

HB 1806 HD 1

Measure Title: RELATING TO FOOD DONATION.

Report Title: Food Donation; Liability Protection

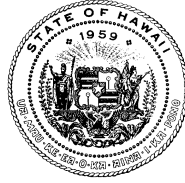
Description: Requires DOH to educate food establishments about liability protections. Expands liability protection for donors to include donations of food and similar donations made directly to needy persons. Authorizes the donation of expired food when the donor believes in good faith that the food remains fit for human consumption. (HB1806 HD1)

Companion:

Package: None

Current Referral: CPH, JDC

Introducer(s): LOWEN, BELATTI, BROWER, FUKUMOTO, ING, KOBAYASHI, C. LEE, LOPRESTI, LUKE, MIZUNO, MORIKAWA, OHNO, SAIKI, SAN BUENAVENTURA, TAKUMI, TODD, WOODSON



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of HB1806 HD1
RELATING TO FOOD DONATION

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH
Hearing Date: March 15, 2018 Room Number: 229
Time: 9:30 a.m.

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department supports this bill.

3 Infant formula and baby food are the only food products that are required to be labeled
4 for food safety. Hawaii Administrative Rules 11-15 requires Grade A milk and milk products to
5 be labeled with a sell by date.

6 Many commercial food products are labeled with dates preceded by “best if used by,”
7 “sell by,” “use by,” “expires on,” etc. These dates are voluntarily provided by manufacturers to
8 guarantee product quality and should not be used to determine product safety. According to
9 United States Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS),
10 even after a quality date has passed, the food should still be safe and wholesome if the product
11 had been handled properly, until spoilage characteristics (off odors, off flavor, off texture) are
12 evident. It is critical that food operations watch for signs of spoilage. Spoiled product is
13 adulterated product and must be discarded.

14 Thank you for the opportunity to testify.



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TO:

Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Thursday, March 15, 2018
TIME: 9:30am
PLACE: Conference Room 229

RE: HB 1806 RELATING TO FOOD DONATION

Position: Support

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

Providing these common sense protections for food donors makes it easier for businesses to participate in food donations programs. This helps to minimize food waste and means that food ends up being eaten by people who need it, rather than taking up space in our landfills. We urge you to vote yes on this measure.

Thank you for the opportunity to testify.

HB-1806-HD-1

Submitted on: 3/14/2018 5:15:39 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Rosalyn H. Baker, Chair; the Honorable Jill N. Tokuda, ViceChair, and Members of the Senate Committee on Commerce, Consumer Protection, and Health:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB1806 HD1** relating to Food Donation and Liability Protection.

The OCC Legislative Priorities Committee is in favor of **HB1806 HD1** and support its passage.

HB1806 HD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it discourages food waste and encourages food donation to needy recipients by requiring DOH to educate food establishments about liability protections; expanding liability protection for donors to include donations of food and similar donations made directly to needy persons; and authorizing the donation of expired food when the donor believes in good faith that the food remains fit for human consumption.

Specifically, the DPH Platform states, "We believe in supporting best management practices in sustaining our environment and increased citizen involvement. We support programs that encourage sustainable clean efficient creative and environmentally friendly modes of . . . recycling and waste reduction. The conservation, preservation and restoration of Hawaii's natural resources are connected to the health and welfare of our people; therefore, we support the conservation and protection of our natural environment, which includes reducing our carbon footprint for the benefit of current and future generations."

As provided in HB1806 HD1, despite the high level of food insecurity, Hawaii businesses and residents discard more than 237,000 tons of food waste annually. Approximately twenty—six percent of food grown in or imported to Hawaii is thrown away, amounting to approximately \$1,000,000,000 in annual food waste. Food production is a direct contributor to local and global climate change. Food production requires energy, fertilizer, irrigation, feed for livestock, and other resources that

contribute to greenhouse gas emissions and add pollutants to the environment. Food waste entering landfills creates methane gas, a greenhouse gas that is eighty-four times more potent than carbon dioxide.

Given that **HB1806 HD1** discourages food waste and encourages food donation to needy recipients as it requires DOH to educate food establishments about liability protections; expands liability protection for donors to include donations of food and similar donations made directly to needy persons; and authorizes the donation of expired food when the donor believes in good faith that the food remains fit for human consumption, it is the position of the OCC Legislative Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

HB-1806-HD-1

Submitted on: 3/13/2018 5:02:11 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ku'u lei Williams	Testifying for Aloha Harvest	Support	No

Comments:

I am Ku'u lei Williams, executive director of Aloha Harvest and I fully support this HB1806. As a food rescue operation, Aloha Harvest is the sole food rescue organization in the state. Our mission is to rescue excess, quality food from local food donors and deliver it on the same day, free of charge, to nonprofit agencies that feed the hungry. Last year, Aloha Harvest rescued 1,926,270 lbs. of quality food (over 960 tons) from entering the waste stream to feed approximately 60,000 low income and homeless individuals.

