

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

**BEFORE THE SENATE COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION**

**FEBRUARY 3, 2023
9:30 AM
CONFERENCE ROOM 229 AND VIDEOCONFERENCE**

**SENATE BILL NO. 745
RELATING TO AGRICULTURE**

Chairperson Keohokalole and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 745. This measure extends the offense of false labeling of Hawaii-grown coffee to include roasted coffee. Imposes \$10,000 fine for each separate offense of false labeling of Hawaii-grown roasted coffee. Makes an appropriation for 1.0 FTE enforcement position. The Department of Agriculture (DOA) supports this measure.

DOA supports the appropriation of funds to hire one full time measurement standards inspector for the purpose of labeling and packaging enforcement and inspection. The inspector will help rebuild DOA's capability to address labeling enforcement challenges in various Hawaii products especially with roasted coffee. The inspector will take the lead in researching and utilizing new recognized testing measures to identify different products geographically such as Oritain technology (<https://oritain.com>), which can generate science-based data from specific coffee growing regions as a proof and confirmation of truth or false labeling. Thank you for the opportunity to testify on this measure.





PO Box 168, Kealahou, HI 96750

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

February 3, 2023

RE: STRONG SUPPORT for SB745; Relating to Agriculture

Aloha Chair Keohokalole, Vice Chair Fukunaga and members of the committee,

I am Chris Manfredi, Executive Director of Hawaii Coffee Association.

The Hawaii Coffee Association's (HCA) mission is to represent all sectors of the Hawaiian coffee industry. Our members are located throughout the State of Hawaii and positioned throughout the supply chain.

The HCA applauds the introducers of this measure. SB745 aims an existing law directly at a significant problem and gives it teeth. This is landmark legislation for our industry.

SB 745 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 When this statute was originally enacted in 2011 it was limited to green coffee, cherry coffee, and parchment coffee.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 Hawaii-grown 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.

Hawaii's growers work tirelessly to produce some of the finest coffee grown anywhere. Exceptionally high quality is vital so producers can earn a relatively high price for their products - to stay in business, pay their employees and feed their families. When they visit the supermarket, they are outraged that coffee is offered on the same shelves as their own at a price less than their cost of production.

Unethical sellers introduce foreign grown coffee into the market to defraud consumers by representing these fakes as Hawaii-grown products. Hawaii's coffee growers are squeezed between a high cost of production and unfair price competition.

Moreover, these inferior fakes do not share the same quality attributes of the genuine product, further undermining Hawaii's reputation and brands, and they are not required to comply with Hawaii's minimum grade standards.

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.

We respectfully ask you to pass SB745 unamended.

Please accept our thanks on behalf of Hawaii's legitimate coffee producers.



IN SUPPORT OF SB745
RELATING TO AGRICULTURE
Roasted Coffee, False Labeling, Fines, Appropriations

Aloha Chair, and Esteemed Committee Members,

The Kona Coffee Farmers Association stands in support of SB745, alongside the Hawaii Coffee Association and other industry associations. The KCFA represent over 170 farms and agribusinesses in the Kona districts and our mission is to protect the economic interests of our growers.

As you may be aware, there is a class action lawsuit by Kona growers against mainland and Hawaiian roasters who are allegedly counterfeiting roasted coffee as “Kona”. It is time that the State establishes protocols to prosecute bad actors in the roasting community.

This Bill closes an important loophole where counterfeiters have been escaping oversight. By granting HDOA the ability to verify the authenticity of a roasted coffee’s origin, it opens the door for better enforcement and higher profits to farmers. The less counterfeit coffee in the marketplace, the greater the demand for real Hawaiian coffee.

The technology to inspect roasted coffee for origin is basic and mainstream. The University of Hawaii has done studies on roasted coffee, where they use readily-available lab equipment to successfully differentiate between Kona and non-Kona beans (Jun Wang, et al., Vol. 74, Nr. 5, 2009—JOURNAL OF FOOD SCIENCE). Other mainland studies confirm that “coffee DNA” testing is scientifically valid, including a project by the Hawaii Coffee Association to build a “fingerprint” of all coffees statewide through the Oritain database. **Granting HDOA the authority to inspect roasted coffee is a necessary step to protect Hawaiian coffees from counterfeiting.**

My family has three generations who farm coffee and we support ourselves on 100% Kona. Thank you for considering a hearing on this bill. Your attention makes a difference in the lives of hundreds of farmers.

Mahalo nui loa!

Suzanne Shriner
President



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February 3, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TESTIMONY ON SB 745
RELATING TO AGRICULTURE

Conference Room 229 & Videoconference
9:30 AM

Aloha Chair Keohokalole, Vice-Chair Fukunaga, 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 745, which extends the offense of false labeling of Hawai'i-grown coffee to include roasted coffee, imposes a \$10,000 fine for each separate offense of false labeling of Hawai'i-grown roasted coffee, and makes an appropriation for one enforcement position.

