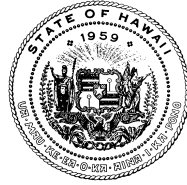


JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



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In reply, please refer to:
File:

**Testimony in OPPOSITION to HB1591HD1
RELATING TO MICROENTERPRISE KITCHENS**

REPRESENTATIVE KYLE T. YAMASHITA, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: 2/28/2024

Room Number: 308 & VIDEO CONF

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 of Health OPPOSES this measure.

5 The department opposes this bill for the reasons detailed in previous testimony on this measure.
6 The department already allows foods that do not require temperature controls for safety (TCS) or
7 non-potentially hazardous foods, to be made in a home and sold directly to consumers. These
8 are classified as "Homemade Food Operations" in HAR Title 11, Chapter 50, Food Safety Code
9 (HAR 11-50). These foods are already required to be labeled properly indicating that they are
10 not made in a DOH inspected facility. The operators of these "homemade food operations" are
11 also required by HAR 11-50 to have a basic Food Handlers Certificate issued by the DOH or
12 various third-party vendors that the DOH recognizes as valid.

13
14 The department opposes any attempt to expand "cottage foods" or "homemade foods" to include
15 foods that require temperature controls to prevent or eliminate the growth of pathogenic bacteria
16 that are known to cause food illnesses. Current chapter 11-50, HAR, adopted the 2013 Version
17 of the FDA model food code that does not allow home kitchens to be used for the commercial
18 preparation of food. Particularly problematic foods include beef, pork, poultry, seafood, cooked
19 starches including cooked plant products which become TCS when cooked, canned, or dried, all
20 of which this measure would allow to be sold by persons from their homes.

21
22 The utilization of private residences for commercial food production is simply inconsistent with
23 DOH's mission to protect public health. Private residences are not designed, nor are they
24 constructed to be commercial spaces and DOH cannot regulate them as such. DOH does not
25 have the staff time or resources to inspect person's homes, nor is it safe for state inspectors to do
26 so. A person has a reasonable expectation of privacy in their home, thus DOH inspections of a
27 person's residence will be little more than superficial. Moreover, as these homemade food
28 operations operate primarily as residences, the conditions of their operation can change

1 drastically in a short period of time making a DOH inspection worthless from a public health
2 perspective. There is simply no value in DOH inspecting homes that are not and cannot be
3 transformed into commercial spaces.
4

5 **Offered Amendments:**
6

7 The DOH opposes any effort to allow TCS food production for commercial distribution, but if
8 the legislature wishes to move this bill forward, DOH recommends the following changes:
9

- 10 1) Replace the proposed permitting requirements of this measure in § -2, with a system of
11 registration whereby homemade food operators submit information about their home or
12 farm kitchen and food production to DOH on forms prescribed by DOH to enable DOH
13 to adequately investigate cases of foodborne illness.
- 14 2) Delete § -3 (b).
- 15 3) Section § -4 is problematic as the measure asks the DOH to adopt rules to protect public
16 health by exempting 25 items that are critical to protecting public health. The DOH
17 cannot make rules regulating the food industry if we are prevented from doing so.

18
19 In summary, DOH strongly opposes this measure because it is inconsistent with DOH's mandate
20 to public health. If, however, this measure advances, DOH strongly recommends the following
21 core elements remain:
22

- 23 1) The creation of a registry and obligation to register as a homemade food operator so
24 that DOH may track food to its source and take appropriate action. In the context of
25 food production within a person's private residence, permitting is meaningless. It
26 serves as an effective regulatory tool only when used to establish and enforce clearly-
27 identified standards for operation and equipment, none of which will be present in the
28 home or farm kitchens this measure envisions.
- 29 2) Retention of DOH's authority to investigate and address foodborne illness via the
30 embargo and detention of adulterated articles pursuant to existing provisions of
31 chapter 328, HRS.
- 32 3) Consumer warning labels (buyer beware) of all homemade food products and a
33 requirement that traceback information be included.

34
35 Thank you for the opportunity to testify.

Feb. 28, 2024, 10 a.m.
Hawaii State Capitol
Conference Room 308 and Videoconference

To: House Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: COMMENTS IN SUPPORT OF HB1591 HD1 — RELATING TO MICROENTERPRISE KITCHENS

Aloha Chairs Yamashita, Vice-Chair Kitagawa and Committee Members,

The Grassroot Institute of Hawaii would like to offer its support for [HB1591 HD1](#), which would allow Hawaii residents to open small-scale food operations via the creation of microenterprise kitchens.

The bill further provides that these microenterprise home kitchen operations (MEHKOs) would be subject to permit and inspection requirements administered by the state Department of Health.

If enacted, this bill would put Hawaii on the forefront of states that have legalized MEHKOs in order to advance food freedom and allow entrepreneurs to launch home cooking operations.

MEHKOs are a smart small-business response to the high entry costs of opening a restaurant or food truck. They are also adaptable, making them a viable solution for chefs and cooks looking to start a new part-time business.

MEHKOs may be especially beneficial to individuals who face financial or practical barriers that make it difficult to launch a food business. Polling from the COOK Alliance, which supports the expansion of MEHKOs in California, found that 84% of those participating in this informal food economy are women, while 36% have an annual household income under \$45,000.¹

¹ ["Understanding Microenterprise Home Kitchens."](#) COOK Alliance, 2020.

Concerns over the safety of MEHKOs are addressed by the bill's permitting requirements, which allow for Department of Health inspections and compliance with comprehensive food safety rules.

In addition, the bill limits MEHKOs to small-scale and low-risk cooking processes, such as same-day preparation and service; curtails on-site consumption of food; and bars sales to third-party retailers or wholesalers.

Finally, this bill deserves praise for not including an artificial cap on MEHKO sales, as under California law. Given the financial challenges of operating a business in Hawaii, taking a "light touch" approach to regulation of a budding MEHKO program is the best way to help the industry grow.

Encouraging the creation of small food enterprises through HB1591 would be good for the economy and good for Hawaii's entrepreneurs.

The bill also would also further Hawaii's goal of producing more food in the state and boosting its food independence.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
Wednesday, February 28, 2024 AT 10:00 A.M.

To The Honorable Kyle T. Yamashita, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the Committee on Finance

SUPPORT FOR HB1591 RELATING TO MICROENTERPRISE KITCHENS

The Maui Chamber of Commerce **SUPPORTS HB1591.**

For generations, microenterprise home kitchens were where innovations and new products were made. For example, one of our Maui chefs, Bev Gannon, started in her home kitchen, which then expanded to multiple restaurants on island. By allowing microenterprise home kitchens, it offers an alternative to renting a certified commercial kitchen where they will need to drive to the location depending on the kitchen availability (sometimes at inconvenient hours), bring in and pack out all items (as there is often no storage), and possibly clean up after the previous tenant. Microenterprise kitchens alleviate significant time and expense from our small food manufacturers and may help to spur this industry.

We appreciate the inclusion of rules and management by the Department of Health as that will provide an appropriate level of safety and oversight.

Mahalo for the opportunity to **SUPPORT HB1591.**

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-1591-HD-1

Submitted on: 2/27/2024 7:28:33 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT.

MAHALO.