

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. The legislature finds that coffee is an important agricultural crop of the State and a highly valued commodity in Hawaii. Despite the premium value of Hawaii-grown coffee, the State has not protected the integrity of the names of coffee origin regions, such as “Kona”, “Kau”, or “Kauai”. Instead, existing law allows coffee blends that contain only very small amounts of coffee beans from these distinctive regions to use the name of those regions on product packaging, a practice that deceives consumers and harms coffee growers.

The legislature further finds that Hawaii law requires that, for coffee products, only ten per cent of the coffee must originate in the geographic area indicated for that product to use the geographic origin name on its label. Other jurisdictions typically require that one hundred per cent of the coffee originate in the geographic area to protect the value, integrity, and reputation of that product and its associated geographic origin name.

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 and, as a result, downstream stakeholders, rather than farmers, “reap the economic benefits of the fame of Kona”.

The legislature additionally finds that despite existing labeling laws that include specific requirements for font sizes and disclosure of blend percentages, the simple inclusion of a geographic origin name on a product effectively misleads consumers into believing that the product is representative of the specialty product of that region, even though, for example, in a coffee blend that is ten per cent Kona coffee, the flavor of the Kona coffee is often undetectable at such low concentrations. Consumers are then deceived into paying a premium for a “Hawaii” product that does not represent the name on its label. Therefore, a change to the law is needed to protect consumers by ensuring that minimum blend amounts allowed for coffee products that bear geographic origin names constitute a majority of the product from that geographic origin and are sufficient to ensure that the product reflects the quality and character of the region.

The purpose of this Act is to:

- (1) Beginning July 1, 2027, make it a violation of the coffee labeling law to use a Hawaii geographic origin in labeling or advertising for roasted coffee, instant coffee, or ready-to-drink coffee beverage blends that contain less than fifty-one per cent coffee by weight from that geographic origin; and
- (2) Exempt retailers that do not package roasted coffee, instant coffee, or ready-to-drink coffee beverages from liability for the sale of roasted coffee, instant coffee, or ready-to-drink coffee beverages that use a label or advertisement in violation of the coffee labeling law.

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

“§486-120.6 Hawaii-grown 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 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 coffee, instant coffee, or ready-to-drink coffee beverages that 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 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 shall be shown on the label. 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. Each geographic origin or regional origin shall be preceded by the per cent 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 be no less than half that

of the identity statement. This list shall appear below the identity statement 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.

(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 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 coffee, instant coffee, or ready-to-drink coffee beverage contains less than:

(A) Until June 30, 2027, ten per cent coffee by weight from that geographic origin; and

(B) On or after July 1, 2027, fifty-one per cent coffee by weight from that geographic origin;

(3) Use a geographic origin in labeling or advertising roasted 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 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 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 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 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 coffee, instant coffee, or ready-to-drink coffee beverage if that roasted coffee, instant coffee, or ready-to-drink coffee beverage is not produced entirely from green coffee beans grown and processed in Hawaii;

(7) Use a geographic origin on the front label panel of a package of roasted coffee, instant coffee, or ready-to-drink coffee beverage other than in the trademark or in the identity statement as authorized in subsection (a)(1) and (2) unless the roasted coffee, instant coffee, 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 coffee, instant coffee, or ready-to-drink coffee beverage unless the roasted coffee, instant coffee, 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 coffee, instant coffee, or ready-to-drink coffee beverage unless the roasted coffee, instant coffee, 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 coffee, instant coffee, or ready-to-drink coffee beverage.

(e) Retailers that do not package roasted coffee, instant coffee, or ready-to-drink coffee beverages shall not be liable for the sale of roasted coffee, instant coffee, or ready-to-drink coffee beverages that use a label or advertisement in violation of this section.

~~[(e)]~~ (f) Roasters, manufacturers, or other persons who package roasted 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, 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.

~~[(f)]~~ (g) 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 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 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 3, 2024.)