
HOUSE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO VIGOROUSLY ENFORCE LAWS
REGARDING THE LABELING OF PREVIOUSLY FROZEN FISH.

1 WHEREAS, catching, selling, and consuming fresh fish are
2 important to the culture, economy, and diet of the State; and
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4 WHEREAS, fresh fish is prized by many consumers, is a
5 necessary ingredient for many traditional dishes, and can
6 command higher prices than frozen fish; and
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8 WHEREAS, some retailers of frozen fish have mislabeled
9 their previously frozen fish as fresh fish after treating the
10 fish with carbon monoxide to preserve the color, but not the
11 quality, of the fish; and
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13 WHEREAS, part III of chapter 328, Hawaii Revised Statutes,
14 requires that previously frozen food products be clearly labeled
15 with the words "previously frozen"; and
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17 WHEREAS, treating fish with carbon monoxide as a color
18 stabilizer is permissible in the United States but has been
19 banned in other places, including the European Union; and
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21 WHEREAS, carbon monoxide may mask visual evidence of fish
22 spoilage and mislead consumers into purchasing fish they would
23 not otherwise purchase; and
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25 WHEREAS, some consumers do not want to eat previously
26 frozen fish, or any fish that has been treated with carbon
27 monoxide, because they do not enjoy the taste or have concerns
28 about possible negative health effects; and



1 WHEREAS, mislabeling previously frozen fish as fresh fish
2 misleads consumers and allows vendors of previously frozen fish
3 to unfairly compete with vendors of genuine fresh fish; and
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5 WHEREAS, the Department of Health is authorized to seek an
6 injunction and assess a fine of up to \$500 for each violation of
7 the requirement that previously frozen fish be labeled as such,
8 pursuant to sections 328-63 and 328-64, Hawaii Revised Statutes;
9 and
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11 WHEREAS, the authority of the Department of Health to
12 enforce labeling requirements of part III of chapter 328, Hawaii
13 Revised Statutes, is subject to the department's discretion; and
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15 WHEREAS, the Department of Health may determine that, in
16 some cases, issuing a warning, rather than seeking an injunction
17 or assessing a fine, is a better way to enforce the labeling
18 requirements pertaining to frozen fish; and
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20 WHEREAS, the ultimate responsibility of the Department of
21 Health is to enforce laws to protect the public health
22 generally; and
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24 WHEREAS, some vendors of mislabeled frozen fish may seek to
25 exploit the Department of Health's discretion regarding
26 enforcement, and may repeatedly mislabel carbon monoxide-treated
27 previously frozen fish as fresh fish because they believe they
28 will face no serious consequences if they are caught; now,
29 therefore,
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31 BE IT RESOLVED by the House of Representatives of the
32 Twenty-eighth Legislature of the State of Hawaii, Regular
33 Session of 2016, the Senate concurring, that the Department of
34 Health is urged to vigorously enforce part III of chapter 328,
35 Hawaii Revised Statutes, by pursuing injunctions and fines
36 against persons who mislabel previously frozen fish as fresh
37 fish, especially in cases where the same violation has occurred
38 multiple times and the Department has previously warned the
39 violator of the laws pertaining to labeling previously frozen
40 foods; and
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42 BE IT FURTHER RESOLVED that the Department of Health is
43 requested to submit to the Chair of the Senate Committee on



1 Commerce, Consumer Protection, and Health and the Chair of the
2 House Committee on Health, the following:

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4 (1) The number of offenses, including repeat offenses; and

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6 (2) The history of any injunctive or abatement actions
7 taken by the Department of Health,

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9 with regard to the mislabeling of previously frozen fish as
10 fresh fish within the past five years; and

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12 BE IT FURTHER RESOLVED that a certified copy of this
13 Concurrent Resolution be transmitted to the Director of Health.

