

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in OPPOSITION to SB0244
RELATING TO FOOD DONATIONS

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON HEALTH

Hearing Date: 2/12/2021

Room Number: VIDEO

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (Department) respectfully opposes this
3 measure.

4 The Department's Food Safety Specialist (FSS) are responsible for conducting inspections at
5 food establishments and do so with the clear objective to prevent foodborne illness by the
6 consuming public. This is achieved by educating food establishments on proper personal
7 hygiene, safe food handling practices, and ensuring that the food products used are wholesome
8 and safe.

9 FSS have the expertise and knowledge of food safety but they are not qualified to educate or
10 provide legal counsel to anyone in the State. This measure will posture the Department's FSS
11 the responsibility of educating those in the food industry by developing "materials" for
12 distribution on the subject of food donation liability protections. FSS are also placed in an
13 inherently awkward situation with the entities they regulate by asking FSS to counsel entities
14 about their liability for activities regulated by the Department. For these reasons, the Department
15 believes it is not the appropriate agency to educate those in the food industry on the subject of
16 food donation liability protections.

1 However, the Department does not have any objections to the donation or distribution of
2 wholesome food products beyond the expiration date. Many commercial food products are
3 labeled with dates preceded by “best if used by,” “sell by,” “use by,” “expires on,” etc. These
4 dates are voluntarily provided by manufacturers to guarantee product quality and should not be
5 used to determine product safety. If a food product has been handled properly, it should still be
6 safe and wholesome after its product date label has passed until spoilage characteristics are
7 evident. Spoiled foods will develop an off odor, off flavor or off texture. If a food has developed
8 such spoilage characteristics, it should not be eaten and should be discarded.

9 **Offered Amendments:** None

10 Thank you for the opportunity to testify on this measure.



**Testimony to the Senate Joint Committee on Agriculture and Environment, and Health
Friday, February 12, 2021; 1:00 p.m.
Via Videoconference**

RE: SENATE BILL NO. 0244, RELATING TO FOOD DONATION.

Chair Gabbard, Chair Baker, and Members of the Joint Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** Senate Bill No. 0244, RELATING TO FOOD DONATION.

The bill, as received by your Committee, would discourage food waste and encourage food donation to needy recipients by:

- (1) Clarifying and expanding liability protections for good-faith food donors;
- (2) Allowing the donation of expired food when the donor makes a good-faith judgment that the food is unspoiled; and
- (3) Requiring that education about food donation liability protections be made a part of the health inspection process so that food establishments are aware of these provisions.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

Testimony on Senate Bill No. 0244
Friday, February 12, 2021; 1:00 p.m.
Page 2

The COVID-19 pandemic has severely threatened the health and welfare of our citizens, especially Hawaii's underprivileged and rural communities. With so many people unemployed, entire families are struggling to put food on the table on a consistent basis. All one needs to do is visit one of our member FQHC's food distribution events and see the line of cars stretch for miles and people wait for hours to receive some surplus food. It is shocking yet uplifting to see that people do care for their fellow citizens.

The COVID-19 pandemic has greatly exacerbated the need for a program like this. As a network of nonprofits, FQHCs already are provided limited immunity from liability resulting from the distribution of donated food. What this bill will do is clarify and extend immunity to businesses and organizations that donate food to nonprofit organizations such as FQHCs for distribution to the community at large. Given the desperate need for food in our communities, this bill help go a long way to helping the most needy in our State.

The only way for us to protect ourselves from the next global pandemic is for Hawaii to diversify its economic base and become more self-sufficient. And for us to do that, we need to grow more food.

Because of this, we urge your favorable consideration of this bill.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

Friday, February 12, 2021 at 1:00 PM
Via Video Conference

Senate Committee on Agriculture and Environment

To: Senator Mike Gabbard, Chair
Senator Clarence Nishihara, Vice Chair

Senate Committee on Health

To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn Baker, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

**Re: Testimony in Support of SB 244
Relating to Food Donation**

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

HPH writes in support of 244 which 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 reasonably believes in good faith that the food remains fit for human consumption.

HPH recognizes the profound impact of access to food and health and wellness. HPH has prioritized responding to this need and we are currently engaged in efforts to facilitate food rescue both within our hospital system and with community partners. More than ten per cent of Hawai'i residents, including tens of thousands of children and seniors, are food insecure and receive food assistance through nonprofit organizations and government programs. Despite high levels of food insecurity, Hawai'i businesses and residents discard more than 237,000 tons of food waste per year. Approximately twenty-six per cent of food grown in or imported to Hawai'i is thrown away.

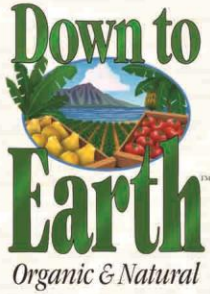
The Bill Emerson Good Samaritan Food Donation Act was passed by the United States Congress in 1996 to protect good-faith food donors from civil and criminal liability and to encourage the donation of food that would otherwise go to waste. Despite these

protections, much of the wholesome surplus food in Hawai'i and in other states is discarded instead of donated.

This measure would have a meaningful impact on providing food to those in need and reduce unnecessary waste.

Thank you for the opportunity to testify.

Love Life!



SB 244 RELATING TO FOOD DONATIONS
Senate Committees on Agriculture and the Environment and Health
February 12, 2021, 1:00pm State Capitol

Corporate Office
P.O. Box 1166
Kailua, HI 96734
Phone: (808) 484-5890
Fax: (808) 484-5896
corporate@downtoearth.org

Oahu Locations

Honolulu
2525 South King Street
Honolulu, HI 96826
Phone: (808) 947-7678
Fax: (808) 943-8491
honolulu@downtoearth.org

Kailua
573 Kailua Road
Suite 101
Kailua, HI 96734
Phone: (808) 262-3838
Fax: (808) 263-3788
kailua@downtoearth.org

Pearlridge
98-211 Pali Momi Street
Suite 950
Aiea, Hawaii 96701
Phone: (808) 488-1375
Fax: (808) 488-4549
pearlridge@downtoearth.org

Kapolei
4460 Kapolei Parkway
Kapolei, Hawaii 96707
Phone: (808) 675-2300
Fax: (808) 675-2323
kapolei@downtoearth.org

Kakaako
500 Keawe St.
Honolulu, HI 96813
Phone: (808) 465-2512
Fax: (808) 465-2305
kakaako@downtoearth.org

Maui Location

Kahului
305 Dairy Road
Kahului, HI 96732
Phone: (808) 877-2661
Fax: (808) 877-7548
kahului@downtoearth.org

Aloha Sen. Mike Gabbard, AEN Chair, Sen. Clarence K. Nishihara, AEN Vice Chair, Sen. Jarrett Keohokalole, HTH Chair, and Sen. Rosalyn H. Baker, HTH Vice Chair, and Committee Members,

Down to Earth Organic and Natural testifies in support of SB 244.

Down to Earth Organic and Natural has six locations on Oahu and Maui. Since we opened in 1977, we have supported healthy lifestyles and preservation of the environment by selling local, fresh, organic and natural products, and by promoting a healthy, plant-based and vegetarian lifestyle.

We are in support of SB 244, expanding the liability protection for donors to include donations of food and similar donations made directly to needy persons.

Hawaii has been extremely hard hit by business closures, record unemployment, and loss of income leading to greater food insecurity, yet there is approximately 237,000 tons of food wasted per year. With less concerns about liability, food establishments will be encouraged to share in good faith more of the food that is unsold but is still edible, helping those in need in our communities and reducing this unnecessary waste product.

Thank you for the opportunity to comment on this bill.

Alison Riggs
Public Policy & Government Relations Manager
Down to Earth

2525 S. King St., Suite 309
Honolulu, HI 96826

Phone (808) 824-3240
Fax (808) 951-8283
E-mail: alison.riggs@downtoearth.org

www.downtoearth.org



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

February 12, 2021

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON HEALTH

TESTIMONY ON SB 244
RELATING TO FOOD DONATION

Conference Room 229
1:00 PM

Aloha Chairs Gabbard and Keohokalole, Vice Chairs Nishihara and Baker, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 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.

The Hawaii Farm Bureau supports SB 244, which seeks to supply more food to Hawaii residents who are hungry, while reducing the huge amount of food that goes to waste in our State, overloading our landfills, and creating harmful greenhouse gas. Particularly now, when so many have lost their jobs and are unable to afford rent and food for their families, the passage of this bill will help.

We believe that this bill will expand and clarify current law to make it more likely that food will be donated and not wasted. Our farmers work hard to grow food for their communities and are heartbroken when it goes to waste. Allowing direct donations and educating food establishments about the opportunity to make donations and making them aware of the liability protections that safeguard them will alleviate concerns that prevent more food donations.

Thank you for the opportunity to provide our support on this measure.

**TESTIMONY OF NAHELANI WEBSTER FOR THE HAWAII ASSOCIATION
FOR JUSTICE (HAJ) REGARDING S.B. 244**

February 12, 2021
1:00 p.m.

To: Chair Mike Gabbard and Members of the Senate Committee on Agriculture and Environment, and Chair Jarrett Keohokalole, and members of the Senate Committee on Health:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding S.B. 244, Relating to Food Donation.

S.B. 244 seeks to discourage food waste and encourage food donation. While we support the purpose of the bill, and support the provisions in Section 2 of the bill, we believe that the liability exception is overly broad and places the health and safety of the recipients of the donated food at risk.

Sections 3 and 4 create an exception to liability for those who donate the 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 the food is safe for consumption. We respectfully ask that you take into consideration removing direct donations and include only donations to and from organizations.

Health inspectors are used for the purpose of ensuring health and safety standards are met so that food is safe for public consumption. Those in need should still be afforded the same protections that the rest of the public enjoy. Therefore, our suggestion is rather

than mandating health inspectors to educate donors on exceptions to liability, it would be more appropriate for them to educate potential donors on how to donate food in a reasonable and safe manner. Enhanced immunity could subject consumers to substandard health measures defeating 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 and further discussion should be had in order to determine if packaged and unpackaged foods should be differentiated in order to provide a basic level of protection to the recipients in need. Therefore, we ask that these concerns be addressed in the discussion as the bill progresses.

Thank you for allowing me to testify on this measure, I am available if you have any questions.

SB-244

Submitted on: 2/5/2021 12:42:38 PM

Testimony for AEN on 2/12/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

Open by dates and Use by dates seem often to be for the convenience of the seller and have little to do with actual date when the product can no longer be used. Please support this bill!

SB-244

Submitted on: 2/11/2021 10:41:51 AM

Testimony for AEN on 2/12/2021 1:00:00 PM

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

Comments:

Please pass this measure to help those who are going hungry. Thank you.