

ACT 211

S.B. NO. 746

A Bill for an Act Relating to Coffee Labeling.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that for over thirty years, Hawaii has been the only region in the world that statutorily regulates the uses of its geographic names, such as “Kona”, “Maui”, and “Ka‘ū”, on labels of its specialty agricultural products but requires that only ten per cent of the product originate in the geographic area indicated. The legislature further finds that this low ten per cent requirement directly damages and degrades the reputation of world-famous Hawaii-grown coffees and damages the economic interests of Hawaii coffee farmers. The legislature notes that a 2018 publication entitled “Strengthening Sustainable Food Systems Through Geographical Indications: An Analysis of Economic Impacts” by the Food and Agriculture Organization of the United Nations and the European Bank for Reconstruction and Development concluded, among other things, that Kona coffee “does not enjoy any strong protection of its name” from the State of Hawaii, and as a result, downstream stakeholders, rather than farmers, “reap the economic benefits of the fame of Kona”.

The legislature also finds that more than ninety per cent of Hawaii’s coffee farms are located on the island of Hawaii. In 2014, the Hawaii county council

adopted Resolution No. 501 14, entitled “Requesting the Hawaii Legislature to Adopt Provisions for Truth-In-Labeling for Hawaii-Grown Coffees”. The council’s request to the legislature was based on several findings, including:

- (1) Senate Concurrent Resolution No. 102, S.D. 1, H.D. 1, regular session of 2007, which stated in part that:
 - (A) Existing labeling requirements for Kona coffee causes consumer fraud and degrades the “Kona coffee” name; and
 - (B) Confusion as to the difference between Kona coffee and Kona coffee blends caused *Consumer Reports* magazine to rate Kona coffee as “second rate”;
- (2) The fact that it is inherently deceptive and misleading to label coffee as a geographically identified blend, such as “Hamakua Blend”, “Ka’ū; Blend”, or “Kona Blend”, unless at least a majority of the coffee is from that region;
- (3) The label on the package of a ten per cent Hawaii coffee blend does not advise consumers that ninety per cent of the coffee in the package is imported, is foreign-grown, or may be a mixture of multiple Hawaiian regions and foreign-grown coffee;
- (4) Not identifying the origin of ninety per cent of a coffee blend is inherently deceptive to consumers, who are often erroneously led to believe that a package of coffee blend contains a blend of coffees only from farms in Kona or other regions in Hawaii, when in fact a portion of the blended coffee could be foreign-grown coffee;
- (5) Blending cheaper commodity coffees from Vietnam, Mexico, Panama, Africa, and other foreign countries to fill ninety per cent of the coffee blend enriches the mainland-based corporations that own the Hawaii blending companies with immense excess profits, without any benefit to Hawaii coffee farmers;
- (6) The acknowledged blending of beans of various roasts and origins by coffee roasters to create unique flavor profiles is an acceptable practice and is different from the deceptive labeling using misleading geographic origin names of blends, which violates the basic principles of consumer protection and fair marketing; and
- (7) Immediate legislative action is necessary to protect the reputation of Hawaii-grown coffees as premier, specialty coffees from further degradation.

The legislature also notes that ready-to-drink coffee beverages and inner wrapping labels given, but not sold, to customers are not subject to the current statutory requirements for fair trade coffee labeling and advertising. These requirements only apply to roasted coffee and instant coffee.

The legislature finds that these labeling and advertising requirements were primarily intended to resolve any consumer confusion and allow consumers to “make an enlightened choice”, as stated in Act 289, Session Laws of Hawaii 1991. These statutory requirements ensure truthful representation of a coffee product’s geographical origin, which protects consumers from fraud and deception in coffee labeling and advertising.

Therefore, the purpose of this Act is to support Hawaii’s coffee growers by:

- (1) Expanding the coffee labeling and advertising requirements to include ready-to-drink coffee beverages and the inner packages and inner wrapping labels of roasted coffee, instant coffee, and ready-to-drink coffee beverages given to customers;

- (2) Specifying that the coffee labeling and advertising requirements apply if the applicable products are produced in whole or in part from Hawaii-grown and Hawaii-processed green coffee beans;
- (3) Requiring disclosure on the label of coffee blends of the respective geographic and regional origins and per cent by weight of the blended coffees; and
- (4) Prohibiting use of the term “All Hawaiian” in labeling or advertising for roasted coffee, instant coffee, or ready-to-drink coffee beverages not produced entirely from green coffee beans grown and processed in Hawaii.

SECTION 2. Section 486-120.6, Hawaii Revised Statutes, is amended to read as follows:

“§486-120.6 Hawaii-grown ~~roasted or instant~~ and Hawaii-processed coffee; labeling or advertising requirements. (a) In addition to all other labeling requirements, the identity statement used for labeling or advertising roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~ produced in whole or in part from Hawaii-grown and Hawaii-processed green coffee beans shall meet the following requirements:

- (1) For roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~ that ~~[contains]~~ contain one hundred per cent Hawaii-grown and Hawaii-processed coffee by weight, the identity statement shall consist of either:
 - (A) The geographic origin of the Hawaii-grown and Hawaii-processed coffee, in coffee consisting of beans from only one geographic origin, followed by the word “Coffee”; provided that the geographic origin may be immediately preceded by the term “100%”; or
 - (B) The per cent coffee by weight of one of the Hawaii-grown and Hawaii-processed coffees, used in coffee consisting of beans from several geographic origins, followed by the geographic origin of the weight-specified coffee and the terms “Coffee” and “All Hawaiian”;
- (2) For roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~ consisting of a blend of one or more Hawaii-grown and Hawaii-processed coffees and coffee not grown or processed in Hawaii, the per cent coffee by weight of one of the Hawaii-grown and Hawaii-processed coffees used in the blend, followed by the geographic origin of the weight-specified coffee and the term “Coffee Blend”; and
- (3) Each word or character in the identity statement shall be of the same type size and shall be contiguous. The smallest letter or character of the identity statement on packages of sixteen ounces or less net weight shall be at least one and one-half times the type size required under federal law for the statement of net weight or three-sixteenths of an inch in height, whichever is smaller. The smallest letter or character of the identity statement on packages of greater than sixteen ounces net weight shall be at least one and one-half times the type size required under federal law for the statement of net weight. The identity statement shall be conspicuously displayed without any intervening material in a position above the statement of net weight. Upper and lower case letters may be used interchangeably in the identity statement.

