



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2028, H.D. 1, RELATING TO THE LABELING OF PRODUCTS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 14, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Elise A. Amemiya or Bryan C. Yee, Deputy Attorneys General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General offers the following comments and concerns.

The primary purposes of this bill are to merge the "made in Hawaii" branding program under the Department of Agriculture into the "Hawaii Made" program under the Department of Business, Economic Development, and Tourism (DBEDT); and to clarify how to determine whether a non-perishable good qualifies for a Hawaii Made label.

We have the following concerns with the bill:

While the bill prohibits the use of the labels or phrases "Hawaii Made" or "made in Hawaii" under certain conditions or representing the origin of an item as being from any place within the State, the bill does not provide any penalty for a violation of this prohibition. The prohibition without any penalty makes enforcement difficult. The bill also requires the Department of the Attorney General to enforce violations; the subject matter department, however, is better able to determine if a violation of the "Hawaii Made" or "made in Hawaii" program has occurred. Accordingly, the subject matter department, DBEDT, is the appropriate department for enforcement of the program.

One method to resolve both of the above concerns is by substituting the following for subsection (e) on page 3, lines 17-18, to provide for an administrative penalty:

(e) The department, after notice and opportunity for hearing, may fine any person who violates this section, or any rule adopted under this section, not more than \$_____ for each separate offense. Each day or

instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

We respectfully request the Committee to consider our comments. Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

**FRIDAY, FEBRUARY 2, 2024
10:30 AM
CONFERENCE ROOM 423**

**HOUSE BILL NO. 2028, HD1
RELATING TO THE LABELING OF PRODUCTS**

Chair Nakashima, Vice Chair Sayama and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2028, HD1. This bill merges the Made in Hawaii program under the Department of Business, Economic Development, and Tourism (DBEDT). It specifies that the Department of the Attorney General (DAG) shall be responsible for the enforcement of the program. It repeals the Made in Hawaii with Aloha program. It clarifies that calculations to determine whether a non-perishable good labeled "Hawaii Made" or "Made in Hawaii" has met the requirement that at least 51% of the wholesale value of the product is added by production within the State include operating and overhead expenses incurred and spent within the State and appropriates funds. The Department offers comments.

Placing the trademark and oversight for products manufactured in the State under one agency was a recommendation of the study conducted by DBEDT. Another recommendation was that the enforcement of the program remain within one agency. The Department agrees with both recommendations and defers to the DAG on the enforcement of the program.



The Department comments that clarification be added to Page 3, beginning with line 3, ending Page 3, line 20 regarding whether this section refers to the use of the trademark or to any reference to “Hawaii Made” or “Made in Hawaii” on a product label or in product promotion. This impacts current manufacturers of non-perishable products made in Hawaii, that comply with the formula calculation and have an established, unique logo or trademark if they prefer to keep their current label that includes their logo or trademark.

Hawaii companies that choose to manufacture their products in Hawaii do so knowing their products could likely be manufactured offshore for less expense. These companies are wary of programs that would add costs to their operations. The current program, under Section 486-119, Hawaii Revised Statutes, does not include a cost to the Hawaii company to use the “Made in Hawaii with Aloha” logo. The measure does not address a fee when merged under DBEDT.

The Department is aware of the Federal Trade Commission “Made in the USA” law that requires some products to disclose U.S. content and continues to be cautious with the “Made in Hawaii” claim as described in 16CFR Part 323: Made in the USA Labeling Rule.

Thank you for the opportunity to testify on this measure.

HB-2028-HD-1

Submitted on: 2/13/2024 7:54:30 AM

Testimony for CPC on 2/14/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colehour Bondera	Kanalani Ohana Farm	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members:

As a long-term small-scale farmer who produces 100% Kona coffee and a diversity of other crops, as well as a community leader who has represented coffee, broad agricultural and certified organic interests over the years, it is important to our farm that you support HB2028.

Consumer deception in terms of what is in a product carrying the Hawaii name should not occur and this legislation ensures that all products start at a common place of perception. Proper labelling is vital and this legislation reorganizes what is in place to be more streamlined and more effective on the ground.

Please support this important piece of legislation and support Hawaii production and products for the sake of consumer understanding and to maintain quality.

Yours,

Colehour Bondera

KANALANI OHANA FARM

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Hawai'i Forest Industry Association

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Email: hfia@hawaiiforest.org

Date: 02/13/24

TO: CPC Chair Nakashima, Vice Chair Sayama and CPC Committee Members Amato, Au Belatti, Gates, Hashem, Hussey-Burdick, Lowen, Onishi, Tam, Pierick

FROM: the Hawai'i Forest Industry Association (HFIA)

SUBJECT: Testimony in Support for HB2028 HD1 Relating to the Labeling of Products

Dear Chair Holt and Committee Members,

On behalf of the Directors and members of the Hawai'i Forest Industry Association (HFIA), please support HB2028 HD1 Relating to the Labeling of Products.

Roughly 45% of HFIA's 130 members are wood artisans (wood turners, furniture makers, etc.), wholesalers (primarily lumber) or wood product retailers/galleries. Every year, HFIA hosts the annual Hawaii's Wood Show in Honolulu, in which local artisans enter and are required to use locally sourced woods. We, as an organization made up of a Board of Directors, staff and members, take pride in this event and the regulations set and enforced regarding the utilization of locally sourced materials.

Furthermore, HFIA has also established "Hawaii's Wood Brand". The Hawaii's Wood Brand represents fine items made from wood grown in the Hawaiian Islands. HFIA members who want to participate in the program and brand their items must agree to only brand items that meet the following criteria: Made in Hawai'i; Well-made and of good quality; and Made predominantly of woods that are grown in Hawai'i. Hawaii's Wood Brand not only highlights quality craftsmanship and the richness of Hawaii's woods, but it also reduces the carbon footprint of wood products created and sold by participating HFIA members. Additionally, it reduces the reliance on imported finished wood products or imported materials for wood products, keeping the money of Hawaii's craftsmen and consumers circulating in our local economy, rather than directing it to off island entities.

We hope that you will support HB2028 HD1 and that other areas of commerce will follow suit in an effort to produce and offer genuine, locally crafted products, using locally sourced materials as often as possible.

Mahalo for your time and consideration,

Guy Cellier, President
Hawai'i Forest Industry Association

HFIA's mission is to promote healthy and productive forests and a sustainable forest industry through management, education, planning, information exchange, and advocacy. HFIA has over 130 members including woodworkers, landowners, sawyers, foundations, foresters, growers, educators, environmentalists, architects, millers, ranchers, and others interested in HFIA's mission and goals.

HFIA Board of Directors

Officers: President Guy Cellier, Vice President Irene Sprecher, Secretary Taylor Coons, Treasurer Wade Lee
Directors: Jeremy Campbell, Aaron Hammer, Nicholas Koch, Michael Sowards, Aileen Yeh



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February 14, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TESTIMONY ON HB 2028, HD1
RELATING TO THE LABELING OF PRODUCTS

Conference Room 329 & Via Videoconference
2:00 PM

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

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 provides comments on HB 2028, HD1, which merges the Made in Hawaii with Aloha branding program with the Hawaii Made program under the Department of Business, Economic Development, and Tourism. Specifies that the Department of the Attorney General shall be responsible for enforcement of the program, repeals the Made in Hawaii with Aloha program, clarifies that calculations to determine whether a non-perishable good labeled "Hawaii Made" or "made in Hawaii" has met the requirement that at least 51% of the wholesale value of the product is added by production within the State include operating and overhead expenses incurred and spent within the State.

Act 002, Special Session 2021 transferred the oversight of the "Hawaii Made" program for manufactured products and the "Hawaii Made" trademark to the DBEDT. Currently, HDOA owns and enforces the "Made in Hawaii with Aloha" trademark for products that meet or exceed the requirements of HRS 486-119. We believe that HDOA is the agency best equipped to enforce the "Made in Hawaii with Aloha" (MIHA) branding program due to its expertise and experience with Hawaii-made and Hawaii-processed products. We are also concerned that there may be some confusion between "Made in Hawaii" and "Made in Hawaii with Aloha". What happens to the "Made in Hawaii with Aloha" branding program should it be repealed as required in this bill? Will the current MIHA branding program members need to discontinue using the MIHA label? What happens to the "Grown in Hawaii" Program which is part of the Made in Hawaii with Aloha Program?

We appreciate the Legislative intent to merge the Made in Hawaii with Aloha branding program with the Hawaii Made program to avoid confusion and for consistency. We have concerns with the transfer of the enforcement of the "Made in Hawaii" program to the Attorney General by repealing the current enforcement authority held by HDOA, because of the impacts it may have on HDOA's current MIHA program participants.