



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 129, S.D. 1, RELATING TO LABELING REQUIREMENTS.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 19, 2025 **TIME:** 9:35 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Travis T. Moon,
Deputy Attorney General, at (808) 586-1180 or
travis.moon@hawaii.gov)

Chair Keohokalole and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill proposes to amend section 486-120.5, Hawaii Revised Statutes, by adding a country-of-origin labeling requirement for raw ahi, including any raw ahi that has been combined, mixed, marinated, or otherwise prepared for human consumption.

The country-of-origin labeling requirement on page 2, line 17, through page 3, line 2, may be subject to challenge under the United States Constitution's Supremacy Clause, which provides that the laws of the United States are declared to be supreme to those of the individual states. See U.S. Const. art. VI, cl. 2.

The Federal Agricultural Marketing Act of 1946, as amended (7 U.S.C. § 1638, *et seq.*) (federal act), and its corresponding regulation, title 7 Code of Federal Regulations part 60 (federal regulation), require retailers to inform consumers of the country of origin of wild and farm raised fish.

The United States Department of Agriculture, Agricultural Marketing Service (USDA), provides in the Federal Register (promulgating 7 C.F.R. part 60), that the language of the federal act "is clear" that Congress intended to preempt state law. See Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-Raised Fish and Shellfish, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia Nuts, 74 FR 2658 at 2679, 2701 (January 15, 2009).

A state's country-of-origin labeling requirement that encompasses commodities governed by this federal regulation is preempted. See *id.* at 2701.

As stated above, the federal act and the corresponding federal regulation specifically regulate country-of-origin labeling of wild and farm raised fish offered for sale, and state law on this matter is preempted. See 7 C.F.R. § 60.200. However, country-of-origin labeling requirements for "processed food items," as defined in 7 C.F.R. § 60.119, are allowed. See 7 C.F.R. §§ 60.119 and 60.200(c). Thus, to avoid the Supremacy Clause issue, we recommend the following:

1. Revising the title of the new section to be added to part V of chapter 486, on page 2, lines 16-17, as follows:

§486- ~~[Raw ahi; ahi]~~ Ahi poke; processed ahi; labeling requirements; country of origin; retail establishments.

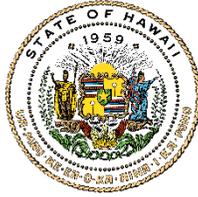
2. Revising subsection (a) of the new section to be added to part V of chapter 486, on page 2, line 17, through page 3, line 2, as follows:

(a) No retail establishment shall keep, offer, display, expose for sale, or solicit for the sale of ~~[any raw ahi, including]~~ ahi poke~~[,] or processed ahi[,] or any raw ahi that has been combined, mixed, marinated, or otherwise prepared for human consumption,]~~ without a label stating the country in which the ahi was landed.

Thank you for the opportunity to comment on this bill.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
COMMERCE AND CONSUMER PROTECTION

Wednesday, February 19, 2025
9:35 AM
State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 129, SENATE DRAFT 1
RELATING TO LABELING REQUIREMENTS

Senate Bill 129, Senate Draft 1 proposes to prohibit the sale of raw ahi, including ahi poke or processed ahi, in retail establishments without a label that states the country where the ahi was landed. **The Department of Land and Natural Resources (Department) supports this bill.**

Today's consumers are increasingly aware of the sourcing of their seafood, with many looking for insight into the quality, safety, and sustainability of products they purchase and consume. The United States Department of Agriculture (USDA) Country of Origin Labeling (COOL) law (7 CFR Part 60) requires that seafood products be labeled with the country of origin. The COOL requirement does not apply to prepared foods offered for retail sale at food service establishments. This means that prepared products such as poke currently have no labeling requirement. This bill would extend country of origin labeling requirements for certain ahi tuna products at Hawai'i retail establishments, enabling consumers to make informed choices when purchasing seafood.

Yellowfin and bigeye tuna are highly migratory species that are managed at the international, national, and state levels. Internationally, fisheries targeting these species are managed by regional fishery management organizations (RFMOs), which set annual catch quotas for participating countries. Domestically, commercial landings of these species are closely monitored to ensure compliance with quotas established by RFMOs. The largest domestic fishery for ahi in the State, the Hawai'i longline fishery, is closely managed by the National Marine Fisheries Service (NMFS) through a limited entry permit system and strict regulations which include mandatory reporting, observer coverage, crew training, gear identification

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

requirements, special area closures, and other measures to minimize impacts on bycatch and protected species. Fisheries that land tuna in other countries often lack this high level of management oversight.

