

**JOSH GREEN, M.D.**  
Governor

**SYLVIA LUKE**  
Lt. Governor



**SHARON HURD**  
Chairperson, Board of Agriculture

**MORRIS M. ATTA**  
Deputy to the Chairperson

State of Hawai'i  
**DEPARTMENT OF AGRICULTURE**  
KA 'OIHANA MAHI'AI  
1428 South King Street  
Honolulu, Hawai'i 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

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

**BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT**

**WEDNESDAY, MARCH 15, 2023  
10:00 A.M.  
CONFERENCE ROOM 423 AND VIDEO CONFERENCING**

**SENATE BILL NO. 756 SD1  
RELATING TO ECONOMIC DEVELOPMENT**

Chair Holt and Members of the Committee:

Thank you for the opportunity to present testimony on Senate Bill 756 SD1. This bill establishes the Access to Local Food Act by amending Chapter 328, HRS, to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health.

The Department of Agriculture appreciates the intent of this measure and provides the following comments. With the escalating cost of living facing many local residents and potential food entrepreneurs, the Department acknowledges there is great interest in small-scale cottage food operations across the state. This measure could help small and startup businesses, particular in rural areas to produce, and deliver innovative cottage foods to markets. Additionally, this effort could elevate the contribution of cottage food operations to the local economy by providing direct sales to consumers, regional food hubs, and farmers' markets. All these activities generate revenues, create jobs, raise tax revenues, and keep the money circulating in Hawaii. Lastly, the Department defers the permitting process to the Department of Health.

Thank you for the opportunity to testify on this measure.





**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 756, S.D. 1, RELATING TO ECONOMIC DEVELOPMENT.

**BEFORE THE:**

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

**DATE:** Wednesday, March 15, 2023      **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 423

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Wade H. Hargrove III, Deputy Attorney General

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Chair Holt and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this measure is to add a new part to chapter 328, Hawaii Revised Statutes (HRS), to allow for the sale of homemade or farm-made foods and to prescribe the manner in which such foods, defined as "cottage food products," shall be prepared, packaged, labeled and sold. Additional provisions in this new part require cottage food operators to obtain training certification, third party or Department of Health (DOH) menu approval or product testing, and a permit.

This bill appears to contain the following conflicting or inconsistent provisions:

- (1) The definition of a "cottage food operation" appears to limit all sales under the new part to direct sales to consumers and not through a third party. See page 2, line 18, and page 3, lines 11 to 14. However, other provisions appear to contemplate sales through third parties. See page 10, lines 19 to 21, and page 11, lines 4 to 6 (allowing for sale by an agent or third-party vendor, such as a retail shop or grocery store). For clarity, we suggest removing the conflicting limitation in the definitions and placing any specific restriction into the conditions for exemption on page 10, line 9. through page 12, line 9.
- (2) This measure requires cottage food operators to obtain a permit. Yet, there is also a reference to operators being separately "registered with the

department" on page 8, lines 1 to 3. The registry obligation is not clarified elsewhere in the bill and may be inconsistent with a permitting scheme. As a result, we suggest that this single reference to being registered with the DOH be deleted or, in the alternative, a new section for registration created prescribing more precisely what is required for registration and how the registry is to function.

Additionally, the duration of a permit issued under the new part is unclear. The bill states that if a permit remains valid and "unencumbered within the first year of issuance, subsequently renewed permits shall remain valid for two years." See page 8, line 15. The word "unencumbered" is not defined and it is uncertain, without further explanation, what kind of encumbrance would render a permit invalid. We suggest either that this condition be deleted or that a description be provided of what constitutes an "encumbered" permit.

We appreciate the opportunity to testify on this measure.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
P. O. BOX 3378  
HONOLULU, HI 96801-3378  
[doh.testimony@doh.hawaii.gov](mailto:doh.testimony@doh.hawaii.gov)

In reply, please refer to:  
File:

**Testimony in OPPOSITION to SB0756 SD1  
RELATING TO ECONOMIC DEVELOPMENT**

REPRESENTATIVE DANIEL HOLT, CHAIR  
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

Hearing Date: 3/15/2023

Room Number: 423

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's (Department) appropriations and  
3 personnel priorities.

4 **Department Testimony:** The Department respectfully opposes this measure.

5 The Department already allows food products that are not time/temperature control for  
6 safety (TCS) or not potentially hazardous, to be made in a home kitchen and sold directly to  
7 consumers. These are classified as "Homemade Food Operations" in Hawaii Administrative  
8 Rules (HAR) Title 11, Chapter 50, Food Safety Code (HAR 11-50). The "homemade food  
9 products" are required to be labeled to indicate that they are made in a home kitchen not  
10 routinely inspected by the Department. The operators of these "homemade food operations" are  
11 also required by HAR 11-50 to obtain a food safety certification issued by the Department or by  
12 third party vendors that the Department recognizes as valid.

13 The Department will oppose any attempt to expand "cottage foods" or "homemade food  
14 products" to include foods that require time/temperature controls to prevent or eliminate the  
15 growth of pathogenic bacteria that are known to cause foodborne illnesses. HAR 11-50 adopted  
16 the 2013 version of the U.S. Food and Drug Administration (FDA) model Food Code that does  
17 not allow home kitchens to be used for the commercial preparation of certain foods. These foods  
18 include beef, pork, poultry, seafood, cooked starches including cooked plant products that  
19 become TCS when heat-treated, cooked, fermented, pickled, canned, and/or dried.

1           The measure proposes to allow the use of home kitchens to produce TCS foods, which  
2 would be dangerous to public health for the following reasons:

3           1)     A home kitchen may contain person(s) with communicable diseases. Existing  
4 HAR requires permitted food establishments (FE) owners and operators to restrict all persons  
5 with gastrointestinal or other communicable diseases from the FE. This is not likely to happen in  
6 an environment where infected occupants cannot be restricted from their home;

7           2)     Private homes are not suitable as an FE as it cannot be inspected at all times  
8 during operation as allowed by HAR 11-50. A home can potentially operate a “cottage food”  
9 operation 24 hours a day, 7 days a week, 365 days out of the year;

10          3)     The Food Safety Branch’s (FSB) Food Safety Specialists (FSS) may conduct  
11 inspections at an FE any time, during their operating hours under HAR 11-50. This allows  
12 accessibility by an FSS to enter an FE and perform an unannounced routine or complaint  
13 inspection. It would be difficult, if not impossible, to conduct a unannounced routine inspection  
14 at a “cottage food” facility that is someone’s private home;

15          4)     If the homeowner refuses inspection, the Department would have to obtain a  
16 search warrant from a judge which would not be timely and could delay food disease outbreak  
17 investigations that may be associated with serious illnesses or death;

18          5)     The FSB FSS and supervisors are represented by dedicated men and women and  
19 it is not safe sending them into a person’s private home. The FSB does not have the requisite  
20 staffing to conduct inspections in pairs to prevent any inferences of misconduct or to prevent  
21 harassment during an inspection.

22          6)     Private homes typically will contain household chemicals and cleaners not  
23 approved for use in the Department’s permitted Fes;

24          7)     Prescription, over-the-counter medications, and the like are prohibited in a  
25 permitted FE. In a private home, there is a possibility of adulteration by these items into the food  
26 product they are producing; and

27          8)     Presence of pets (dogs, cats, birds, rodent-like pets, etc.) may adulterate the food  
28 product they are producing;

29          The Department’s FSB has a long history of working with industry and other community  
30 members in utilizing the public hearings process in updating and changing rules to be more

1 progressive. The FSB codified the current allowance for non-TCS food products that are  
2 homemade and sold directly to the consumer in 2014. We prefer that the legislature allow us to  
3 continue this practice for any changes to HAR 11-50. We will not consider allowing a private  
4 home to produce TCS foods unless the above issues can be addressed and standardized by the  
5 FDA or the FDA adopts a “Cottage Food” control measure in the FDA model Food Code of  
6 which the State of Hawaii uses primarily to regulate the food industry in Hawaii.

7 Thank you for the opportunity to testify.

8 **Offered Amendments:** None.



**House Committee on Economic Development**

**Hawai'i Alliance for Progressive Action (HAPA) Supports: SB756 SD1**

Wednesday, March 15, 2023 10am Conference Room 423

Aloha Chair Holt, Vice Chair Lamosao and Members of the Committee,

HAPA supports SB756 SD1, which would establish the Access to Local Food Act to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health.

