by Hawaii's dairy farmers. **This would be misleading to Hawaii families, an injustice to Hawaii Dairy Farmers producing milk from cows right here in Hawaii and be harmful to Hawaii's efforts for food sustainability.**

Thank you.



Representative Ryan Yamane, Chair
Representative Dee Morikawa, Vice Chair
Committee on Health

HEARING Tuesday, February 08, 2011
 9:30 am
 Conference Room 329
 State Capitol, Honolulu, Hawaii 96813

RE: HB606, Relating to Milk Labeling

Chair Yamane, Vice Chair Morikawa, 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 HB606, which requires milk beverages to be labeled with the date of pasteurization or the date of packaging.

As with most products for human consumption, milk products are comprehensively and stringently regulated at both federal and state levels to ensure 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.

Milk products already are marked with a "sell by" date or "best by" date or "expiration" date on the labels, caps or shoulders. This information is far more critical for consumption than a "packaged by" date.

With due respect to Hawaii's milk producers, it is unrealistic to not rely on imported sources of milk products to satisfy our residents' demands. A milk labeling requirement unique to Hawaii discourages interstate and international commerce, as well as national labeling uniformity. 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 HB606. 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
ph: 808-592-4200 / fax: 808-592-4202



February 6, 2011

To: House Committee on Health

From: Bob Gutierrez, Director of Government Affairs

Re: Opposition to HB 606

Mr. Chairman,

We appreciate the opportunity to submit our testimony and express our opposition to proposed legislation effecting "Milk labeling" (HB606).

Times Supermarket believes that the proposed duplicate labeling requirement will create confusion among our customers, as milk from the mainland receives pasteurization twice, will have the ability to display a more recent date of production. Furthermore, we believe that an additional "labeling date" will create a perception with our customers that one brand of milk is of fresher quality than competing brands in our stores.

While our suppliers have two different methods of shipping milk, both are regulated by the same federal laws and food safety standards. Additionally, we understand the need to insure consumer safety among products shipped to and processed in, Hawaii; however we feel the "use by" date is the best identifier for quality and safety.

Times Supermarket operates 20 stores in Hawaii serving both local and imported products for our consumers. Our customer's value choice and they value cost savings, which this proposed legislation will potentially make challenging given its current form. We believe that the current method of health safety standards are well placed and well enforced to ensure our customers are not provided unsafe products and we respectfully request your reconsideration in moving this forward.

Please feel free to contact me should you have any questions regarding this matter at (209) 957-2555, ext 153 or Bob Stout, President of Time Supermarket at (808) 831-0811. We thank you in advance for your consideration and we look forward to continuing the dialogue.

Respectfully,

A handwritten signature in black ink that reads "Bob Gutierrez". The signature is stylized and cursive.

Bob Gutierrez
Director of Government Affairs, Times Supermarket