Mahalo for the opportunity to provide testimony in support of this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

State of Hawai'i
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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**

**WEDNESDAY, FEBRUARY 19, 2025
9:35 AM
CONFERENCE ROOM 229 & VIDEOCONFERENCE**

**SENATE BILL NO. 129, SD1
RELATING TO LABELING REQUIREMENTS**

Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee:

Thank you for the opportunity to testify on SB 129, SD1, which prohibits the sale of raw ahi, including ahi poke or processed ahi, in retail establishments without a label that states the country where the ahi was landed. The Department of Agriculture offers comments.

Although we support and inspect uniform packaging and labeling and food labeling, we are not sure this is the correct department to best enforce this requirement. We have already inspected the identity of the product, the net quantity in terms of measure and any declaration of the packer or distributor of any package not packed on the premises where sold for consumer packaged goods. This bill designates signage requirements and would need retail establishments to provide such signage to their customers for accurate information at point of sale regarding processed ahi and yellowfin products like poke and sushi. Other departments that inspect food safety and quality or consumer protection interests may be better suited to perform this task. We suggest considering DCCA or DOH as the department to inspect and enforce this bill.



Measurement Standards and HRS Chapter 486 does not currently have inspection or enforcement of raw or processed fish products. We inspect and enforce packaged products labeling such as coffee, macadamia nuts and petroleum gas meters, scales and taximeters for accuracy.

Thank you for the opportunity to testify on this measure.



February 19, 2025

Testimony in Support of SB129

Aloha Chair Keohokalole of the Senate Committee of Commerce and Consumer Protection,

The Hawaii Longline Association (HLA) strongly supports SB129. HLA members are comprised of 150 active longline vessels operating out of Honolulu Harbor and the United Fishing Agency (Honolulu Fish Auction). The Hawaii longline fleet is the largest food producer in Hawaii, landing approximately 30 million pounds fish annually. The Hawaii longline fleet, which primarily targets ahi, is also Hawaii's largest fishery, comprising approximately 85% of the State's commercial marine landings. Approximately 80% of our fleet's landings stay in Hawaii with the remainder sold in US mainland markets.

HLA supports SB129 because it would extend existing country of origin labeling for raw ahi sold at retail establishment for products such as poke, sashimi, and sushi. Existing federal law already applies to seafood including fish fillets, tuna steaks, and loins as well as fruits, vegetables, and meat. Therefore, retailers already provide country of origin information for much of the seafood they sell so including that information for ahi poke and sashimi should not be onerous.

Ahi poke sold at retail establishments is dominated by previously frozen, carbon monoxide treated fish. However, there is a common misconception that this previously frozen, carbon monoxide treated tuna is derived from Hawaii fisheries, when in fact it is imported from foreign sources. A likely cause for some of this confusion is that retailers often use tricky advertising that mislead consumers into thinking the product is fresh or locally caught such as: "freshly made," and "locally prepared." Moreover, simply using the Hawaiian words "ahi poke" implies locally caught tuna. No ahi landed in Hawaii is being treated with carbon monoxide for commercial sale, whereas Hawaii landed tuna is typically only marketed as "fresh" without any origin information.

While the sale of carbon monoxide treated tuna is prohibited in Japan, European Union, and Australia, among other places, SB129 would not ban it from being sold in Hawaii. Rather, SB129 would provide consumers with more information on where the ahi in their poke comes from, thereby empowering consumers to make more informed choices.

By passing this bill, Hawaii would join Alabama, Louisiana, and Mississippi in states enacting enhanced seafood country of origin labeling laws to benefit consumers and local seafood producers from impacts of cheaper imports.

Thank you for the opportunity to provide this testimony in support of SB129.

Mahalo,

Eric K. Kingma, Ph.D.
Executive Director



FISHING TALES

with **Mike
Sakamoto**

Testimony to the Senate Committee on Commerce and Consumer Protection

Wednesday, February 19, 2025, 9:35 am

Testimony in Support of SB 129, Relating to Labeling Requirements

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunagai, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of Fishing Tales with Mike Sakamoto, a company that was founded by my father in 1985.