(b) A listing of the geographic origins of the various Hawaii-grown and Hawaii-processed coffees and the regional origins of the various coffees not grown or processed in Hawaii that are included in a blend ~~[may]~~ shall be shown on the label. ~~[If used, this]~~ This list shall consist of the term “Contains:”, followed by, in descending order of per cent coffee by weight and separated by commas, the respective geographic origin or regional origin of the various coffees in the blend ~~[that the manufacturer chooses to list]~~. Each geographic origin or regional origin ~~[may]~~ shall be preceded by the per cent [øf] coffee by weight represented by that geographic origin or regional origin, expressed as a number followed by the per cent sign. In place of separate listings of regional origins of coffee not grown or processed in Hawaii in the blend, the list may include the words “Foreign-grown Coffee”, preceded by the per cent coffee by weight in the blend. The type size used for this list shall ~~[not exceed]~~ be no less than half that of the identity statement. This list shall appear below the identity statement~~[-if included]~~ on the front panel of the label.

(c) The requirements of subsections (a) and (b) shall apply to the labeling of any inner package or inner wrapping of the roasted coffee, instant coffee, or ready-to-drink coffee beverages that includes any geographic origin of Hawaii-grown and Hawaii-processed coffee, regardless of whether the inner package or inner wrapping is intended to be individually sold.

~~[(e)]~~ (d) It shall be a violation of this section to:

- (1) Use the identity statement specified in subsection (a)(1)(A) or similar terms in labeling or advertising unless the package of roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage contains one hundred per cent coffee by weight from that one geographic origin;
- (2) Use a geographic origin in labeling or advertising, including in conjunction with a coffee style or in any other manner, if the roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage contains less than ten per cent coffee by weight from that geographic origin;
- (3) Use a geographic origin in labeling or advertising roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverages, including advertising in conjunction with a coffee style or in any other manner, without disclosing the ~~[percentage of]~~ per cent coffee by weight used from that geographic origin as described in subsection (a)(1)(B) and (a)(2);
- (4) Use a geographic origin in labeling or advertising roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverages, including in conjunction with a coffee style or in any other manner, if the green coffee beans used in that roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage do not meet the grade standard requirements of rules adopted under chapter 147;
- (5) Misrepresent, on a label or in advertising of a roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage, the per cent coffee by weight of any coffee from a geographic origin or regional origin;
- (6) Use the term “All Hawaiian” on a label or in advertising of a roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage if ~~[the]~~ that roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage is not produced entirely from green coffee beans ~~[produced in geographic origins defined in this chapter;]~~ grown and processed in Hawaii;
- (7) Use a geographic origin on the front label panel of a package of roasted [øf] coffee, instant coffee, or ready-to-drink coffee beverage other than in the trademark or in the identity statement as au-

- thorized in subsection (a)(1) and (2) unless ~~[one hundred per cent of] the roasted [or] coffee, instant coffee [contained in the package is], or ready-to-drink coffee beverage contains one hundred per cent coffee by weight~~ from that geographic origin;
- (8) Use more than one trademark on a package of roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverage~~ unless ~~[one hundred per cent of] the roasted [or] coffee, instant coffee [contained in the package is], or ready-to-drink coffee beverage contains one hundred per cent coffee by weight~~ from that geographic origin specified by the trademark;
 - (9) Use a trademark that begins with the name of a geographic origin on a package of roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverage~~ unless ~~[one hundred per cent of] the roasted [or] coffee, instant coffee [contained in the package comes], or ready-to-drink coffee beverage contains one hundred per cent coffee by weight~~ from that geographic origin or the trademark ends with words that indicate a business entity; or
 - (10) Print the identity statement required by subsection (a) in a smaller font than that used for a trademark that includes the name of a geographic origin pursuant to paragraph (7) and in a location other than the front label panel of a package of roasted ~~[or] coffee, instant coffee[-], or ready-to-drink coffee beverage.~~

~~(d)~~ (e) Roasters, manufacturers, or other persons who package roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~ covered by this section shall maintain, for a period of two years, records on the volume and geographic origin or regional origin of coffees purchased ~~[and], sold, and used~~ and any other records required by the department for the purpose of enforcing this section. Authorized employees of the department shall have access to these records during normal business hours.

~~[(e) For the purpose of]~~ (f) As used in this section:

“Geographic origin” means the geographic regions in which Hawaii-grown green coffee beans are produced, as defined in rules adopted under chapter 147; provided that the term “Hawaiian” may be substituted for the geographic origin “Hawaii”.

“Per cent coffee by weight” means the percentage calculated by dividing the weight in pounds of roasted green coffee beans of one geographic or regional origin used in a production run of roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~ by the total weight in pounds of the roasted green coffee beans used in that production run of roasted ~~[or] coffee, instant coffee, or ready-to-drink coffee beverages~~, and multiplying the quotient by one hundred.

“Ready-to-drink coffee beverage” means a prepackaged beverage that consists of or includes coffee and is sold in a prepared form that can be immediately consumed upon purchase. “Ready-to-drink coffee beverage” does not include made-to-order beverages.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2024.

(Approved July 5, 2023.)