No one in Hawaii should go hungry! Even though 1 in 6 of the people of our islands suffers from food insecurity, over 273,000 tons of imported and locally produced food is being thrown away in Hawaii each year - ending up filling our landfill every year. This food must be processed through our waste management system, putting an additional burden on Waimanalo Gulch to accommodate this excess food waste. In this way, our work not only feeds the hungry but also reduces the burden of waste on the environment. Feed people, not the landfill!

I am in full support of this HB1806 relating to food donations which expand liability protection for donors to include donations of food and similar donations made directly to needy persons. The inclusion of authorizing donations of expired food when the donor believes in good faith that the food remains fit for human consumption is so critical to include. So much food is being thrown out due to so many confusing expiration dates and many people do not realize that all food (with the exception of baby formula) has a life after these dates. Perfectly good food is going to waste, being composted or filling our landfill due to these misunderstandings or lack of education. Aloha Harvest helps to educate the community about these facts and bills like this support our work and make it possible to help feed those in need in our community.

Mahalo for this opportunity to share my testimony in support of this important bill.
Mahalo for your work to support this bill!



SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Thursday, March 15, 2018 9:30AM Conference Room 229

In SUPPORT of HB 1806 HD1 Relating to food donations

Aloha Chair Baker, Vice Chair Tokuda, and members of the Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **supports HB 1806 HD1**, which seeks to expand liability protection for food donors, authorize donation of expired food, and requires education to food establishments on these liability protections. This bill has strong potentials to ensure higher food security for the islands and decrease the number of hungry individuals throughout the state.

The food waste statistics are overwhelming, highlighting a 1.3 billion loss of food worldwide, totaling a \$680 billion loss for industrialized countries and \$310 billion loss for developing countries¹. In Hawai'i, the average resident discards 356 lbs and \$700 worth of food each year². These statistics do not include the time and resources lost, or even the transportation and greenhouse gas emissions released into the atmosphere. The EPA outlines a food waste hierarchy where the number two concern is feeding hungry individuals. Excess food bridged to those in need will decrease organic waste in landfills, and reduce harmful methane emissions from the breaking down of organic materials in compact spaces. *Food waste is not only an economic and environmental concern, but largely moral and ethical.* 182,600 individuals struggle with hunger in the state, and an alarming 62,600 are



¹ <http://www.fao.org/save-food/resources/keyfindings/en/>

² <http://www.takepart.com/article/2015/06/29/hawaii-local-food>

children³. We cannot continue to blame liability as an excuse for starving children, it is time to bridge the gap between those in need and food establishments willing to donate.

Hawai'i is unique in the fact that 90% of food is imported, with food security being a very real issue⁴. Any potential cut off from the mainland will be devastating to the state. We need this bill to conserve quality, human intended food supplies and educate food establishments on the liability protection. HB 1806 HD1 will also educate food establishments on liability protections, and the differences between expiration labels on food products. Closing these various gaps will ensure an efficient food donations system for the state. We need this bill in order to move forward in becoming a self sufficient and closed loop food system.

We strongly urge the Committee to pass this measure, which will ultimately close the gaps and improve the coordination between establishments with excess foods and those in desperate need. This is common sense legislation.

Thank you for the opportunity to testify in **strong support of HB 1806 HD1**.

³ <http://www.feedingamerica.org/hunger-in-america/hawaii/?referrer=https://www.google.com/>

⁴ <https://www.hawaiibusiness.com/wasted/>

HB-1806-HD-1

Submitted on: 3/9/2018 10:31:34 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glennie	Individual	Support	No

Comments:

Aloha Chair Baker, Vice Chair Tokuda, and members of the Committee,

Thank you for the opportunity to testify **in strong support of HB 1806 HD1**. My name is Marissa Kunsch and I am a student in the Global Leadership and Sustainable Development master's program at Hawai'i Pacific University.

Living on an island with over 1 million residents forces us all to think in terms of food scale, distribution, and allocation. Currently, there is an inefficiency gap between food establishments and food waste, with quality food items sent to landfills instead of being allocated to needy individuals. As a growing island population with a high percent of food insecurity, it is important for quality food to find the pathway to those who need it most. 90% of our food is imported, with unequal population proportions and unrealistic distributions, which creates a gap between food surplus and those in need. HB 1806 HD1 will close these gaps and create bridges for food establishments to donate to hungry individuals and appropriate organizations.

