



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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GOVERNOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION**
Tuesday, March 22, 2011
9:00 AM
State Capitol, Conference Room 325

in consideration of
**SB 146 SD1, HD1 Proposed
RELATING TO BIOFUEL.**

Acting Chair Coffman and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) has concerns about SB 146 SD1, HD1 Proposed, which would require diesel fuel sold in the State for use in motor vehicles to contain no less than 5% biodiesel that is produced in the State from agricultural products grown in the State.

Although biofuels are expected to play an essential role in a more secure energy future because they can reduce the State's dependence on imported oil and could be locally sourced, we have several concerns with this bill as written.

It is our understanding that the requirement for locally-sourced materials would be in conflict with the interstate commerce clause of the U.S. Constitution.

Also, there is currently no commercial production of biodiesel from locally grown agricultural feedstocks. Although there is a provision that the mandate could be waived "if sufficient quantities of competitively-priced biodiesel produced in the State are not available," it is unclear how and when the quantity of available biodiesel would be determined and how the exemption would be applied in the event that the quantities of biodiesel available, or diesel fuel demand, change or are interrupted.

Thank you for the opportunity to offer these comments.



HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Testimony in of
KENTON ELDRIDGE

Partner, Aina Koa Pono, LLC

March 22, 2011, at 9:00 a.m.
House Conference Room 325

TESTIMONY IN SUPPORT OF SB 146, HD 1 (proposed)

Vice Chair Coffman and members of the Committee:

Aina Koa Pono ("AKP") strongly supports SB 146, HD1 (proposed), Relating to Biofuel. We also support further amending SB 146 to ensure that the biofuel will be locally produced—unlike ethanol—without violating any Commerce Clause restrictions and to raise the requirement from a 5% biodiesel-only requirement to a 10% requirement that applies to both biodiesel and biogasoline.

AKP is a locally-owned biofuel company which is building a biofuel plant in Ka`u, Hawaii. We recently entered into a power purchase agreement with HECO to produce biodiesel from locally grown feedstock. A local biofuel industry in Hawai`i can and should be created through the enactment of a "B-10" biofuel requirement. AKP believes there is no need for a year-long study by the Department of Business and Economic Development ("DBEDT") and that a biofuel industry could be created *now*.

AKP has already acquired agricultural land in Ka`u, designed a biofuel production facility, and signed a contract with HECO for part of the plant's capacity. The Ka`u plant will produce 24 million gallons per year of biofuel, of which only 16 million gallons will be sold to HECO. A B-10 requirement would create a market for the production facility's additional capacity and also spur the development of up to two additional such plants. AKP is prepared to build these facilities. But to finance these plants and kick-start a local biofuel industry in Hawai`i, AKP needs to be able to provide its investors with some assurance that there will be a demand for the biofuel the facilities produce. Only a biofuel requirement will provide this assurance.

There is no doubt that a local biofuel industry is in Hawai`i's best interest. Specifically, a B-10 requirement for both biodiesel and biogasoline would:

- **Create Jobs.** A 10% biofuel requirement will create up to 2,400 long-term, high-paying jobs in agriculture and biofuel production for Hawai`i residents in order to meet the demand for 50 million gallons of biodiesel and 500 million gallons of biogasoline.
- **Bring in Outside Investment.** Creating a biofuel industry in Hawai`i will attract foreign investors to Hawai`i; those outside dollars will be spent here, further helping Hawai`i's economy.



To: Vice Chair Coffman and members of the HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Re: Testimony of Kenton Eldridge, IN SUPPORT OF SB 146, HD 1 (proposed)
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- **Ensure Productive Land Use.** The creation of a local biofuel industry will help return Hawai'i's agricultural lands to productive and sustainable use and will help revive the agricultural sector of our economy.
- **Promote Energy Independence.** Hawai'i is entirely dependent on foreign sources for its gasoline and diesel fuels at present. A B-10 requirement will promote local fuel production. This will give Hawai'i a measure of energy independence and help insulate Hawai'i from fluctuations in the prices of traditional gasoline.
- **Help Achieve Clean Energy Goals.** Just like ethanol, biodiesel and biogasoline burn cleaner than regular diesel fuel and gasoline. Requiring 10% biofuel in gasoline and diesel will keep Hawai'i's skies clean.

AKP recognizes that a local ethanol production industry did not materialize after the enactment of the E-10 legislation, but biofuel is different than ethanol. Biofuel can be produced from many different materials or crops. The process for producing biofuel is also more efficient and less expensive than the process for producing ethanol. A local biofuel production industry will emerge if a B-10 requirement is enacted. Moreover, automatic repeal provisions can be included in B-10 legislation that would automatically repeal the biofuel requirements if there is not sufficient local production of biofuel.

In addition, biofuel will not create the same "mixing" problems that have plagued ethanol. It has the same specifications and characteristics as petroleum-based fuel. Nor will biofuel require distributors to invest in any new equipment or machinery to mix in the biofuel the way they were forced to with ethanol.

A B-10 requirement is a no-cost way to spur investment, job creation and economic productivity -- all while helping Hawai'i become less dependent on outside sources of fuel. This is an opportunity that Hawai'i cannot afford to lose in these tough economic times and in the face of continued unrest in the Middle East. Hawai'i needs a biofuel industry and a B-10 biofuel requirement is the way to get us there.

In order to address concerns previously raised by DBEDT and others, AKP suggests that the language of SB 146, HD 1 (proposed) be amended to add in certain additional protections, including:

- **ASTM Certification.** A requirement that biofuel meet the relevant fuel specifications of the American Society for Testing and Materials.



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- **Minimum Thresholds.** A requirement that DBEDT certify that 5 million gallons of biodiesel and/or 10 million gallons of biogasoline have been produced locally by January 1, 2014.
- **50% Local Production.** A requirement that DBET certify within two years after the minimum threshold is met that 50% or more of the fuel needed to meet the B-10 requirement is produced locally.
- **Automatic Repeal.** A provision that the B-10 requirement be automatically repealed if the minimum threshold and 50% local production requirements are not met.

These proposed changes, as well as the increase from 5% to 10% and the application to biogasoline as well as biodiesel are attached in draft form following this testimony.

Thank you for the opportunity to provide this testimony. A B-10 requirement is good for our economy, good for our environment, and good for our autonomy. Please consider this bill.



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**AINA KOA PONO, LLC
PROPOSED LANGUAGE FOR SB 146**

RELATING TO BIOFUEL.

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

SECTION 1. Chapter 486J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§486J- Biofuel content requirement. (a) The director shall adopt rules in accordance with chapter 91 to require that fuel sold in the State for use in motor vehicles contains no less than ten per cent biofuel by volume. There shall be two independent biofuel content requirements:

(1) Diesel fuel sold in the State for use in motor vehicles shall contain no less than ten per cent biodiesel by volume; and

(2) Gasoline fuel sold in the State for use in motor vehicles shall contain no less than ten per cent biogasoline by volume.

The 10% biodiesel requirement shall take effect on July 1 of the year following the director's certification that the 5,000,000 gallon minimum threshold has been met in accordance with paragraph (f) of this section.



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The 10% biogasoline requirement shall take effect on July 1 of the year following the director's certification that the 10,000,000 gallon minimum threshold has been met in accordance with paragraph (g) of this section.

"Biofuel" shall be defined to include biodiesel and biogasoline that meet the relevant fuel specifications of the American Society for Testing and Materials International and which is produced from locally-produced feedstock, but shall not include ethanol or any ethanol content.

The amounts of transportation fuel sold in the State containing no less than ten per cent biofuel shall be in accordance with rules adopted by the director to administer and enforce this section. The director may authorize the sale of fuel that does not meet these requirements as provided in subsection (b).

(b) The director may authorize the sale of transportation fuel that does not meet the provisions of this section if:

(1) Sufficient quantities of competitively-priced biofuel are not available to meet the requirements of this section; or

(2) The director determines that compliance with this section would cause undue hardship.



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(c) Each distributor, at reporting dates established by the director, shall file with the director, on forms prescribed, prepared, and furnished by the director, a certified statement showing:

(1) The price and amount of biofuel available;

(2) The amount of biofuel-blended fuel sold by the distributor;

(3) The amount of non-biofuel-blended transportation fuel sold by the distributor; and

(4) Any other information that the director requires for the purposes of compliance with this section.

(d) Provisions with respect to confidentiality of information shall be as provided in section 486J-6.

(e) Any distributor or person who violates the requirements of this section shall be subject to a fine of not less than \$2 per gallon of nonconforming fuel, up to a maximum of \$1,000,000 per infraction.

(f) The director shall investigate and publicly certify by January 1, 2014, whether biofuel production facilities in the state have produced an aggregate minimum amount of 5,000,000 gallons of biodiesel. If such a minimum amount has not been produced, the director shall make the same investigation and certification by January 1 for each of the two following years.



