

NEIL ABERCROMBIE
Governor



SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON CONSUMER PROTECTION AND
COMMERCE AND JUDICIARY

WEDNESDAY, FEBRUARY 19, 2014
2:15 P.M.

HOUSE BILL NO. 2361 HD1
RELATING TO AGRICULTURE

Chairpersons McKelvey and Rhoads and Members of the Committees:

Thank you for this opportunity to provide testimony on House Bill 2361 HD1, which establishes the offense of false labeling of Hawaii-grown coffee to include grade standard violations and all stages of production of Hawaii-grown coffee.

In 2012, Act 328 was enacted which established criminal penalties for falsely labeled Hawaii-grown cherry, parchment, and green coffee with regard to geographic origin. The Hawaii Department of Agriculture, along with the several representatives of the coffee industry met with representatives of the Hawaii County Prosecutor's office on the limitations of Act 328 with regard to origin counterfeiting and the need to include quality counterfeiting to maintain the recognition of Hawaii-grown coffee is known for.

The Department supports the intent of this bill, and offers the following technical amendments:

“[+]§708-71.5[+] False labeling of Hawaii-grown coffee.

(1) A person commits the offense of false labeling of Hawaii-grown coffee if the person knowingly transports, distributes, advertises, sells, or possesses with the intent to



sell Hawaii-grown green coffee, cherry coffee, natural, or parchment coffee that is falsely labeled with regard to the ~~[geographic origin of the Hawaii-grown coffee.]~~:

(A) Geographic origin of green, cherry, parchment, natural, roasted, or instant Hawaii-grown coffee; or

(B) Grade standard classification for Hawaii-grown coffee set forth in rules adopted under chapter 147, or

(C) The use of a geographic origin in the labeling of roasted or instant coffee, if the green coffee beans used in the roasted or instant coffee do not meet the grade standard requirements of rules adopted under chapter 147;

(2) For the purposes of this section:

"Cherry coffee" means the unprocessed fruit of the coffee plant.

"Geographic origin" means the unprocessed fruit of the coffee plant.

(a) Hamakua is the Hamakua district on the island of Hawaii, as designated as designated by the State of Hawaii tax map;

(b) Hawaii is the State of Hawaii;

(c) Kau is the Kau district on the island of Hawaii, as designated by the State of Hawaii tax map;

(d) Kauai is the island of Kauai;

(e) Kona is the north Kona and south Kona districts on the island of Hawaii, as designated by the State of Hawaii tax map;

(f) Maui is the island of Maui;

(g) Molokai is the island of Molokai; and

(h) Oahu is the island of Oahu.

"Green coffee means the agricultural commodity comprised of green coffee beans.

"Natural coffee" means coffee which has been processed from cherry coffee that has been dried with the husk on, or coffee which has been processed from parchment coffee with adhering mucilage.

"Parchment coffee" means the dried product that remains when coffee cherries are processed by removing the coffee seeds from the pulp.

(3) False labeling of Hawaii-grown coffee is a class C felony."

Thank you for the opportunity to testify on this measure.

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 2361 HD1

A BILL FOR AN ACT RELATING TO AGRICULTURE

HOUSE COMMITTEE ON CONSUMER PROTECTION
& COMMERCE

Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair

HOUSE COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair
Rep. Sharon E. Har, Vice Chair

Wednesday, February 19, 2014, 2:15 PM
State Capitol, Conference Room 325

Honorable Chairs McKelvey and Rhoads, Vice-Chairs Kawakami and Har, and Members of the Committees, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 2361 HD1.

Coffee is an extremely important commodity to the people of Hawai'i County and the State of Hawai'i. Through the hard work of generations of farmers and processors, Hawai'i grown coffee, particularly Kona coffee, has attained a worldwide reputation for excellent quality. The state legislature realized the need to protect this industry when it created §708-871.5. However, since its enactment, we have found this law difficult to apply to situations involving unscrupulous and what should be criminal practices attacking this industry.

Industry representatives interested in maintaining the reputation of Hawai'i grown coffee have approached us with their concerns regarding what they believed was counterfeit or falsely labeled coffee of very poor quality in various retail establishments. These situations do not necessarily involve false labeling as to geographic origin and thus does not fall into the purview of §708-871.5 as it is currently written. Thus, the reputation of this important industry has been threatened in recent years by individuals who falsely label poor quality coffee as high quality Hawai'i grown coffee.

In order to protect the industry, §708-871.5 must be amended so that all stages of coffee, including the finished product as well as the quality standards for the product are included in this offense of false labeling of Hawai'i grown coffee. We should not allow the excellent reputation of Hawai'i grown coffee, made possible only by the sacrifices and hard work of generations of farmers to be destroyed because the law intended to protect them fails to adequately include the true scope of the problem.

For these reasons, the Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 2361 HD1. Thank you for the opportunity to testify on this matter.