Hawai'i-grown coffee is recognized for its high quality and aromatic flavor. Hawai'i-grown coffee is held to a set of quality standards that makes it one of the most expensive coffees in the world. It is one of Hawai'i's signature crops.

The 2021-2022 USDA National Agriculture Statistics Service (NASS) of Hawai'i Agriculture estimated the value of Hawai'i-grown coffee at \$61.9 million and ranked as coffee fifth in the top twenty agricultural commodities in the State.

To protect the Hawai'i coffee industry from counterfeiting, the legislature in 2012, enacted Act 323, which established criminal penalties for Hawai'i-grown cherry, parchment, and green coffee that is falsely labeled with regard to the geographic origin. However, in addition to the geographic origin, stricter enforcement of the labeling restrictions based on the quality of the coffee being sold is critical to prevent further counterfeiting of Hawai'i's recognized high-quality coffee. Furthermore, the criminal penalties for false labeling should apply not only to cherry, parchment, and green coffee but also to roasted coffee.

Thank you for the opportunity to testify on this measure.

SB-745

Submitted on: 2/1/2023 9:22:15 PM

Testimony for CPN on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Franz Weber	Testifying for Kona Coffee Farmers Association	Support	Written Testimony Only

Comments:

IN SUPPORT OF SB745

Aloha Chair, and Esteemed Committee Members,

The Kona Coffee Farmers Association stands in support of SB895, alongside the Hawaii Coffee Association and the rest of the industry. The KCFA represent over 170 farms and agribusinesses in the Kona districts and our mission is to protect the economic interests of our growers.

As you may be aware, there is a class action lawsuit by Kona growers against mainland and Hawaiian roasters who are allegedly counterfeiting roasted coffee as “Kona”. It is time that the State establishes protocols to prosecute bad actors in the roasting community.

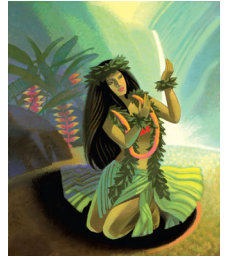
This Bill closes an important loophole where counterfeiters have been escaping oversight. By granting HDOA the ability to challenge the authenticity of a roasted coffee’s origin, it opens the door for better enforcement and higher profits to farmers. The less counterfeit coffee in the marketplace, the greater the demand for real Hawaiian coffee.

The technology to inspect roasted coffee for origin is basic and mainstream. The University of Hawaii has done studies on roasted coffee, where they use readily-available lab equipment to successfully differentiate between Kona and non-Kona beans (Jun Wang, et al., Vol. 74, Nr. 5, 2009—JOURNAL OF FOOD SCIENCE). Other mainland studies confirm that “coffee DNA” testing is scientifically valid, including a project by the Hawaii Coffee Association to build a “fingerprint” of all coffees statewide through the Oritain database. **Granting HDOA the authority to inspect roasted coffee is a necessary step to protect Hawaiian coffees from counterfeiting.**

This is important to all Kona Coffee Farmers, as well as Coffee Farmers throughout Hawaii

HAWAII COFFEE COMPANY™

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TO: Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Committee on Commerce and Consumer Protection

FROM: Gerard Bastiaanse
President- Hawaii Coffee Company

RE: **SB 745 Relating to Agriculture – In Support**
February 3, 2023; 9:30 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga and members of the committee:

Hawaii Coffee Company is in strong support of SB 745, which extends the offense of false labeling of Hawaii-grown coffee to include roasted coffee, and imposes a \$10,000 fine for each separate offense of 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-745

Submitted on: 2/1/2023 5:17:41 PM

Testimony for CPN on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacqueline Wikum	Testifying for Pohaku Farm	Support	Written Testimony Only

Comments:

Please support our growers and protect our coffee from counterfeiting. Add roasted coffee to the labeling enforcement.

SB-745

Submitted on: 2/1/2023 2:04:12 PM

Testimony for CPN on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Carolyn Witcover	Individual	Support	Written Testimony Only

Comments:

As you may know, there was a class action lawsuit by Kona growers against mainland and Hawaiian roasters who are allegedly counterfeiting roasted coffee as “Kona”. We won a very large settlement against them and it is time that the State establishes protocols to prosecute bad actors in the roasting community.

This Bill closes an important loophole where counterfeiters have been escaping oversight. By granting HDOA the ability to challenge the authenticity of a roasted coffee’s origin, it opens the door for better enforcement and higher profits to farmers. The less counterfeit coffee in the marketplace, the greater the demand for real Hawaiian coffee and support for our farmers and Hawaiian residents.

LATE

SB-745

Submitted on: 2/2/2023 11:08:25 AM

Testimony for CPN on 2/3/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michelle Brown	Individual	Support	Written Testimony Only

Comments:

Aloha I am in STRONG SUPPORT of SB 745

Mahalo for your time and consideration