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Two years after the date on which the director certifies that biofuel production facilities in the state have produced an aggregate minimum amount of 5,000,000 gallons of biodiesel, the director shall also investigate and publicly certify whether 50% of the biodiesel that distributors are required to purchase under this section is available for sale from biofuel production facilities located in the state.

(g) The director shall investigate and publicly certify by January 1, 2014, whether biofuel production facilities in the state have produced an aggregate minimum amount of 10,000,000 gallons of biogasoline. If such a minimum amount has not been produced, the director shall make the same investigation and certification by January 1 for each of the three following years.

Two years after the date on which the director certifies that biofuel production facilities in the state have produced an aggregate minimum amount of 10,000,000 gallons of biogasoline, the director shall also investigate and publicly certify whether 50% of the biogasoline that distributors are required to purchase under this section is available for sale from biofuel production facilities located in the state."

SECTION 2. New statutory material is underscored.

SECTION 3. The provisions of this Act relating to biodiesel shall be repealed on June 30, 2016, unless the department of business, economic development, and tourism has certified by



To: Vice Chair Coffman and members of the HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Re: Testimony of Kenton Eldridge, IN SUPPORT OF SB 146, HD 1 (proposed)
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January 1, 2016 that biofuel production facilities in the state have produced an aggregate minimum amount of 5,000,000 gallons of biodiesel.

If the department of business, economic development, and tourism has not also certified, within two years of certifying that the 5,000,000 gallon threshold has been met, that 50% of the biodiesel distributors are required to purchase under this Act is available for sale from biofuel production facilities located in the state, then the provisions of this Act relating to biodiesel shall be repealed, effective June 30 of the year that is two years after certification that the 5,000,000 gallon threshold had been met.

SECTION 4. The provisions of this Act relating to biogasoline shall be repealed on June 30, 2017, unless the department of business, economic development, and tourism has certified by January 1, 2017 that biofuel production facilities in the state have produced an aggregate minimum amount of 10,000,000 gallons of biogasoline.

If the department of business, economic development, and tourism has not also certified, within two years of certifying that that the 10,000,000 gallon threshold has been met, that 50% of the biogasoline distributors are required to purchase under this Act is available for sale from biofuel production facilities located in the state, then the provisions of this Act relating to biogasoline shall be repealed, effective June 30 of the year that is two years after certification that the 10,000,000 gallon threshold had been met.

SECTION 5. This Act shall take effect upon approval.



House of Representatives
Committee on Energy & Environmental Protection
March 22, 2011
9:00 a.m., Room 325

Statement of the Hawaii Carpenters Union in Support of SB146, SD1,
Proposed HD1, Relating to Biofuel

The Hawaii Carpenters Union supports the proposed HD1 of SB 146, requiring a percentage of motor vehicle fuel be biofuel produced from Hawaii crops, with certain conditions. 10% would be better, 5% is a step.

We don't need another study in this case. The requirement in HD1 is needed to set the direction. The proposed HD1 provides flexibility should Hawaii products not be available in sufficient amounts, and other conditions that may arise. Lessons learned from the ethanol legislation have been incorporated in this Bill.

This is the type of "green industry and green jobs" talked about in recent years. By making the transition from talk to action, jobs will be created in the construction of new facilities, jobs will be created in production operations, distribution and multipliers, while reducing dependence on imported oil. From this "seed" percentage, there is great potential for increasing amounts, and the kind of growth industry we constantly search for.

The impacts go far beyond related jobs. Energy self sufficiency, including portable fuels, are vital to our economy as a whole. The lack of it would take our economic and social activity into a downward spiral. Establishment of a biofuel industry will positively address a broad range of environmental issues. In certain rural locations, where agriculture and processing shut down, there will be new hope to tackle social problems stemming from the lack of work.

The legislature can take the lead, with entrepreneurs, industrialists, technicians and investors responsible for carrying the load and the risk.

Thank you for considering our testimony in favor of SB 146, SD1, HD1.



Pacific Biodiesel, Inc.

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Tuesday, March 22, 2011
9:00 a.m., Conference Room 325

COMMITTEE ON Energy & Environmental Protection
Rep. Denny Coffman, Acting Chair

**SB 146 HD1, Relating to Biofuel,
Support WITH CHANGES**

Testimony of Pacific Biodiesel, Inc.