Cottage food bills such as SB756 SD1 grow local sustainable economies. Bills such as these allow small-scale producers to use non-licensed kitchens to process and sell certain food products. Allowing for processing in-home can take advantage of resources already in place and allow food entrepreneurs to test out techniques and products before making a large financial commitment. To date, cottage food legislation has passed in over 40 states<sup>1</sup>.

State laws require all food producers to process foods in licensed commercial kitchens, regardless of the type of food or size of business. The primary purpose of such regulation is to decrease the public's risk of foodborne illness. This is fine for the typical high-revenue, established business, but it can create a substantial obstacle for small processors just getting started. Licensed commercial kitchens can be prohibitively expensive to construct. Although renting time in a kitchen is an option for some producers, it can also be limiting due to cost or lack of availability. This creates a high barrier to entry for food entrepreneurs trying to enter into the marketplace.

Please pass SB756 SD1 with a reasonable start date to provide support to our small producers as soon as possible.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick, Executive Director

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<sup>1</sup> <https://socapglobal.com/2015/07/cottage-food-laws-are-growing-local-sustainable-economies/>





INSTITUTE FOR JUSTICE

**Testimony in Support of Senate Bill 756 SD1**

March 14, 2023

Dear Chair Holt and Members of the House Committee on Economic Development:

Thank you for the opportunity to submit written testimony in support of Senate Bill 756 SD1. I am an attorney at the Institute for Justice. We are a nonprofit organization that has helped cottage food producers reform restrictive laws that prevent them from earning a living. We support this bill because it will expand economic opportunity while increasing access to local food.

Cottage food businesses are a way for people with big dreams but little capital to start small in their own homes without having to spend thousands of dollars on professional equipment and commercial kitchen space. Nearly every state across the country recognizes these businesses as job creators and revenue generators, but Hawaii's regulatory approach is pushing this business model out of reach for many in the state.

At the Institute for Justice, we have studied the effects of cottage food businesses on local economies and communities and researched food safety. We have consulted experts, reviewed CDC data, and followed up with health departments in states that have expanded their cottage food laws in ways that are similar to the approach this bill takes. Our research confirms that cottage food is inherently safe for producers and consumers and that cottage food businesses help bolster local economies and stimulate economic growth in their communities.<sup>1</sup>

This bill brings much needed reform for the state's cottage food producers. Unlike the majority of states that have cottage food laws, Hawaii's current regulatory framework has been set by rule, and these rules are quite restrictive compared to the laws in other states. This bill strikes the right balance between expanding economic opportunity for cottage food producers and protecting food safety. It ensures cottage food producers receive food safety training specific to the types of food they sell and broadens the varieties of food that can be sold and where producers can sell them. Lastly, it ensures that consumers have the information they need to make informed decisions about whether to purchase and consume cottage food.

Six states—Iowa, Montana, North Dakota, Oklahoma, Utah, and Wyoming—have enacted similar laws to support the local production of homemade food and to give cottage food producers and consumers the greatest ability to sell and buy the homemade food of their choice. In Wyoming, the state has broadly allowed a wide variety of cottage food sales for several years, and to date there have been no reported outbreaks of

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<sup>1</sup> Jeffrey K. O'Hara, Marcelo Castillo, Dawn Thilmann McFadden, Do Cottage Food Laws Reduce Barriers to Entry for Food Manufacturers?, *Applied Economic Perspectives and Policy* (2020), volume 00, number 00, pp. 1-17, <https://foodsystems.colostate.edu/wp-content/uploads/2020/07/aep.13047.pdf>.



INSTITUTE FOR JUSTICE

foodborne illness related to cottage food in the state. Wyoming's law has received national recognition for safely increasing access to local food and opportunity.<sup>2</sup>

In conclusion, this bill pragmatically expands opportunities for cottage food producers and consumers without compromising food safety. We encourage the committee to support these important reforms.

Sincerely,

Meagan Forbes  
Senior Legislative Counsel  
Institute for Justice  
Email: [mforbes@ij.org](mailto:mforbes@ij.org)

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<sup>2</sup>CBS This Morning, State law makes locally-sourced food more accessible than ever for Wyoming residents, Aug. 15, 2020, <https://youtu.be/iOnI8iuy2XE>.



