



HAWAII STATE  
DEPARTMENT  
OF HEALTH

DATE: February 3, 2014

**LEGISLATIVE BRIEF SHEET  
(FOR INTERNAL USE ONLY)**

MEASURE No.: SB 2561

COMPANION MEASURE No.:

COMMITTEE REPORT No.:

ADMIN. BILL No.:

**TITLE:** RELATING TO COTTAGE FOODS

**DOH POSITION:** Oppose

**SUMMARY and ANALYSIS:** See page 2.

**FISCAL IMPLICATION:** This bill has fiscal implications. Passage of this bill would result in the department having to adopt administrative rules to effectuate this measure. The additional funding required is not included in the Executive Biennium Budget and therefore may adversely affect other spending priorities

**Position Description :** See page 2

**INTRODUCED BY:** Senator R. Ruderman

**COORDINATION and THOSE FOR OR AGAINST THE MEASURE – Include Names, Departments or Association, Contact Information, Date(s) of Discussions.**

a. Internal:

b. External:

**ACTION:**

- Submit written testimony and testify.
- Submit written testimony only.
- Write to Chair only.
- Do not submit testimony.
- Other:

**POSITION:**

- Strongly Support
- Support.
- With Reservations/Suggestions.
- Oppose.
- Other:

**BRIEF PREPARED BY:** Peter Oshiro

**PHONE:** 586-8000

**EMAIL:** peter.oshiro@doh.hawaii.gov

**BRIEF APPROVED BY:** Lynn M. Nakasono *[Signature]*  
Division Chief/Staff Officer

**DATE:** 1/4/14

**\*\*\*\* THE FOLLOWING IS FOR THE DIRECTOR'S OFFICE USE ONLY \*\*\*\***

- \_\_\_ ASO
- \_\_\_ HRO
- \_\_\_ DD, Health Resources
- \_\_\_ DD, Environmental Health
- \_\_\_ DD, Behavioral Health
- \_\_\_ DD, Administration
- \_\_\_ Director

- [ ] Approved.
- [ ] Approved, but needs modification;  
see Director's Comments above.
- [ ] Do not testify.
- [ ] OPPPD Comments:

**SUMMARY and ANALYSIS:** This bill is requesting that the department promulgate administrative rules to regulate the sale of non-potentially hazardous foods directly to consumers. Various statutory requirements are being proposed in this bill to regulate the activity

**Position Description:** The department opposes this bill as it is unnecessary. Current HAR governing food safety already allows for non-potentially hazardous foods (Non-PHF) to be produced in a home kitchen and sold directly to consumers only. The department has been regulating this activity for decades and already require most of what is being proposed in this measure. Under current HAR Title 11, Chapter 12, Food Establishment Sanitation, persons that wish to sell or distribute “cottage foods” must comply with the following;

- 1) A Temporary Food Establishment (TFE) application must be filled out indicating the operators name and contact info., date and location of the sale, as well as all food items being sold. The department requires the application to determine the safety/risk of the food being sold.
- 2) If the department classifies the food as non-hazardous, we do not charge a fee, and a permit is issued.
- 3) The permit is only good for a maximum of 20 days of sale in any 120 day window at a specific location. (No more than once/week if done weekly). The department reduces the public health risk of food illness or the consumption of possibly adulterated foods by reducing the volume that can be sold. It is a generally held principle in food safety that adverse risk increases with increased volume of food distributed which is why indirect sales are not allowed.
- 4) The department already has the necessary enforcement powers under current law to order operators to cease and desist the sale of foods as the result of any food illness investigation or suspected adulteration that may have or has caused injuries as a result of consuming foods being offered for sale or distribution.

Typical types of foods that the department are currently approving that originate from home kitchens are cookies, breads, jams, jellies, candies, chocolates, whole uncut fruits and produce, cotton candy, dry herbs, nuts, rubs, spices, re-packing of are and other non-hazardous snacks, etc.

At present the department reviews and approves an average of 106 non-potentially hazardous TFE food permits a month (Cottage Food Businesses) that are not charged any fee, and another 418 potentially hazardous food (PHF) TFE permits monthly that are charged \$25 for a permit that allows up to 20 days of sales. The department’s food safety program generates over \$125K annually from these TFE permits. Potentially hazardous TFE are required to prepare all foods in a DOH permitted kitchen. No PHF foods are allowed to be produced for sale in a home kitchen.

Hawaii already has an active cottage food industry that has been around for decades which has been successfully regulated by the department under HAR.

The department has recently proposed sweeping new administrative rules that govern food safety that have completed the public hearings process in December 2013 and is now awaiting the Governor’s signature. Even though the proposed HAR are a complete paradigm

shift on how we regulate the food service industry, it will not change the regulatory landscape at all with regards to the cottage food industry as proposed by this measure.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HTHTestimony](#)  
**Cc:** [ndouvriss@yahoo.com](mailto:ndouvriss@yahoo.com)  
**Subject:** Submitted testimony for SB2561 on Feb 5, 2014 13:15PM  
**Date:** Tuesday, February 04, 2014 9:00:46 PM

---

**SB2561**

Submitted on: 2/4/2014

Testimony for HTH/PSM on Feb 5, 2014 13:15PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nicolette Douvris	Individual	Support	No

Comments: This is a great bill! In an economy like ours where it is so very difficult for people to support themselves and their family financially, this bill would give a great opportunity to help the lives of many. Please pass this bill. Mahalo, Nicolette Douvris

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)