

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
Deputy to the Chairperson

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

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

FEBRUARY 1, 2022

9:30 A.M.

CONFERENCE ROOM 229 & VIA VIDEOCONFERENCE

SENATE BILL NO. 2906
RELATING TO AGRICULTURE

Chairperson Baker and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2906. This measure extends the offense of false labeling of Hawaii-grown coffee to include roasted coffee and imposes \$10,000 fine for false labeling of Hawaii-grown roasted coffee. The Department supports the intent of this bill and offers comments.

The Department supports the Hawaii coffee industry and the use of unique geographic coffee growing regions to market, advertise and sell Hawaii-grown coffee. Also, the Department supports the increased fines and increased punitive measures for misrepresenting roasted coffee labeling and counterfeiting. However, it is difficult to determine if the product is not what is stated. This bill may be a larger deterrent to promoting a false product but it is very difficult to prove that there is a violation without available testing to determine exact product origination. There is no commercial



equipment or industry standard to test roasted coffee and verify the origin to effectively prove a violation or fraudulent occurrence. Increasing the fine and extending the violation to a class C felony is important, but more support for enforcement and evidentiary findings are needed.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 2906, RELATING TO AGRICULTURE.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Tuesday, February 1, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Jodi K. Yi, Deputy Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill states that its purpose is “to extend the penalties of a Class C felony and a \$10,000 fine, for each separate offense, to Hawai‘i-grown roasted coffee that is falsely labeled” with regard to its geographic origin. Page 2, lines 5-8. However, each separate offense is already a Class C felony pursuant to the existing statute (section 708-871.5, Hawaii Revised Statutes). Thus, if the intention of this bill is to make each act of false labeling chargeable as a separate offense, the bill should clearly state that each act is chargeable as a separate offense.

Also, the wording regarding the fine is unclear. Currently, every defendant convicted of a standard class C felony is subject to a fine of \$10,000 or up to five years of incarceration, or both (sections 706-640(c), 706-660, and 706-605, Hawaii Revised Statutes). If the bill intends for the offense to carry a mandatory fine of \$10,000, we recommend the bill clearly state that.

We suggest that page 3, lines 1-3, be worded as follows:

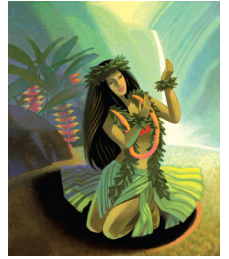
“(3) False labeling of Hawaii-grown coffee is a class C felony.[.] The court shall sentence the person or business convicted of this offense to a mandatory fine of \$10,000 for each separate offense, along with any other

terms or conditions the court deems appropriate pursuant to section 706-605, Hawaii Revised Statutes. The fine imposed by the court for this offense may not be suspended or waived. The fine imposed for each separate offense under this section may not be run concurrently with any other fines imposed by the court.”

Thank you for the opportunity to present this testimony.

HAWAII COFFEE COMPANY™

1555 Kalani Street
Honolulu, Hawaii 96817
Ph: 808-847-3600
Fax: 808-847-7900
www.hicoffeeco.com



TO: Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair
Committee on Commerce and Consumer Protection

FROM: Gerard Bastiaanse
President- Hawaii Coffee Company

RE: **SB 2906 Relating to Agriculture – In Support**
February 1, 2022; 9:30 a.m.

Aloha Chair Baker, Vice Chair Chang and members of the committee:

Hawaii Coffee Company is in strong support of SB 2906, which extends the offense of false labeling of Hawaii-grown coffee to include roasted coffee and imposes a \$10,000 fine for false-labeling of Hawaii-grown roasted coffee.

Our company complies with the FDA's strict food labeling laws, as well as Hawaii state labeling regulations. False labeling of Hawaii coffee products is a serious matter that harms both consumers as well as the coffee industry in Hawaii.

We ask for your favorable consideration in passing this measure. Thank you.