P.O. Box 253, Kunia, Hawai'i 96759  
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March 15, 2023

HEARING BEFORE THE  
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

**TESTIMONY ON SB 756, SD1**  
RELATING TO ECONOMIC DEVELOPMENT

Conference Room 423 & Videoconference  
10:00 AM

Aloha Chair Holt, Vice-Chair Lamosao, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

**The Hawai'i Farm Bureau supports SB 756, SD1**, which establishes the Access to Local Food Act to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health.

As expenses rise, increases in farm revenues and profits are critical to the continued viability of farms and ranches. One way farmers can do this is by "adding value" to raw agricultural crops. Currently, off-grade and excess production is sometimes wasted due to market conditions. Converting them into value-added products will not only increase farm revenue but also provide new business opportunities, increase employment opportunities, and address Hawai'i's goals of increased self-sufficiency and sustainability.

The Access to Local Food Act can provide benefits to our local agricultural sector by encouraging farmers to diversify their farming operations to incorporate value-added products as another avenue for revenue as well as increase sales of locally grown products to Cottage Food businesses. Communities will also benefit from greater access to locally produced foods.

We are concerned that potentially hazardous cottage food products are included as part of the Access to Local Food Act. We support non-potentially hazardous cottage food products as part of the Local Food Acts and defer to the Department of Health regarding potentially hazardous cottage food products.

Thank you for the opportunity to testify on this important subject.



March 15, 2023

10:00 a.m.

VIA VIDEOCONFERENCE

Conference Room 423

**To: House Committee on Economic Development**

**Rep. Daniel Holt, Chair**

**Rep. Rachele F. Lamosao, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Jonathan Helton, Policy Researcher**

RE: SB756 SD1 — RELATING TO ECONOMIC DEVELOPMENT

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB756 SD1](#), which would allow cottage food operations to sell cottage food with a permit from the state Department of Health.

We commend the Legislature for examining ways to reduce unnecessary regulation and provide new opportunities for local businesses. Expanding access to cottage food is a smart, relevant way to help small businesses and local food producers.

In the past several years, Hawaii lawmakers, farmers and the general public have taken an increased interest in local agriculture and food production. Many express the desire to make Hawaii more self-reliant and sustainable.

The state Department of Agriculture and various other state agencies have invested significant resources in Hawaii's food-production capabilities. This bill augments those efforts by reducing red tape on selling locally produced food.

By focusing on smart regulation, SB756 could help decrease the cost of operating a cottage food establishment.

In addition, providing new opportunities for Hawaii's residents to become entrepreneurs is exactly what we recommended in our "[Road map to prosperity](#)" report, issued in May 2020. Its suggestions are just as relevant today as Hawaii continues to recover and deals with rampant inflation as well.

In that report, we focused on strategies to rebuild the state's economy following the COVID-19 pandemic and lockdowns.

We emphasized the importance of implementing regulatory reforms that would help local businesses innovate, explore different products and services and reach new customers.

One of the recommendations offered was that the Legislature "remove county zoning and licensing restrictions on home-based businesses and state restrictions on cottage foods."

It said, "The simplest approach would be to enact statewide legislation that protects home-based businesses that are compatible with residential use, secondary to residential use, and do not adversely impact the community."

This measure would further that goal and provide Hawaii families with new potential income streams that would contribute to the local economy and a more sustainable, diversified future.

Thank you for the opportunity to testify.

Jonathan Helton  
Policy Researcher  
Grassroot Institute of Hawaii



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Waimanalo, O'ahu

Vincent Kimura  
Honolulu, O'ahu

Ray Maki  
Kauai

Aloha Chair Holt, Vice Chair Lamosao, and Members of the House Economic Development Committee,

The Hawaii Farmers Union United (HFUU) is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports SB756.**

This bill allows cottage food operations to sell cottage food products, under certain conditions and with a permit from the Department of Health. We believe that this bill would have a positive economic impact on small farmers and local food producers.