We are in strong support of SB 129, Relating to Labeling Requirements. This bill prohibits the sale of raw ahi and raw ahi products in retail establishments without a label that states the country where the ahi was landed.

The philosophy of Fishing Tales with Mike Sakamoto has always been to promote the culture of Hawaii and to share Mike's love for fish and fishing. In recent years, ahi (tuna) has seen a surge in popularity in culinary and online circles, and so it has become trendy to consume, photograph, and post online. This bill, SB 129, seeks simply to provide consumers with necessary information on the geographic origin of the tuna so that people know what they are buying and eating. Hawaii-caught ahi is special, and deserves to be labeled as such.

Thank you for the opportunity to testify.

SB-129-SD-1

Submitted on: 2/14/2025 11:17:25 PM

Testimony for CPN on 2/19/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

Thank you

Mrs Ruth Love

SB-129-SD-1

Submitted on: 2/16/2025 3:02:22 PM

Testimony for CPN on 2/19/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Philip Fernandez	Individual	Support	Written Testimony Only

Comments:

I support SB129 SD1.

Raw ahi, poke, and any processed raw ahi should be labelled with the country of origin.

Furthermore, while it is legal to process ahi with carbon monoxide, these gassed products should also be labelled as "gassed with carbon monoxide" so that the consumer is well informed prior to purchase.

Please support SB129 SD1

Phil Fernandez

Honolulu, Oahu

SB-129-SD-1

Submitted on: 2/17/2025 6:29:55 AM

Testimony for CPN on 2/19/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Chris Freed	Individual	Support	Written Testimony Only

Comments:

I support this bill cause it will end deceptive marketing practices, and support local fish producers



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February 19, 2025

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TESTIMONY ON SB 129, SD1
RELATING TO LABELING REQUIREMENTS

Conference Room 229 & Videoconference
9:35 AM

Aloha Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committees:

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 129, SD1, which prohibits the sale of raw ahi, including ahi poke or processed ahi, in retail establishments without a label that states the country where the ahi was landed.

Hawai'i is known for its high-quality ahi, which are caught under strict fishery management standards. Imported ahi, often caught under less stringent regulations, is sometimes misleadingly marketed as "Hawaiian" or "local." This measure ensures that consumers can distinguish between authentic Hawai'i-landed ahi and imported products.

Many consumers prefer to buy locally sourced food to support the local economy. Labeling raw ahi, including ahi poke or processed ahi, by country of origin gives them the necessary information to make informed choices.

We should protect Hawai'i's fishing industry, support local fishermen, and ensure consumer transparency by requiring country-of-origin labeling for raw ahi and raw ahi products.

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

LATE **LATE**

SB-129-SD-1

Submitted on: 2/18/2025 10:19:28 AM
Testimony for CPN on 2/19/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
len nakano	Individual	Support	Written Testimony Only

Comments:

I am in support of this measure. I feel that this will create a better quality and stigma for the seafood industry here in Hawaii. Having this labeling requirement will help the consumer make a better decision on what they are actually purchasing while keeping the fresh local seafood on an even playing field on the consumer market.

SB-129-SD-1

Submitted on: 2/18/2025 12:23:46 PM

Testimony for CPN on 2/19/2025 9:35:00 AM

LATE **LATE**

Submitted By	Organization	Testifier Position	Testify
Kevin Mulkern	Individual	Oppose	Written Testimony Only

Comments:

Oppose SB129. SD1

Enforce our truth in Labeling laws whether they be fresh fish caught in Hawaiian waters, agricultural crops (cacao and coffee) and Manufactured products (Aloha Shirts, Ukuleles).

I suggest you reach out to Elon Musk on how to be efficient and effective. This is the only way to make Hawaii affordable for our Children.

This will eliminate the need for a 12 month legislative session and your salary increase.

Kevin Mulkern

808 396 6595

SB-129-SD-1

Submitted on: 2/19/2025 1:48:13 AM

Testimony for CPN on 2/19/2025 9:35:00 AM

LATE **LATE**

Submitted By	Organization	Testifier Position	Testify
Megan Fox	Testifying for Malama Kaua'i	Support	Written Testimony Only

Comments:

Supporting the authenticity and marketing advantages of our local food purveyors strengthens our local food system and supports our economy. This is a very simple measure to support our fishing industry during a time when they are faced with many challenges. Please support this bill.