Respectfully,



Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 9:04 AM
To: CPCtestimony
Cc: jwayman@hicoffeeco.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Wayman	Hawaii Coffee Association	Support	Yes

Comments: HB2361 - Strong Support Bill scheduled to be heard by Consumer Protection/Judiciary on Wednesday, 02-19-14 2:15PM in House conference room 325. Please accept this testimony in STRONG SUPPORT of HB 2361. The purpose of this act is to establish further restrictions and criminal penalties on labeling Hawaii grown coffee in order to prevent counterfeiting and roasted coffee that does not meet established grade quality standards. This helps protect Hawaii's brands, coffee origins and Hawaii's reputation for high quality coffee. HB 280 was passed in 2012 and changed the act of mislabeling or counterfeiting Hawaii grown coffee from a misdemeanor to a class c felony. Although a step in the right direction HB280 did not include the mislabeling of roasted coffee in the commodity classifications considered as a class C felony. HB280 also did not clearly include the violation of grading standards for Hawaii grown coffee covered by HDOA rules in chapter 147 as acts punishable under a class C felony. The shortage of coffee produced in Kona caused by the advent of the coffee berry borer beetle has increased the temptation to engage in coffee counterfeiting. The coffee industry seeks your help in tightening loopholes in current law and clarifying acts covered by punishment under a class c felony. Thank you, Jim Wayman

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 1:20 PM
To: CPCtestimony
Cc: jkimof@msn.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
james Kimo Falconer	Hawaii Coffee Growers Assn	Comments Only	No

Comments: Dear Committee Members: As the President of the Hawaii Coffee Growers Assn, a Hawaii organization representing better than 70% of the coffee growing acreage in the State, I strongly urge you to pass this bill through to law as an effort to strengthen or efforts to fight Counterfeit labeling in coffee. Mahalo Kimo Falconer, President, HCGA

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To: CPCtestimony
Cc: rkaiwi@hicoffeeco.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Roger Kaiwi	Kona Coffee Council	Support	Yes

Comments: Please accept this testimony in Strong Support of HB2361. Our industry needs to tighten up current laws in order to stop counterfeiting. Mahalo , Roger Kaiwi

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 10:08 AM
To: CPCtestimony
Cc: gbiven@hicoffeeco.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gloria Biven	Royal Kona Coffee Visitor Center Mill & Museum	Support	No

Comments: I am writing in STRONG SUPPORT of HB 2361. I feel this bill will act to establish further restrictions and criminal penalties on labeling Hawaii grown coffee in order to prevent counterfeiting and roasted coffees that do not meet our already established grade quality standards. Thank you.
Gloria Biven

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 12:55 PM
To: CPCtestimony
Cc: john@olsontrust.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
John C. Cross	Kau Coffee Mill	Support	No

Comments: I represent Kau Coffee Mill and the Edmund C. Olson Trust II. We strongly support this bill. Please strengthen the rules so that roasted Hawaiian coffee's are held to the highest standards and those that break the rules and tarnish the quality of Hawaiian coffee's are prosecuted appropriately.

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Wednesday, February 19, 2014

Committees on Consumer Protection & Commerce and Judiciary

RE: HB 2361, HD1, Relating to Agriculture

Dear Chair McKelvey, Vice Chair Kawakami, Chair Rhoads, Vice Chair Har and members of the Committee:

We appreciate the opportunity to testify on HB 2361, HD1, and respectfully submit the following written testimony in opposition to the bill.

Times Supermarket is based on Oahu and operates 26 stores with locations in Maui, Kauai and Oahu.

HB 2361 HD1 applies the offense of false labeling of Hawaii-grown coffee to include grade standard violations and all stages of production of Hawaii-grown coffee. While we support, and indeed promote and sell, Hawaii-grown coffee, we are concerned with the unintended costs and logistical requirements of this measure and its potential to negatively impact our ability to offer these products to our customers.

Thank you for the opportunity to testify.

Respectfully,

Bob Gutierrez
Director of Government Affairs
Times Supermarket

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 14, 2014 5:20 PM
To: CPCtestimony
Cc: lynhowe1946@yahoo.com
Subject: *Submitted testimony for HB2361 on Feb 19, 2014 14:15PM*

HB2361

Submitted on: 2/14/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn Howe	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 16, 2014 9:33 AM
To: CPCtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB2361 on Feb 19, 2014 14:15PM*

HB2361

Submitted on: 2/16/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 9:17 AM
To: CPCtestimony
Cc: mauioma@maui.net
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Gridley	Individual	Support	No

Comments: I strongly support HB2361 to strengthen the penalties for counterfeiting and mis-labeling Hawaiian grown coffees and undermining the quality image of the product.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 10:15 AM
To: CPCtestimony
Cc: info@konaearth.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Strawn	Individual	Support	No

Comments: "I tried some of that Kona coffee and it was horrible." That is what I was recently told by a first time visitor to Hawaii. As a Kona coffee farmer, I was concerned. Looking into the issue further, I discovered that the coffee in question was indeed labeled "100% Kona coffee" and had been purchased from a local store. However, looking in the bag, it was immediately obvious that it was off-grade coffee which can not legally be called Kona coffee. However, current legislation offers nearly zero protection so counterfeiting is rampant, even here in our local stores. Please, pass HB2361 to help protect this important Hawaiian product. As a small- time Kona coffee farmer, I can not fight these counterfeiters on my own.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 10:18 AM
To: CPCtestimony
Cc: rkaiwi1@hawaii.rr.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stacie Loo	Individual	Support	No

