

HB728, HD1

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

**MARCH 15, 2017
1:15 P.M.
CONFERENCE ROOM 224**

**HOUSE BILL NO. 728 HD1
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

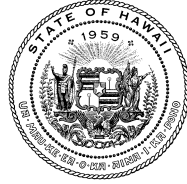
Thank you for the opportunity to testify on House Bill No. 728 HD1 that seeks to include livestock, aquaculture, and aquaponics to those agricultural commodities for which the amount received from loading, transportation, and unloading these commodities are exempt from the general excise tax. HD1 replaces the references to specific livestock and their respective carcasses and aquaculture and Section 147-1 (grading standards) with a reference to Section 237-5 (general excise tax – definitions) and its definitions of “producer” and “agricultural products”. The Department of Agriculture supports the intent of this measure to the extent that it helps producers.

Thank you for the opportunity to comment on this measure.



DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Agriculture and Environment

Date: Wednesday, March 15, 2017
Time: 1:15 P.M.
Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 728, H.D. 1, Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of H.B. 728, H.D. 1, and provides the following comments for your consideration.

H.B. 728, H.D. 1, amends the existing general excise tax (GET) exemption for interisland transportation of agricultural commodities to apply to "agricultural products," as defined in section 237-5, Hawaii Revised Statutes (HRS). The measure has a defective effective date of July 31, 2150.

First, the Department notes that section 237-5, HRS, defines "agricultural products" to include floricultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and any other farm, agronomic, or plantation products. This definition is broad and encompasses the definition of "agricultural commodities" from the original version of this measure.

Second, if the intent of the measure is to lessen the costs of interisland transportation of food, the Department recommends that the exemption be limited to agricultural products intended for use as food. Using the definition from section 237-5, HRS, without any limitation may have unintended consequences. For example, "agricultural products" includes flowers and may include lumber.

Finally, if the measure is advanced, the Department requests that the effective date be amended to so that the measure be made applicable to taxable years beginning after December 31, 2017 to allow the Department sufficient time for the necessary form, instruction and computer system modifications necessary for proper implementation.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Broaden Exemption for Interisland Transport of Agricultural Commodities

BILL NUMBER: HB 728, HD-1

INTRODUCED BY: House Committee on Agriculture

SYNOPSIS: Amends HRS section 237-24.3(1), which currently exempts from the GET amounts received from the interisland transportation of agricultural commodities, to also include other producers, as defined in HRS section 237-5.

EFFECTIVE DATE: July 31, 2150.

STAFF COMMENTS: The existing exemption in HRS section 237-24.3(1) refers to several definitions in HRS section 147-1, which now refers to fresh fruits, vegetables, nuts, honey, and coffee. The current draft of the bill changes the definition to conform with HRS section 237-5, which is designed to capture many kinds of agricultural products and producers, including those raising livestock, growing flowers, and catching fish.

At present, the GET can only be imposed on transportation by water. GET on transportation of passengers or cargo by air is preempted by federal law. 49 U.S.C. section 40116; *Aloha Airlines, Inc. v. Director of Taxation*, 464 U.S. 7 (1983). But a charter boat fishing business made a similar preemption argument and did not prevail. *In re Reel Hooker Sportfishing, Inc.*, 236 P.3d 1230 (Haw. Ct. App. 2010), *cert. denied*, 131 S. Ct. 1616 (2011). It may be desirable from a policy perspective to conform tax treatment of interisland transportation by water to tax treatment of interisland transportation by air.

Digested 2/22/2017



HAWAII CROP IMPROVEMENT ASSOCIATION

HCIA 2016 - 2018 Board of Directors

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Executive Director

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OUR MISSION

HCIA is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices and build a healthy economy.

TESTIMONY FROM BENNETTE MISALUCHA, EXECUTIVE DIRECTOR

In Support of HB 728, HD1

Relating to Agriculture

Expands the agricultural products general excise tax exemption to include additional types of agricultural products.

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

March 15, 2017, 1:15 p.m.

Conference Room 224

Chair Gabbard and members of the committee:

The Hawaii Crop Improvement Association (HCIA) is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.

HCIA supports **HB 728, HD1**, which expands the agricultural products general excise tax exemption to include cattle, pork, chickens, milk products, eggs, aquaculture products and other agricultural commodities.

Agriculture is a tough industry and many farmers struggle with the high cost of business. This measure will help reduce costs, ensuring the sustainability of Hawaii's livestock and aquaculture industries. Consumers will also benefit from this measure, as it will reduce the cost to purchase such products.

Please pass this important bill. Thank you for your consideration of our comments.

Respectfully submitted,

Bennette Misalucha
Executive Director

P.O. Box 126 Aiea, HI 96701

Telephone: (808) 594-3611 Email: Director@hciaonline.com

www.bettercropshawaii.com



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator Gil Riviere, Vice Chair

DATE: Wednesday, March 15, 2017
TIME: 1:15 p.m.
PLACE: Conference Room 224

HB 728, HD1 – RELATING TO AGRICULTURE

Expands the agricultural products general excise tax exemption to include additional types of agricultural products.

Chair Gabbard, Vice Chair Riviere, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 150+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly supports HB 728, HD1 as this measure would provide a level playing field among the agricultural products, expanding the list of those exempt from GET taxes.

Currently, livestock and meat, from various species, are not exempt from GET tax when shipped interisland. Since nearly all other ag products enjoy this benefit, we ask for the same consideration.

We have asked Young Brothers to provide us with their estimate of how much this exemption would cost the State of Hawaii in lost General Excise Taxes and for the amount that was collected in 2016, the total GET collected for livestock shipments was \$5,500.00. In 2009, YB estimated that amount was just \$6,100 for General Excise taxes they collected on items which would be affected by this bill; a very small amount for the State, but a big amount for local livestock producers. As more cattle are kept in Hawaii for local consumption, this exemption would help improve the economics of livestock production in Hawaii and help the State improve our food security.

We respectfully ask this committee to support our industry in this matter and we thank you for giving us the opportunity to testify on this important matter.





Email: communications@ulupono.com

HOUSE COMMITTEE ON AGRICULTURE & ENVIRONMENT
Wednesday, March 15, 2017 — 1:15 p.m. — Room 224

Ulupono Initiative Strongly Supports HB 728 HD 1, Relating to Agriculture

Dear Chair Gabbard, Vice Chair Riviere, and Members of the Committee:

My name is Kyle Datta and I am General Partner of Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports HB 728 HD 1, which adds to the definition of agricultural commodities exempt from the general excise tax, because it aligns with our goal of creating more locally produced food.

This bill would support our local food producers by making their products more competitive while helping consumers by reducing the cost of locally produced food products consumed in the state. The general excise tax multiplies along the food supply chain, hitting multiple points between the producer and consumer. Therefore, general excise taxes make local food less competitive with imported food products.

As Hawai'i's local food issues become more complex and challenging, organizations need additional resources and support to address and overcome them. We appreciate this committee's efforts to look at policies that support local food production.

We believe that by collaborating, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Kyle Datta
General Partner

Investing in a Sustainable Hawai'i



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 224
WEDNESDAY, MARCH 15, 2017 AT 1:15 P.M.**

To The Honorable Mike Gabbard, Chair;
The Honorable Gil Riviere, Vice Chair; and
Members of the Committee on Agriculture & Environment

**TESTIMONY IN SUPPORT OF HB728 TO EXPAND THE AGRICULTURAL
PRODUCTS GENERAL EXCISE TAX EXEMPTION**

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce representing approximately 600 businesses and 16,000 employees on Maui. I am writing share our support of HB728.

This bill fits with one of our legislative priorities for this year on supporting agriculture. Farming and ranching are very hard work and requires many high, upfront investment costs. There are also a number of unpredictable costs and factors that farmers and ranchers face once established, including the new FDA Food Safety Act regulations. We need to have broader definitions for tax exemption qualifications to encourage further growth and development of much needed and niche markets in Hawaii. Therefore, we support any legislation that provides farmers and ranchers with tax exemptions, which will spur additional farming and agriculture in our state. Broader farming and agriculture supports a more sustainable Hawaii.

We appreciate the opportunity to testify on this matter and therefore ask that this bill be passed.

Mahalo for your consideration of our testimony and we hope you will move this bill forward.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

March 15, 2017

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**TESTIMONY ON HB 728, HD1
RELATING TO AGRICULTURE**

Room 224
1:15 PM

Aloha Chair Gabbard, Vice Chair Riviere, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

HFB strongly support HB 728, HD1, which expands the agricultural commodities general excise tax exemption to include cattle, goats, lambs, sheep, hogs, pork, and chickens; meat and carcasses of cattle, goats, lambs, sheep, hogs, pork, and chickens; milk products; eggs; and products of aquaculture and aquaponics.

Hawaii's livestock industry faces numerous challenges. These challenges have been a contributing factor to the decline of the state's livestock industry. Sustainability, self-sufficiency and growing agriculture are popular concepts seen in many of the measures before the legislature this year. This Legislative Session, there have been many bills introduced that support of Hawaii's agricultural Industry.

Our livestock and aquaculture industries are struggling with the high cost of their operations. This measure, which seeks to provide a GET exemption to assist Hawaii's livestock and aquaculture industries, is critical to insure the sustainability of Hawaii's livestock and aquaculture industries. This will help to reduce the operating costs and eventually help reduce the cost of purchasing local livestock and aquaculture products to local consumers.

Thank you for the opportunity to comment on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:08 AM
To: AEN Testimony
Cc: warrenmcfb@gmail.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/14/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 4:49 PM
To: AEN Testimony
Cc: lbwood451@aol.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/13/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Wood	Hawaii Cattlemen's Council	Support	No

Comments:

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Sent: Tuesday, March 14, 2017 3:09 AM
To: AEN Testimony
Cc: afrancokaupo@gmail.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/14/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Franco	Maui Cattle Company	Support	No

Comments:

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March 15, 2017

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Sen. Mike Gabbard, Chair; Sen. Gil Riviere, Vice Chair; and Committee Members
Public Hearing, March 15, 2017 at 1:15 p.m., Conference Room 224

**TESTIMONY of WILLIAM F. ANONSEN
MANAGING PARTNER/PRINCIPAL of THE MARITIME GROUP, LLC
IN SUPPORT of H.B. 728 HD1**

My name is William Anonsen and I am the Managing Partner/Principal of THE MARITIME GROUP, LLC. We support HB 728 HD1 which would serve to expand the agricultural products general excise tax exemption to include additional types of agricultural products, such as cattle beef, dairy milk, eggs and poultry meat, and aquaculture.

Hawaii's livestock industry has for several years faced numerous challenges, which have been contributing factors to the decline of the State's livestock industry. The passage of this measure is one of several ways to help our ranchers and farmers in reversing this trend and help to maximize our multi-island state's ability to increase our food subsistence and local sustainability.

Other agriculture commodities receive a general excise exemption, as such in fairness similar considerations should be provided our livestock industry. This measure seeks to assist Hawaii's livestock and aquaculture industries to reduce operating costs, and eventually reduce the cost of purchasing local livestock and aquaculture products by local consumers, to ensure the sustainability of Hawaii's livestock and aquaculture industries.

Mahalo for the opportunity to comment in support of this measure.

Sincerely,

William F. Anonsen

William F. Anonsen

Managing Partner/Principal

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 9:03 AM
To: AEN Testimony
Cc: alan@prloffice.com
Subject: Submitted testimony for HB728 on Mar 15, 2017 13:15PM

HB728

Submitted on: 3/13/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Support	Yes

Comments: This is an issue of parity. All other agricultural commodities have this G.E.T. Exemption. The reason we ask that livestock and meat, milk eggs, poultry, aquaculture, etc. be included in the definition is so like other Agricultural commodities, we will be exempt from the State's General Excise Tax on loading and unloading fees. Over the years we have come across definitions of agriculture commodities which have not included livestock, or the meat from livestock agriculture, milk, eggs, poultry and aquaculture/aquaponics, etc. and have sought to have those corrected so they are included. The problem is that there are so many different places where there are definitions, we seem to need to deal with them one by one as they come to our attention. In the past the legislature has always been very supportive on this very common sense issue.

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To: AEN Testimony
Cc: kaimiunger@gmail.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/13/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Unger	McCandless Ranch	Support	No

Comments:

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Sent: Monday, March 13, 2017 4:42 PM
To: AEN Testimony
Cc: djr@teamedeluz.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/13/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
David S. De Luz, Jr.	Hawaii Beef Producers LLC	Support	No

Comments:

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Meadow Gold Dairies



Written Testimony by: Glenn Muranaka
HB728hd1, Relating to Agriculture
Senate AEN Hearing - Wednesday, March 15, 2017
1:15pm 8:30 - Room 224
Position: Comments

Chair Gabbard and Members of the Senate AEN Committee:

My name is Glenn Muranaka, President and General Manager of Meadow Gold Dairies. Our company has been in Hawaii since 1897—120 years, providing Hawaii consumers with a variety of milk products and juices. Meadow Gold's long history has not come without effort. We continually adapt to our customers' and consumers' ever-changing needs, and we constantly evolve along with our industry, our community and our market. Over the years, this has required that we struggle, tighten our belts, innovate and work extremely hard, making us a better company in the process. The foundation of this work rests with the 330 employees that are committed to providing superior quality products.

We strongly support measures that expand the definition to include cattle, beef and beef carcasses; goats, goat meat, and goat carcasses; lamb, lamb meat, and lamb carcasses, sheep, sheep meat and sheep carcasses, hogs, pork, and pork carcasses; milk and milk products; eggs; and chickens, poultry meat, and poultry carcasses; and products of aquaculture or aquaponics to be consumed in the State whether processed in the State or imported.

HB728hd1 amendment, page 1, (1) lines 6 through 14 seem to be in conflict and we seek clarification.

(1) Amounts received from loading, transportation, and unloading of agricultural ~~[commodities]~~ products shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State.

Comment: Strong support is expressed for GET exemption of agricultural products shipped from one island to another island.

The terms ~~["agricultural commodity"]~~ "agricultural products" shall be defined in the same manner in section 237-5, "producer" ~~[-]~~ shall be defined in the same manner as in section 237-5, and "producer dealer" shall be defined in the same manner as ~~[they are defined]~~ in section 147-1, respectively; provided that ~~[agricultural commodities]~~ agricultural products need not have been produced in the State;

Comment: The definition of "Producer" identifies a number of business activities exempted, and specifically states the shipment or transportation out of State. It is not clear whether this compromises the intent of the exemption for producers to load, transport and unload agricultural products shipped from one island to another island.

§237-5 "Producer" means any person engaged in the business of raising and producing agricultural products in their natural state, or in producing natural resource products, or engaged in the business of fishing or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural or aquaculture products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish.

GET exemptions for the diversified agricultural producers help reduce the cost of doing business in Hawaii, and for some, may make a difference for establishing new businesses or for existing businesses to continue to contribute to Hawaii's productive agriculture businesses.

We appreciate clarification of this concern. Thank you for the opportunity to submit testimony. If you have any questions, please contact me at 944-5911.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 7:05 AM
To: AEN Testimony
Cc: JMATTOSHBP@AOL.COM
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/14/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jill J Mattos	Individual	Support	No

Comments:

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Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

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Submitted on: 3/13/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Unger	Individual	Support	No

Comments:

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Sent: Tuesday, March 14, 2017 3:11 PM
To: AEN Testimony
Cc: gregf@haleakalaranch.com
Subject: *Submitted testimony for HB728 on Mar 15, 2017 13:15PM*

HB728

Submitted on: 3/14/2017

Testimony for AEN on Mar 15, 2017 13:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Gregory Friel	Individual	Support	No

Comments:

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