

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

REPRESENTATIVE SCOTT Y. NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: February 15, 2018 Room Number: 325
Time: 2:00 p.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 Judiciary
Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Thursday, February 15, 2018
TIME: 2pm
PLACE: Conference Room 325

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: 2/14/2018 12:42:16 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jonathan Valdez	Individual	Support	No

Comments:

I stand with the testimony submitted by the Kokua Hawaii Foundation. Food waste in an archipelago is illogical because there are people who can eat this food.

HB-1806-HD-1

Submitted on: 2/14/2018 1:15:43 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawaii	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON JUDICIARY
THE HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
Thursday, February 15, 2018
2:00 a.m.**

Hawaii State Capitol, Conference Room 329

RE: Testimony in Support of HB 1806 RELATING TO FOOD DONATION

To the Honorable Scott Y. Nishimoto, Chair; the Honorable Joy A. San Buenaventura, Vice-Chair and the Members of the Committee on Judiciary:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No.1806, relating to food donation and liability protection

The OCC Legislative Priorities Committee is in favor of House Bill No.1806 and supports its passage.

House Bill No.1806 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the 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.

The DPH Platform states that "[w]e support community health initiatives that provide opportunities for the overall health of communities through strategic projects and programs focusing on increased interaction and physical activities among all age groups, as well as on better nutrition. (Platform of the DPH, P. 7, Lines 378-380 (2016)).

Given that House Bill No. 1806 requires the 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 Priorities 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



HOUSE COMMITTEE ON JUDICIARY

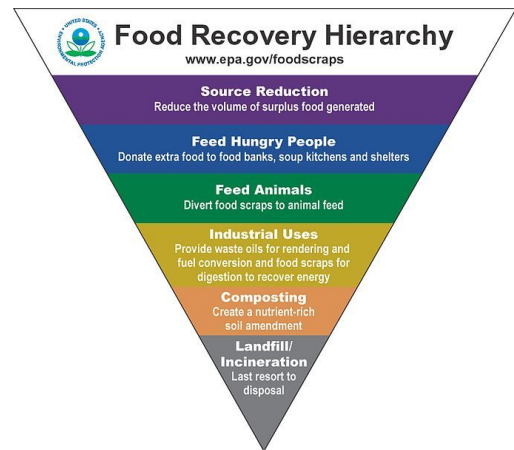
Thursday, February 15, 2018 2:00PM Conference Room 325

In SUPPORT of HB 1806 HD1 Relating to food donations

Aloha Chair Nishimoto, Vice Chair San Buenaventura, 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 356lbs 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: 2/14/2018 3:26:59 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Kokua Hawaii Foundation	Support	Yes

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 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.

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 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 committee the Dept. of Health, HI Food Industry Association, 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 in need not getting the food they need, as perfectly wholesome food rots in landfills. 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

LATE

Aloha Chair Nishimoto, Vice Chair Buenaventura, 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, with a focus on food waste.

Living on an island with over 1 million residents forces us all to think in terms of scale, distribution, and allocation. In terms of food establishments and food waste, we only have so much to portion and allocate to individuals. The total stock, size of dividends, and who gets the dividends, is exactly the concern of food insecurity. The stock relies on 90% mainland imports, proportions unequal and unrealistic distributions, then creates a gap between excess 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.

The bill specifically allows food establishments to be able to donate expired foods, when they firmly believe it is still quality and edible for human consumption. 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. To better illustrate this image, imagine a landfill just filled to the top with fruits, vegetables, meats, packaged foods, fish, etc. This is food that could have been distributed in realistic proportions, and to the wider public. When food seems to be plentiful, as grocery stores and wholesalers tend to exaggerate, people are more likely to buy in excess and waste in excess. We can start to decrease our food waste stream by allowing food establishments to donate expired foods, and increase food security on the islands. Lets push this bill forward in order to decrease our carbon footprint, support the local economy, and contribute to a better Hawai'i!

Thank you again for scheduling a hearing and for 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

LATE

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) REGARDING H.B. 1806 HD1**

Thursday, February 15, 2018
2 p.m.
Room 325

To: Chair Scott Y. Nishimoto and Members of the House Committee on Judiciary:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. 1806 HD1, Relating to Food Donation.

H.B. 1806 HD1 seeks to discourage food waste and encourage food donation to needy recipients. While we support the purpose of the bill, and support the provisions in Section 2 of the bill, we ask the committee to consider the following factors:

Sections 3 and 4 create an exception to liability for those who donate food directly to a needy person. The concern is that when you donate directly to an individual you remove any of the protections that are present when donating through an organization. An organization is more likely to have the knowledge and resources to ensure donated food is safe for consumption.

Health inspectors ensure safety standards are met so that food is safe for public consumption, which includes those in need. Those in need should be afforded the same protections as the general public. Therefore, we suggest it would be of greater public interest for food inspectors to educate potential donors on safe food handling for donated food rather than to simply provide blanket immunity to the donor. Enhanced immunity would subject our consumers to substandard health measures and defeat the purpose of this bill.

In addition, there are concerns with placing such a broad exception to liability to all forms of perishable or nonperishable food. We encourage further discussion to determine the appropriate meaning of “farm produce.” This includes determining if packaged, unpackaged, poultry, and livestock foods fall under this label, which would ensure these high-risk foods receive a basic level of care to ultimately protect any consumer. Therefore, we ask that these concerns be considered as the bill progresses.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

LATE

HB-1806-HD-1

Submitted on: 2/14/2018 7:11:11 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sylvia Dolena	Pele Lani Farm LLC	Support	No

Comments:

HB-1806-HD-1

Submitted on: 2/14/2018 7:22:03 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Support

LATE

HB-1806-HD-1

Submitted on: 2/14/2018 7:40:54 PM
Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ku'ulei Williams	Aloha Harvest	Support	No

Comments:

I am in support of this bill HB1806. The Bill Emmerson Good Samaritan Act is one of the vital documents we use at Aloha Harvest educating food establishments/donors that there is no liability when donating excess food. I agree with the purpose of this act to discourage waste and encourage food donation! The 3 points of this act: clarifying and expanding liability; allowing donations of expired food; and requiring education; will only strengthen and support the existing Act and help with our work of rescuing food to feed the hungry. Mahalo for your work on this HB1806 Bill and all the work you do to improve Hawai'i.

LATE

HB-1806-HD-1

Submitted on: 2/15/2018 7:12:32 AM
Testimony for JUD on 2/15/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan Yuen	Individual	Support	No

Comments:

Chair Sylvia Luke and Vice Chair Ty J.K. Cullen
House Committee on Finance

Chair Chris Lee and Vice Chair Nicole Lowen
House Committee on Energy & Environmental Protection

Dear Members of the Committees of Finance and Energy & Environmental Protection

I strongly support of HB1806 HD 1 which expands liability protection for donors of food.

Over 25% of of food grown or imported to Hawaii is thrown away while many residents go hungry without enough to eat. The discarded food needs to go to the people who need it, but concern over donating spoiled food and the food poisoning that may result makes many donors reluctant.

I support this bill which exempts food donors from liability for civil and criminal damages except for acts of gross negligence or wanton acts of omission.

Thank you for allowing me to testify on this important matter. I urge you to pass this bill.

Sincerely,
Nathan Yuen

HB-1806-HD-1

Submitted on: 2/15/2018 10:25:55 AM

Testimony for JUD on 2/15/2018 2:00:00 PM

LATE

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

Comments: