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SYLVIA LUKE
Lt. Governor



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DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND FOOD SYSTEMS

WEDNESDAY, FEBRUARY 7, 2024
9:30 AM
CONFERENCE ROOM 325

HOUSE BILL NO. 2737
RELATING TO AGRICULTURE

Chair Gates, Vice Chair Kahaloa and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2737 that amends agricultural-based commercial operations (Section 205-2(d)(15)) in the Agricultural District by prohibiting roadside stands from displaying and selling value-added products and establishing a minimum percentage of agricultural products that must be produced on the property in order to be offered for sale. The amendments affect roadside stands, retail activities in enclosed structures, and retail food establishments, all of which must be owned and operated by producers. The problem being addressed is businesses claiming to be agricultural-based commercial operations but not accessory to agricultural operations on the property where they are located. The Department of Agriculture offers comments.



The Department supports value-adding and the sales and consumption of fresh locally grown fruits and vegetables as fundamental to increasing local food self-sufficiency in Hawaii. We also understand the desire to reduce the number of non-compliant operations posing as agricultural-based commercial operations. However, we believe that verifying the contents of value-added products and agricultural products sold or made into prepared foods are at least 50 percent sourced from the property on which the commercial operation is located may be difficult to enforce.

Thank you for the opportunity to present our testimony.



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February 8, 2024

COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

Rep. Cedric Asuega Gates, Chair

Rep. Kirstin Kahaloa, Vice Chair

Committee Members

HB 2737

RELATING TO AGRICULTURE

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization dedicated to protecting the environment, human health, and cultural and natural resources is in **strong support** of HB 2737.

"Agricultural-based commercial operations" is a permitted use in the agricultural district, as defined in HRS 205-2 (d) 15. The Legislation establishing this type of business activity was meant to help bona fide farmers stay profitable and continue to farm in Hawaii.

Curiously, this law to support local farming production allows retail activities and food establishments on agricultural land without a requirement to produce agricultural on the land. The requirement that these businesses feature "agricultural products grown in Hawaii, and value-added products that were produced using agricultural products grown in Hawaii" is virtually no requirement at all.

Why is there no minimum requirement of agricultural activity on the land for agricultural-based commercial operations? Who could argue against a requirement that agricultural activity occurs on ag land?

Businesses now sell coffee, acai bowls, and prepared food on agricultural lands along busy highways without any nexus to farming, on land not zoned for commercial activity. This could not have been the intent of Act 113 back in 2012, when the effort was made to augment farmer income opportunities. Unfortunately, a gigantic loophole that hurts, rather than helps farming, was created. Non-agricultural use of ag land hurts legitimate agriculture production.

Now is a good time to close this loophole by establishing a minimum standard for local agricultural production for agricultural-based commercial operations. Please pass HB2737.



Hui o Kamananui

Protecting & Preserving Agricultural Lands on the North Shore

House Committee on Agriculture & Food Systems
Wednesday, February 7, 2024
9:30 a.m., Room 325

Testimony in Support of HB 2737

Aloha, Chair Gates and Members of the House Committee on Agriculture.

Hui o Kamananui is a community group in Waialua committed to protecting and preserving agricultural lands on the North Shore of Oahu. We stand in **strong support of HB 2737**.

This bill is necessary to correct a major flaw in Hawaii's laws governing agricultural-based commercial operations. Presently, there is no requirement that any of the agricultural products displayed and sold by these businesses are grown on the relevant subject property. The law requires only that some undefined amount of agricultural product is grown in Hawaii.

Example: Last year, the City and County of Honolulu granted a conditional use permit, minor, and special management area permit, minor, to a landowner who proposes to operate an agricultural-based commercial operation along Kaukonahua Road in Waialua. The land is fallow, yet the owner plans to sell coffee and tea from one new storefront, pizza and sandwiches from a second window, and distilled products from a third business. **None, or virtually none, of the items sold will be grown on-site.** Besides buying Kona coffee and maybe some tomatoes, it is unclear how these businesses support agricultural production anywhere in Hawaii, let alone on-site. These businesses should be located on urban zoned land, not agricultural.

Non-agricultural commercial operations on agricultural lands sidestep county planning considerations, defy statewide efforts to protect agricultural land for agricultural production, and ultimately harm real farmers by competing for precious land.

It should not be too much to ask that agricultural-based commercial operations be required to grow something on their land. The only real question, really, is whether 50% is the appropriate minimum requirement.

Keep the North Shore Country

House Committee on Agriculture & Food Systems
Wednesday, February 7, 2024
9:30 a.m., Room 325

Testimony in Support of HB 2737

Aloha, Chair Gates and Committee.

Keep the North Shore Country is in **strong support of HB 2737**.

Prior to 2012, Hawaii law protected agricultural lands from non-agricultural retail operations by allowing only open-air roadside stands to sell produce grown on the subject property. In an effort to allow additional revenue streams to support farming profitability, Act 113 in 2012 established “agricultural-based commercial operations.”

The problem with the existing law is that it does not require any food to be grown on the subject property! Rather, HRS 205-2 (d) 15 requires merely the sale of “products grown in Hawaii” and value-added products that were produced using agricultural products grown in Hawaii.”

Consider a coffee shop justifying its location on ag land because it sells coffee grown on another island; a retail operation selling smoothies and acai bowls based on their use of bananas grown somewhere else in Hawaii; someone trying to sell pizza and sandwiches on fallow land. These are real examples, today, that defy efforts to protect agricultural land for local food production.

Who could possibly argue that at least some food should be grown on the subject ag land?

There should be some minimum standard in the law for these retail activities on agricultural land. This bill can be the vehicle to define a rational requirement for locally grown food used by agricultural-based commercial operations.

Thank you for helping reduce this this giant loophole that allows the proliferation of non-agricultural use of Hawaii’s agricultural lands.

Testimony of Jon Okudara
on
H.B. No. 2737 Relating to Agriculture
Committee on Agriculture & Food Systems
Wednesday, February 7, 2024
9:30 a.m.

I would like to offer the following comments on H.B. No. 2737, which proposes to amend the minimum percentage of agricultural products in value-added products offered for sale at agricultural-based commercial operations operated by a producer.

This law was passed in 2012 to provide more profit-making opportunities for agricultural producers, to promote synergies among Hawaii's agricultural producers, and to preserve agriculture by making it profitable.

Act 113, SLH 2012, added as permissible accessory use in an agricultural district "agricultural-based commercial operations," which included:

- A roadside stand that is not an enclosed structure, **owned and operated by a producer** for the display and sale of ***agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii***;
- Retail activities in an enclosed structure **owned and operated by a producer** for the display and sale of ***agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items***; and
- A retail food establishment **owned and operated by a producer** and permitted under chapter 12 of the rules of the department of health that prepares and serves food at retail using ***products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii***.

A "producer" is defined in section 237-5, as "any person engaged in the business of raising and producing agricultural products in their natural state..." and describes "agricultural products" to include "floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and other farm, agronomic, or plantation products."

A similar amendment was proposed in 2017 to require value-added products contain at least fifty per cent Hawaii grown products.

It was pointed out that most value-added products use off-grade agricultural products, which cannot be sold as grade-A produce in the retail markets. Further, many value-added products do not contain fifty per cent Hawaii grown products. For example,

lilikoi butter is mostly butter, not lilikoi, which is grown on the farm; banana bread would be like pudding if it was required to be fifty per cent banana.

The important requirement is that the:

- Operation is headquartered and registered in Hawaii;
- Operator is a person raising and producing agricultural products in Hawaii; and
- If the producer owns and is operating a retail food establishment using agricultural products grown in Hawaii, it is being done according to the rules of the Department of Health.

The objective of the legislation, in 2012, was to maximize the money-making opportunities for producers of agricultural products in Hawaii. A fifty percent requirement for value-added products would not be good for producers.

Thank for the opportunity to offer these comments.

HB-2737

Submitted on: 2/7/2024 8:50:58 AM

Testimony for AGR on 2/7/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Adam Borrello	North Shore Community Land Trust	Support	Written Testimony Only

Comments:

House Committee on Agriculture & Food Systems Wednesday, February 7, 2024
9:30 a.m., Room 325

Testimony in Support of HB 2737

Aloha, Chair Gates and Committee.
North Shore Community Land Trust is in strong support of HB 2737.

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“products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.”

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Who could possibly argue that at least some food should be grown on the subject ag land?

There should be some minimum standard in the law for these retail activities on agricultural land. This bill can be the vehicle to define a rational requirement for locally grown food used by agricultural-based commercial operations.

Thank you for taking step to ensre agricultural lands are protected for their intended use in Hawaii.