Comments: I strongly support HB2361. I urge you to protect our industry from counterfeiting. Mahalo , Stacie Loo

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LATE



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e-mail info@hfbf.org; www.hfbf.org

February 19, 2014

HEARING BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
HOUSE COMMITTEE ON JUDICIARY

TESTIMONY ON HB 2361, HD1
RELATING TO AGRICULTURE

Room 325
2:15 PM

Chair McKelvey, Chair Rhoads, Vice Chair Kawakami, Vice Chair Har, and Members of the Committees:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFB is in strong support of HB 2361, HD1. The passage of HB280/Act 328 in 2012 addressed false labeling of Hawaiian coffee; commonly known as counterfeiting.

In order to legally offer coffee for sale labeled with one of the defined geographical origins located throughout the state, including Hawaiian coffee, it must meet established minimum grade standards. While the 2012 Act made strides to protect green, parchment and cherry coffee, it did not go far enough to protect Hawaii's coffee origins. HB2361 strengthens the law to include all coffee including roasted coffee. Passage of this measure will help protect Hawaii's reputation for high quality specialty coffee.

Please pass HB2361, HD1 .

Thank you for the opportunity to comment on this measure.

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 18, 2014 6:57 PM
To: CPCtestimony
Cc: derek.lanter@dole.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM



HB2361

Submitted on: 2/18/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Derek Lanter	Dole Waialua Coffee	Support	No

Comments: Please accept this testimony in STRONG SUPPORT of HB 2361. The purpose of this act is to establish further restrictions and criminal penalties on labeling Hawaii grown coffee in order to prevent counterfeiting and roasted coffee that does not meet established grade quality standards. This helps protect Hawaii's brands, coffee origins and Hawaii's reputation for high quality coffee. HB 280 was passed in 2012 and changed the act of mislabeling or counterfeiting Hawaii grown coffee from a misdemeanor to a class c felony. Although a step in the right direction HB280 did not include the mislabeling of roasted coffee in the commodity classifications considered as a class C felony. HB280 also did not clearly include the violation of grading standards for Hawaii grown coffee covered by HDOA rules in chapter 147 as acts punishable under a class C felony. The shortage of coffee produced in Kona caused by the advent of the coffee berry borer beetle has increased the temptation to engage in coffee counterfeiting. The coffee industry seeks your help in tightening loopholes in current law and clarifying acts covered by punishment under a class c felony. Thank you, Derek Lanter Waialua Estate Coffee and Chocolate

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 19, 2014 6:57 AM
To: CPCtestimony
Cc: gjstille@gmail.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM



HB2361

Submitted on: 2/19/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Stille	Individual	Support	No

Comments: Please accept this testimony in STRONG SUPPORT of HB 2361. The purpose of this act is to establish further restrictions and criminal penalties on labeling Hawaii grown coffee in order to prevent counterfeiting and roasted coffee that does not meet established grade quality standards. This helps protect Hawaii's brands, coffee origins and Hawaii's reputation for high quality coffee. HB 280 was passed in 2012 and changed the act of mislabeling or counterfeiting Hawaii grown coffee from a misdemeanor to a class c felony. Although a step in the right direction HB280 did not include the mislabeling of roasted coffee in the commodity classifications considered as a class C felony. HB280 also did not clearly include the violation of grading standards for Hawaii grown coffee covered by HDOA rules in chapter 147 as acts punishable under a class C felony. The shortage of coffee produced in Kona caused by the advent of the coffee berry borer beetle has increased the temptation to engage in coffee counterfeiting. The coffee industry seeks your help in tightening loopholes in current law and clarifying acts covered by punishment under a class c felony. Thank you, Greg Stille

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 19, 2014 7:48 AM
To: CPCtestimony
Cc: wildnwoolley@gmail.com
Subject: Submitted testimony for HB2361 on Feb 19, 2014 14:15PM

HB2361

Submitted on: 2/19/2014

Testimony for CPC/JUD on Feb 19, 2014 14:15PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
donna woolley	Individual	Support	No

Comments: Please accept this testimony in STRONG SUPPORT of HB 2361. The purpose of this act is to establish further restrictions and criminal penalties on labeling Hawaii grown coffee in order to prevent counterfeiting and roasted coffee that does not meet established grade quality standards. This helps protect Hawaii's brands, coffee origins and Hawaii's reputation for high quality coffee. HB 280 was passed in 2012 and changed the act of mislabeling or counterfeiting Hawaii grown coffee from a misdemeanor to a class c felony. Although a step in the right direction HB280 did not include the mislabeling of roasted coffee in the commodity classifications considered as a class C felony. HB280 also did not clearly include the violation of grading standards for Hawaii grown coffee covered by HDOA rules in chapter 147 as acts punishable under a class C felony. The shortage of coffee produced in Kona caused by the advent of the coffee berry borer beetle has increased the temptation to engage in coffee counterfeiting. The coffee industry seeks your help in tightening loopholes in current law and clarifying acts covered by punishment under a class c felony. Thank you, Donna Woolley

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