SB-2906

Submitted on: 1/30/2022 6:34:34 PM

Testimony for CPN on 2/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
James Kimo Falconer	Testifying for Hawaii Coffee Growers Association	Support	No

Comments:

Please consider supporting SB 2906. The Hawaii coffee counterfeiting issue is constantly staring us in the face anytime one were to walk into a retail store that has a coffee aisle. This law will give the violators pause to consider if cheating the system is really worth it. False-labeling must come to a stop.

Mahalo, Kimo Falconer, President, Hawaii Coffee Growers Association

SB-2906

Submitted on: 1/31/2022 8:59:24 AM

Testimony for CPN on 2/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Roger Kaiwi	Testifying for Kona Coffee Council	Support	Yes

Comments:

The Kona Coffee Council is in favor of any bill which truly protects the industry. We are however very concerned about enforcement.



PO Box 168, Kealahou, HI 96750

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

February 1, 2022

RE: STRONG SUPPORT for SB2906; Relating to Agriculture

Aloha Chair Baker, Vice Chair Chang 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 - located throughout the State of Hawaii and positioned throughout the supply chain.

The HCA applauds the introducers and co-sponsors of this measure. They are aiming an existing law directly at the problem and giving it teeth. This is landmark legislation for our industry.

SB 2906 moves to add roasted coffee to the existing false-labeling statute HRS 708-871.5. When this statute was originally enacted in 2011 it was limited to green coffee, cherry coffee, and parchment coffee. Since the overwhelming fraud known as "false labeling" or counterfeiting occurs in roasted coffee, the law had little impact. Moreover, the current statutory penalties are inadequate to produce a deterrent effect.

Counterfeit coffee introduced into the marketplace undermines the hard work of Hawaii's growers and producers, who are forced to compete with fake products. These fakes are often priced below the cost of production of genuine Hawaiian coffee. This creates downward price pressure during a time when costs are increasing for producers. Labor is up. Fertilizer is up. Pest control is up. Transportation is up. Growers work tirelessly to produce some of the finest coffee grown anywhere. This is necessary so they can command a high price; to stay in business, pay their employees and feed their families. When they visit the supermarket, they are outraged that coffee is on the same shelves as their own, being offered at a price less than their cost of production. You may ask how this is possible. It's possible because unethical sellers introduce foreign grown coffee into their packaging, lie to their customers by telling them it's a Hawaii-grown product and reap their ill-gotten gains. Hawaii's coffee growers are squeezed between a high cost of production and price competition based on nothing but unmitigated greed.

Moreover, these inferior fakes often do not share the same quality attributes of the genuine product, further undermining Hawaii's reputation and brands.

When someone cashes in on our hard-fought reputation by offering fake products in a package labeled as being of Hawaiian origin, it undermines the work of our entire industry - including those who came before and those who will follow.

We respectfully ask you to pass SB2906 unamended.

Please accept our thanks and respect on behalf of the legitimate hard-working coffee producers located throughout the State of Hawaii.

LATE

SB-2906

Submitted on: 1/31/2022 10:04:37 AM

Testimony for CPN on 2/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Suzanne Shriner	Testifying for Synergistic Hawaii Agriculture Council	Support	No

Comments:

Synergistic Hawaii Agriculture Council, a consortium group representing growers statewide, supports the move to include roasted coffee in the counterfeiting laws. When Hawaii is on the label, Hawaii should be in the bag. It means more income for our growers and a better product for consumers.

Mahalo,
Suzanne Shriner
Administrator.

SB-2906

Submitted on: 1/31/2022 10:31:44 AM

Testimony for CPN on 2/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thomas Greenwell	Testifying for Greenwell Farms inc	Support	No

Comments:

Greenwell Farms is a farming, processing, roasting, retailing and exporting company in Kona of 100% Kona. Coffee. We know there is a great amount of Fraudulent Kona coffee on the market here in Hawaii as well as nationwide. This bill will help the Farmers in the state as well protect our customers from purchasing fake Kona coffee.
please support this bill.

Thank you,

Thomas Greenwell

SB-2906

Submitted on: 1/30/2022 10:41:09 AM

Testimony for CPN on 2/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Rudolph	Individual	Support	No

Comments:

Support