Short of a long-term federal agricultural policy, this bill could provide an opportunity for small-scale producers to increase local food production to assure that the islands continue to meet the needs of its citizens. This would also enable local and regional food producers to access local markets. In addition, this bill presents local food producers an opportunity to diversify their offerings, ultimately diversifying their sources of income. In so doing, SB756 provides an opportunity for small-scale farmers to achieve greater financial success and independence, leading to a stronger Hawaii economy.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

**LATE**

**LATE**

March 15, 2023

Dear Chair Hold, Vice-Chair Lamosao, and Members of the House Committee on Economic Development:

Thank you for the opportunity to submit testimony in support of SB756. I am the owner of Sally Jane's Sweets and Savories, a cottage food bakery I started in September of 2020. I am based on the Big Island, and I vend at two regular local markets, occasional specialty events, and I provide custom cakes and desserts for family celebrations. A major focus of my business is to utilize local, seasonal fruits and products as much as possible, and I have developed supportive business relationships with local farmers, producers and businesses as a result. While my customer base consists of both residents and tourists, I find that my customers go out of their way to support local businesses. The demand for locally made food is considerable. I also serve the gluten free/ceeliac and vegan (dairy and egg free) communities, which while a minority, are happy to know there are safe treats available for them to enjoy.

Hawaii can be an economically challenging place for many people who live here. Having multiple ways to bring income into the family, including making food for sale at local markets and venues, can make a big difference in a person's life, and can save on commute time, childcare, gas and other things that complicate job opportunities. Having the ability to create foods for others to enjoy from a home kitchen has been an indispensable part of my ability to make a living, as I know it is for others as well.

I am often approached by coffee shops, retail establishments and other businesses wanting to work with me and carry my products. I also get frequent inquiries to ship my goods. I have to turn down all of these opportunities, as current regulations prohibit them. SB756 would expand opportunities for not only

the cottage food producers alone, but to other business as well who can increase their offering of locally made products for their customers. Farmer's markets, while a great way to meet and talk story with customers, can also be inconsistent. Markets are sometimes cancelled for weather and other reasons, often with short notice. For someone with perishable food items like myself, this can be a real hardship. If I bake a few hundred dollars worth of product and a market is cancelled, that all becomes waste as I cannot sell it a week or two later. Having other opportunities, such as wholesale accounts, creates a layer of financial stability for a business such as mine.

I greatly enjoy running my business - seeing the joy of people's faces as they sample one of my treats, being a part of family celebrations, and contributing to and supporting the local economy in multiple ways. Please support this initiative to open opportunities and markets that will enable cottage food producers like myself to thrive.

Sincerely,

Sally Stewart  
Founder and Head Flour Wrangler  
Sally Jane's Sweets and Savories



**SB-756-SD-1**

Submitted on: 3/14/2023 5:50:22 AM

Testimony for ECD on 3/15/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of SD1. Thank you.

Dear Committee Chairs,

I specialize in homemade jams made from our local fruits that I and other farmers here on the Big Island grow. I am glad that I currently can cook jam at home. However, for me to grow my business and make a decent living (I am struggling to get by right now) I need to sell online and wholesale to local stores like the coffee shop down the street. I am prohibited on doing that with the current guidelines for cottage industry. Likewise, I am only allowed to do Jams and I would like to expand into BBQ sauces, Salsa and relishes. I am currently working on getting my application approved to use a commercial kitchen from the Health Dept. This approval process is lengthy, costing me an initial \$1500.- for lab testing and an additional \$617./ a month for time testing for only 8 of my 30 flavors. Then I will be required to use a commercial kitchen that can cost between \$20-\$50. an hour depending on location and availability. Then I would only be allowed to make the 8 flavors I had tested. I would love to be able to hire someone and grow my business, however these costs will be prohibitive and price my product out of the market.

Food safety is a top priority for people in the cottage food industry. If someone got sick form my product, I would feel terrible, and it would also ruin my business. I have taken a the Hawaii Master Food Preservers (HMFP) course that teaches the science and art of preserving locally grown foods and I have a certificate from them. I have my Hawaii State Food Handlers license. I am glad that this bill addresses concerns for food safety and helps to create a path for people who make food products from home that are safe.

Thank you for your consideration and helping small business owners.

Sincerely,

Rourk Reagan

[Wai'ōhinu, HI](#)