



## Testimony in Support of HB 376

January 28, 2013

**ATTN: Committee on Health**  
**Rep. Della Au Belatti, Chair**  
**Rep. Dee Morikawa, Vice Chair**

Hearing Date: Wednesday, January 30, 2013  
Hearing Time: 8:30 am  
Place: House Conference Room 329, State Capitol

**RE: HB 376, A Bill for an Act Relating to Food. Requires businesses with customer card programs to notify customers in the event of a class I food, product and merchandise recall; makes a violation an unfair or deceptive act or practice.**

Dear Committee Members,

The Center for Science in the Public Interest (CSPI) strongly supports HB 376, a bill that will provide Hawaii's citizens with better notification of threats to their health from foodborne disease. CSPI is a non-profit consumer advocacy and education organization that focuses largely on food safety and nutrition issues. It is supported principally by the 900,000 subscribers to its *Nutrition Action Healthletter* and by foundation grants. We accept no government or industry funding.

Foodborne illness is a serious threat to public health that each year causes 48 million illnesses, 128,000 hospitalizations and 3,000 premature deaths nationally, according to the Centers for Disease Control and Prevention.<sup>1</sup> Based on that estimate, approximately 240,000 Hawaii citizens can expect to suffer from a foodborne disease this year.<sup>2</sup> At \$2,008 per case, Hawaiians face the highest cost per incidence of illness of any population in the United States.<sup>3</sup> This means foodborne disease represents a \$480 million negative impact from healthcare costs, lost productivity and lost quality of life on the Hawaiian economy. While we believe prevention programs implemented at the supplier level offer the best promise for reducing the number of illnesses, consumer responsibility also plays a role.

Consumers' ability to protect themselves is burdened by the current recall system, which provides inadequate public notice of known threats. Traditionally, recall notices have been published on health department websites and through press releases. We know that such "broadcast" methods fail to reach the majority of consumers and certainly cannot target those who are actually affected by the recall. A study by Rutgers University found that only 15 percent of consumers have ever accessed a

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<sup>1</sup> Elaine Scallan, et al., *Foodborne Illness Acquired in the United States – Unspecified Agents*, 17 *Emerg. Infect. Dis.* 16, 20 (2011).

<sup>2</sup> CSPI analysis using the rate of illness established by Scallan report applied to U.S. Census data on Hawaii's population for 2012.

<sup>3</sup> Robert L. Scharff, *Health-Related Costs from Foodborne Illness in the United States*, Pew Charitable Trusts, Produce Safety Project 18 (2010).

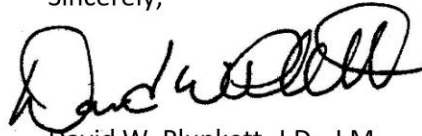
government website for food recall information, and only 6 percent sign up for government sponsored email alerts. Meanwhile, inconsistent reporting by the media compounded by personal news consumption habits limits the effectiveness of recall notices that rely on newspaper, radio or television. The same study found that 73 percent of consumers would want to receive personalized information about recalls of food products they purchased.<sup>4</sup>

Customer loyalty card programs provide a means of doing this. These programs collect information from individual shoppers that is then used to market products to them. Using that same information to provide shoppers with health warnings related to their purchases is reasonable. Indeed, many responsible retailers, including Costco, Giant, Harris Teeter, Price Chopper, Sam's Club, ShopRite, and Wegman's, do this voluntarily. Unfortunately, not all retailers follow this practice, meaning some Hawaiian consumers may suffer preventable illnesses simply because of their choice of grocery stores.

Timely notice of food recalls is essential for empowering consumers to protect themselves from foodborne disease. Traditional methods of notifying consumers are inadequate. Meanwhile, reliance on voluntary action by retailers leaves some consumers without any notice of actual threats to their health. HB 376 would address these shortcomings by leveraging consumer information grocery stores already collect to provide their shoppers with targeted information regarding food recalls. This is an appropriate action for Hawaii to take in order to better protect its citizens from foodborne diseases.

CSPI encourages the Health Committee to report HB 376 favorably to the Hawaii House.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Plunkett". The signature is fluid and cursive, with a large initial "D" and "P".

David W. Plunkett, J.D., J.M.  
Senior Staff Attorney  
Food Safety Department

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<sup>4</sup> William K. Hallman, et al., *Consumer Responses to Food Recalls: 2008 National Survey Report*, Food Policy Institute 10-13 (2009).



## HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

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**TO: COMMITTEE ON HEALTH**

**Rep. Della Au Belatti, Chair**

**Rep. Dee Morikawa, Vice Chair**

**FROM: HAWAII FOOD INDUSTRY ASSOCIATION**

**Lauren Zirbel, Executive Director**

**DATE: Wednesday, January 30, 2013**

**TIME: 8:30 A.M.**

**PLACE: Conference Room 329**

**RE: HB 376 RELATING TO FOOD**

**Position: Strong Opposition**

Chair Belatti and Members of the House Health Committee:

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers and distributors of food and related products in the State of Hawaii.

**While we appreciate the intent of this bill we have serious concerns about the unanticipated effect of this measure on retailers who may have club cards but do not keep track of all purchases made by club card members. This measure would put an unreasonable and unmanageable mandatory notification program in place, which many retailers simply do not have the capability to abide by.**

Many consumers have multiple club cards and would end up receiving multiple messages about food recalls which would amount to spam mail. This may also deter individuals from signing up for club cards. The media finds out about class 1 food recalls at about the same time as retailers, so the need for additional email, text message, telephone or regular mail notification is not necessary.

If retailers are unable to contact their customers due to the fact that consumers changed their email or phone number they may be considered liable under this measure for not contacting the individual to inform them of the food recall. Likewise, if the retailer is unable to contact the consumer in a timely manner because they were not informed of the food recall or they do not have the necessary contact or purchase information they will be penalized. This measure places smaller companies at a disadvantage and would prohibit them from having a club card at all.

We strongly oppose this measure which amends section 487D of HRS to state that, "In the event of a class I recall of any food, product, or merchandise sold by a club card issuer, the club card issuer shall contact each cardholder who purchased the food, product, or merchandise subject to the class I recall

and inform the cardholder of the class I recall. Cardholders shall be contacted by email, text message, telephone, or regular mail, and contact shall be initiated within two days from when the club card issuer receives notice that it sold the recalled food, product, or merchandise. Any person who violates this section shall be deemed to have engaged in an unfair or deceptive act or practice pursuant to section 480-2."

Thank you for the opportunity to testify.