Pacific Biodiesel supports SB 146 HD1, which would increase the use of locally produced biodiesel in the state of Hawaii. This bill, however, seems to exclude locally collected used cooking oil and other recycled fats and oils as a feedstock for biodiesel production, which are the most efficient and environmentally beneficial feedstocks for biodiesel. We respectfully propose that the committee considers including locally collected recycled oil as a feedstock for biodiesel in this bill.

Pacific Biodiesel supports the passage of SB 146 HD1 with proposed changes, which will encourage an increase in the production of biodiesel fuel in the State. This bill would put our State on the path to meeting HCEI's goals of using 40% renewable energy by 2030. In order to meet these goals, the State must start real support of local production of renewable fuels now.

Pacific Biodiesel owns and operates two biodiesel plants in Hawaii, employs at least 30 residents in this state and is currently developing a new, state-of-the-art, zero-waste biodiesel facility on the Big Island.

Thank you for the opportunity to testify,

Kelly King, Vice President
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Western States Petroleum Association

House Committee on Energy & Environmental Protection

DATE: Tuesday, March 22, 2011
TIME: 9:00 a.m.
PLACE: Conference Room 325
RE: SB146 SD1 Proposed HD1: Relating to Biofuel

I am testifying on behalf of the Western States Petroleum Association (known as WSPA) with **concerns regarding mandates imposed by SB 146 SD1 Proposed HD1**. WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states.

SB146 SD1 Proposed HD1 requires diesel fuel sold in the State for use in motor vehicles to contain no less than 5% biodiesel that is produced in the State from agricultural products grown in the State. Based on our experience with the ethanol blending law, fuel supply mandates can bring a host of unintended consequences.

Mandates tend to distort normal market functioning. Mandates are usually proposed when parties perceive a need to force a product that is not naturally competitive, into the market.

In the proposed HD1, the DBEDT Director may also authorize the sale of diesel fuel that does not meet statutory provisions under certain circumstances. This presents concerns for suppliers and producers regarding unknown factors such as logistics, infrastructure and changing mandates.

The federal government already has a program in place to strongly encourage renewable fuels (including biodiesel and biomass-based diesel) into the market. It's called the Renewable Fuel Standard (RFS2) and it has ever-increasing amounts of certain renewable categories of fuel that fuel suppliers must blend into the fuels they supply to the market every year.

Since fuels are basically fungible commodities, it is best to allow the RFS2 program to be the forcing mechanism. The federal government adjusts the compliance requirements annually to comport with the available supply of the various renewable fuels.

WSPA is concerned that a mandatory introduction of biodiesel may potentially affect fuel quality, mobilize contaminants in the fuel system, or increase the potential for microbial contamination of Hawaii diesel supplies. These performance issues are outside of the scope of Underwriters Laboratories Inc. standards and certification.

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Additionally, there are currently several concerns with the introduction of biodiesel in California that are being further evaluated. These concerns include increased NOx emission from B5, increased CO2 emissions, and high aquatic toxicity.

It has also been observed that the presence of biodiesel at some levels can actually lead to increased NOx emissions. And, there is debate about the magnitude of the increase, as it may be a function of not only biodiesel concentration but also engine type and duty cycle.

We strongly support flexibility and the maintenance of all options to meet Hawaii's growing energy needs. However, we are concerned that SB146 SD1 Proposed HD1 will create unintended consequences for fuel supplies and consumers.

Thank you for the opportunity to share our concerns regarding this measure.

HAWAII RENEWABLE ENERGY ALLIANCE

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Kahua Ranch Ltd.

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII
RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND ECONOMIC REVITALIZATION & BUSINESS

SB 146 SD1 PROPOSED HD1, RELATING TO BIOFUEL

March 22, 2011

Chairs Coffman and members of the Committees, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance ("HREA"). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of SB 146 SD1 PROPOSED HD1 is to require diesel fuel sold in the State for use in motor vehicles to contain no less than 5% biodiesel that is produced in the State from agricultural products grown in the State. Effective 1/1/2050.

HREA **supports** SB 146 SD1 PROPOSED HD1 as it will assist developers and owners of biorefinery facilities in Hawaii to produce biodiesel and thereby support our state's Clean Energy objectives via the proposed mandate. We offer the following comments in support:

- (1) We support the proposed B-5 mandate is an appropriate first step.
- (2) We look forward to working with the DBEDT/State Energy Office and other stakeholders to design the mandate details and implementation strategy.
- (3) We would also suggest that DBEDT be encouraged to look forward to the next step for biodiesel, whether it be a B-10 or larger fraction requirement

Thank you for this opportunity to provide comments in support of this measure.