Specifically, this bill allows food establishments to be able to donate expired foods when establishments firmly believe it is still of human intended quality. Even more, the food establishments will be educated on various food labeling expiration dates and understand the liabilities associated with donating. Education is one of the key factors in bridging together excess food to needy people, as is supporting a policy to allow these bridges to be crossed.

It is shocking to read the statistics on food waste in general. One third of the global food production, 1.3 billion pounds, intended for human consumption gets lost, or wasted each year. We can start to decrease our food waste stream by allowing food establishments to donate expired foods, and increase food security on the islands. Let's push this bill forward in order to decrease our carbon footprint, support the local economy, and contribute to a better Hawai'i!

Thank you the opportunity to testify in support of HB 1806 HD1 to educate food establishments on expiration labels, extending liabilities to expired food donations, and creating a new opportunity for quality food to reach needy people.

Marissa Kunsch

HB-1806-HD-1

Submitted on: 3/13/2018 9:41:47 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Individual	Support	No

Comments:

Nearly 15% of Hawaii's population are deemed food insecure, relying on emergency assistance, while nearly 240,000 tons of wasted food annually are sent to disposal. Much of this wasted food remains fit for human consumption and donation, but fears of liability lead many manufacturers, retailers and consumers to throw this food away. Federal and state protections are already in place, but current law lacks clarity in some provisions and is limited in scope. Limitations in the federal Good Samaritan Act and in Hawaii law include:

- 1) Current law does not explicitly state that donations of past sell-by date foods are protected from liability.
- 2) No liability protection is given when donors donate directly to final recipients without going through a nonprofit food recovery intermediary.
- 3) There is no education and awareness component for food donor protection laws.

HB1806 HD 1 will:

- ï, Explicitly state that donated food which has exceeded the sell-by (including host of other phrases) date is subject to liability protection.
- ï, Provide liability protection for donations made directly to end-users.
- ï, Provide liability protection to gleaners, allowing farms to donate surplus produce and agricultural products.
- ï, In order to provide education and awareness, Environmental Health Officers will be required to promote Good Samaritan laws through newsletters, bulletins, handouts, and during inspection, in addition to regular duties.

By more explicitly stating what kinds of food donations are currently protected under Good Samaritan laws, many potential donors will feel reassured that they are, in fact, protected.

Speaking specifically to this committee's purview, it is essential to note that in the entire life of existing federal and state liability protections, there is no available public record of anyone in the United States being sued or having to pay damages because of harms related to donated food, nor of reported illnesses. In addition, many quality foods are disposed of when past "Sell By" dates, which are in no way a true indication of freshness, and still fit for donation and consumption. The expanded protections in this bill would allow for more quality foods to be donated from farms, manufacturers, and retailers (already beholden to food safety laws and best practices), directly to the food insecure, many thousands of which are the vulnerable children and seniors of Hawaii.

I believe it is worth noting that in the previous committees the Dept. of Health, HI Food Industry Association, Aloha Harvest, and Democratic Party of Hawaii all testified in support of this bill. The Hawaii Dept. of Justice indicated support, but raised some concerns which I believe are certainly worthy of addressing. In the shaping of this bill, we have been working directly with Californians Against Waste (CAW) who originally conceived of and passed this type of bill in California. They have encountered the stated concerns and addressed them, vetting the information thoroughly.

1) Concerns over direct food donation instead of through an agency: For the purpose of this bill and the existing food donation protections, "food donor" refers to entities which are already beholden to food safety and handling requirements and inspections. The understanding is that donors of food are beholden to HI food safety and handling and are already trained in food safety and capable of inspecting food for evidence of spoilage. This fulfills the "good faith" provisions of the bill.

Additionally, the advantage to direct donation is the expediency of getting those foods to those in need, rather than allowing for any lost time and potential loss of wholesome food to spoilage if being stored by an agency.

2) Requests for further discussion on the products and produce covered under "farm produce": Those farms donating produce and value-added products are already required to adhere to food safety and handling standards to sell their products, including animal products that are processed in a certified kitchen.

Ultimately, what is at stake here, are tens of thousands of residents not getting the food they need, as perfectly wholesome food rots in landfills or is burned away. In light of the reality that there have been zero cases of litigation or reported illness related to good faith food donation, these proposed measures would create far more good than if they were blocked out of speculation.

Mahalo for your time and consideration.

Jennifer Milholen - Waste Reduction Coordinator - Kokua Hawaii Foundation

HB-1806-HD-1

Submitted on: 3/14/2018 9:04:31 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaliko Amona	Individual	Support	No

Comments: