



DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
AND
HOUSE COMMITTEE ON AGRICULTURE**

Wednesday, March 13, 2019
9:30 AM
State Capitol, Conference Room 309

In consideration of
SB 763 SD2
RELATING TO ADVERTISING AND MARKETING.

Chairs McKelvey and Creagan, Vice Chairs Kitagawa and DeCoite, and Members of the Committees.

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on SB 763 SD2, which requires DBEDT, in consultation with the Department of Agriculture, to conduct a study calculating the economic impact and gross domestic product lost by the State as a result of companies using the Hawaii brand and selling products in the United States with place-based marketing without any material ties to the State.

While DBEDT supports the intent of this bill, the data required for this study does not exist including the number of companies impacted, their location, revenue, ownership, employment, type of marketing, and the origin and content of products associated with the Hawaii brand. Collecting this data would be necessary in order to estimate the impact to the State's economy. In order to collect the data, \$250,000 would be needed to hire a research firm to conduct surveys to obtain the required data.

Thank you for the opportunity to testify.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON ECONOMIC DEVELOPMENT & BUSINESS
AND AGRICULTURE**

**MARCH 13, 2019
9:30 A.M.
CONFERENCE ROOM 309**

**SENATE BILL NO. 763 SD2
RELATING TO ADVERTISING AND MARKETING**

Chairpersons McKelvey and Creagan and Members of the Committees:

Thank you for the opportunity to present testimony on Senate Bill 763 SD2. This bill requires the department of business, economic development, and tourism in consultation with the department of agriculture, to conduct a study to assess the impacts of companies selling products in the United States using place-based marketing without any material ties to the State. The Department supports this bill provided it does not impact the department's priorities listed in the Executive Budget and offers a comment.

The Department administers two programs that identify products with material ties to the State. The "Seal of Quality" program brands Hawaii-grown and Hawaii-made products, and the "Made in Hawaii with Aloha" logo identifies Hawaii-made products, respectively, Chapters 148-61 and 486-119, Hawaii Revised Statutes. This study would support the relevance of those programs to Hawaii's economy and our agricultural products.

The need for the study is further evidenced by recent legal action taken with Pinnacle Foods, Inc, a Delaware corporation for labeling their product line of potato



Page 2

chips as “Hawaiian” because the chips are made in Washington with little to no ingredients from Hawaii. The study would quantify the impact of this type of labeling and advertising.

Thank you for the opportunity to testify on this measure.

SB-763-SD-2

Submitted on: 3/10/2019 8:09:59 PM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
bruce corker	Rancho Aloha	Comments	No

Comments:

Dear Chair McKelvey, Chair Creagan and Committee Members:

I am a coffee and avocado farmer in Holualoa in Hawaii County and offer comments on SB763:

I am concerned that funding a study and waiting for the results will delay much needed action. The State of Hawaii should be taking action right now to address the economic damage caused by deceptive use of Hawaii place names by unscrupulous marketers on the mainland and in Hawaii.

Basic common sense, basic economic principles, and a raft of published studies clearly indicate that origin based producers are economically damaged by counterfeiting and fraudulent use of origin names on products produced elsewhere. For example, here are two available studies addressing damage to coffee farmers from the use of the "Kona" name on packages containing little, if any, Kona-grown coffee:

-- A 2018 United Nations' Food and Agriculture Organization study concluding that Hawaii origin brands, like Kona, do "not enjoy any strong protection of its name" and that as a result "downstream stakeholders [rather than farmers] reap the economic benefits of the fame of Kona." Here is a link: <http://www.fao.org/3/l8737EN/i8737en.pdf>

-- A 2010 analysis by San Francisco-based resource economist Marvin Feldman finding that as much as \$14.4 million each year may be flowing out of the pockets of Kona coffee farmers and into the "excess profits" of blenders who use the "Kona" name on packages containing 90% foreign-grown coffee. Here is a link:

<https://www.konacoffeefarmers.org/wp-content/uploads/2012/03/Economic-Efforts-of-Blending-Kona.pdf>

And it is not just coffee growers who need protective action from the State. Hawaii macadamia nut growers, Maui onion growers, Hawaii tea growers, Hawaii chocolate growers and others need and deserve the types protections against counterfeiting and mislabeling afforded by others states to their farmers.

Rather than spending funds on a study, the Legislature should be directing those funds to the Hawaii Attorney General's Office to initiate and pursue—without delay-- the types of legal actions regularly taken by other states in protecting their farmers and other producers from misleading and fraudulent use of origin-based names. For example, the State of Idaho brings legal action against marketers, both in and outside Idaho, who violate Idaho's trademark rights by putting the "Idaho Potato" name on packages containing little or no Idaho-grown potatoes; Georgia does the same with respect to misleading labels using the "Vidalia Onion" name; and Vermont similarly takes action to protect its "Vermont Maple Syrup" trademark and to protect the interests of Vermont maple syrup producers.

Whatever the reason for years of inaction, it is time for Hawaii to stand up and take action—and not wait on an unnecessary study.

Thank you for considering these comments,

Bruce Corker

Rancho Aloha

Holualoa, Hawaii County

SB-763-SD-2

Submitted on: 3/11/2019 9:17:36 PM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
maile meyer	na mea hawaii	Support	No

Comments:

Please support SB763, it's absurd that in this day and time our State does not do whatever it can to identify and protect the producers of actual products farmed and produced here in Hawai'i. Hawai'i has such incredible global name recognition and to have it squandered on companies that mislead consumers and take viable business from local producers.

This report, that quantifies this abuse is a vital next step by determining roughly how much potential local GDP is lost per year by consumer packaged goods and retailers misleadingly suggesting products are from our islands due to direct place-based marketing, as well as offer our islands some solutions.

I firmly believe in honesty for consumers everywhere as well as ensuring our local agricultural community is able to be supported as a supplier for goods marketed as being from Hawai'i.

on behalf of the over 400 small and micro- batch makers we represent at Na Mea Hawai'i, we are grateful for your support in this endeavor. Mahalo nui, Maile Meyer

SB-763-SD-2

Submitted on: 3/12/2019 7:00:05 AM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ISABELLA HUGHES	Shaka Tea	Support	No

Comments:

Aloha,

I am writing on behalf of Shaka Tea, as well as the farmers we work with who grow and supply our company with mā• maki. As a local startup growing into a national brand selling authentically Hawaiian herbal tea brewed with mā• maki, which is only found and grown in our islands, I cannot emphasize enough how much bastardized products, purporting to be from Hawai'i are first and foremost deceitful to consumers, in addition to being a hinderance for brands actually using Hawai'i-grown ingredients to grow and compete in the local and national marketplace. A number of brands in the consumer packaged goods space use direct, Hawai'i place-based marketing, leading consumers to believe they are indeed buying a product with ingredients from our islands. I firmly support SB763 and feel the data is needed for Hawai'i to understand how much we are potentially losing in local GDP per year. It is my hope that through the data from SB763 will enable us to ultimately focus on growing our GDP through local ag and manufactured products and the data needed is presently missing for us to understand the brevity of the problem at hand. Please support SB763 - this bill will support farmers, manufacturers and consumers.

Mahalo for your consideration,

Bella Hughes

President & co-founder

Shaka Tea

www.shakatea.com

SB-763-SD-2

Submitted on: 3/12/2019 9:10:23 AM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

SB-763-SD-2

Submitted on: 3/12/2019 12:07:12 AM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Smart	Individual	Oppose	No

Comments:

Vote no. Don't waste any of our funds on this study. No benefit will come of it.

LATE

SB-763-SD-2

Submitted on: 3/12/2019 10:08:49 AM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tyler Dos Santos-Tam	Individual	Support	No

Comments:



LATE

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HAWAII HOUSE OF REPRESENTATIVES
COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
COMMITTEE ON AGRICULTURE

March 13, 2019
9:30 a.m.
Conference Room 309

RE: Testimony in Support of SB 763 SD2

Aloha Chairs McKelvey & Creagan, Vice Chairs Kitagawa & DeCoite and members of the Committee,

I am Chris Manfredi, President of Hawaii Coffee Association.

The Hawaii Coffee Association's (HCA) mission is to represent all sectors of the Hawaiian coffee industry, including growers, millers, wholesalers, roasters and retailers located throughout the State of Hawaii. The HCA's primary objective is to increase awareness and consumption of Hawaiian coffees. A major component of HCA's work is the continuing education of members and consumers.

The HCA STRONGLY supports SB 763 SD2

There is no greater threat to the integrity and protection of Hawaii's brands than the introduction of counterfeit and substandard Hawaiian coffee into the supply chain. It is the number one complaint I receive from our members.

While we grapple with coffee counterfeiting in Hawaii, we are also aware of and impacted by its widespread practice outside of the state. A study as proposed in SB763 SD2 will help quantify the size and scope of the problem and will likely lead to actions that will protect Hawaii's valuable brands and origin names. This legislation is an important step in the right direction. We applaud the authors, introduces and supporters of this measure.

Please pass SB763 SD1.

Thank you for your support and for the opportunity to testify.



LATE

Cindy Goldstein
Executive Director
Hawaiian Craft Brewers Guild
98-814 C Kaonohi Street
Aiea, HI 96701

SB763, S.D. 2 Relating to Advertising and Marketing
House Committee on Economic Development and Business/House Committee on Agriculture
Wednesday, March 13, 2019 at 9:30 a.m. Conference Room 309

Position: **Support**

Chair Representative Angus McKelvey, Vice Chair Representative Lisa Kitagawa, and members of the Committee on Economic Development and Business, Chair Representative Richard Creagan, Vice Chair Representative Lynn DeCoite, and members of the Committee on Agriculture,

The Hawaiian Craft Brewers Guild is a nonprofit trade organization representing the interests of small craft breweries across the State of Hawaii. Our members are independent craft breweries producing 100% of their beer in Hawaii and represent the majority of craft beer producers in the state. Our members are united in our pursuit to promote economic activity for Hawaii's beer manufacturers and enhance opportunities in our communities.

The Hawaiian Craft Brewers Guild supports SB763 S.D.2. to conduct a study to assess the impacts of misleading marketing and place-based branding. The mission of the Hawaiian Craft Brewers Guild includes enhancing consumer awareness of craft beer choices in the marketplace from breweries making 100% of their beer in Hawaii.

Our member breweries promote the quality and unique character of their craft beer for consumers to recognize and differentiate craft beer manufactured in Hawaii. Independent craft beer producers rotate their beer selections with special occasion brews, seasonal offerings, and specialty styles. These seasonal and unique styles often use Hawaii grown agricultural ingredients. Hawaii craft beer manufacturers use ingredients sourced from farmers across the State of Hawaii including tropical fruits such as lilikoi and orange, cacao, coffee, ginger, lemon grass, pineapple, and honey.

The Hawaiian Craft Brewers Guild supports SB763 S.D.2 because we understand the importance of differentiating products made 100% in Hawaii, and the negative impact of misleading place-based marketing that creates consumer confusion.

Mahalo for the opportunity to provide testimony in support of SB763, S.D. 2

LATE

Kauai Beer Company

James Guerber

4265 Rice Street

Lihue, HI 96766

98080 639 7821

jim@kauaibeer.com



SB763, S.D. 2 Relating to Advertising and Marketing
House Committee on Economic Development and Business/House Committee on Agriculture
Wednesday, March 13, 2019 at 9:30 a.m. Conference Room 309

Position: **Support**

Chair Representative Angus McKelvey, Vice Chair Representative Lisa Kitagawa, and members of the Committee on Economic Development and Business,

Chair Representative Richard Creagan, Vice Chair Representative Lynn DeCoite, and members of the Committee on Agriculture,

My name is Jim Guerber and I am the President of the Kauai Beer Company, located in downtown Lihue, Kauai on Rice Street. We have been in business here since 2006 and began formally serving beer in September 2013. We have been instrumental in the effort to revitalize our downtown and are widely recognized for our contribution in that regard. We are in the process of renovating an adjacent space, which will dramatically enhance our ability to serve a larger customer base, increase production and increase our personnel, which is presently ~60 full and part-time personnel.

Our visitors are increasingly savvy about craft beer. There are even some web apps that let people “check in” which beers they have tried. When these visitors come to the islands, they inevitably ask for local beer. By “local” they mean beer that has been brewed in Hawaii with Hawaii ingredients including water from here. Kauai is one of the wettest places on the earth. It only makes sense that they should be served beer made with water from Kauai when they specify “local”.

We believe in honesty when promoting a product. Let's protect our unique brands by demanding that products sold in Hawaii with Hawaiian names be made in Hawaii.

Mahalo for your consideration. We urge you to pass this bill.

Sincerely,

Jim Guerber
President
Kauai Beer Company

LATE

SB-763-SD-2

Submitted on: 3/13/2019 7:52:52 AM

Testimony for EDB on 3/13/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Garrett W. Marrero	Maui Brewing Co.	Support	No

Comments:

Mahalo for the opportunity to provide testimony in SUPPORT of this bill. I apologize for the late testimony as I've only just learned of the bill. I believe the intentions of this bill are well-placed and addresses the issues of false advertising in the marketplace. I beleive this bill could go further in its pursuits as well as the condition of "material presence" could be better defined.

I would welcome the opportunity to work with legislators on the formation and implementation of this bill as this is an issue we battle every day.

mahalo for your time.