

**NEIL ABERCROMBIE**  
Governor



**RUSSELL S. KOKUBUN**  
Chairperson, Board of Agriculture

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF RUSSELL KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE  
February 4, 2013  
Auditorium  
9:30 A.M.**

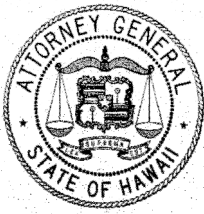
**HOUSE BILL NO. 747  
RELATING TO AGRICULTURE**

Chairperson Wooley and Members of the Committee,

Thank you for this opportunity to provide testimony on House Bill 747 relating to agriculture. This bill exempts from the general excise tax amounts received for the slaughter and processing of poultry and livestock under Section 237-24.3, Hawaii Revised Statutes. Hence, as you are aware there are currently no commercial poultry slaughterhouses in Hawaii, this bill would only affect amounts received from the slaughterhouses that process locally produced livestock that are consumed in the State. While the Department recognizes the importance of livestock slaughterhouses to the industry, we defer to the Department of Taxation on taxation matters contained in this bill that are under their jurisdiction. We also defer to the Department of Budget and Finance regarding the fiscal impacts of any tax exemption.

Thank you, again, for the opportunity to provide testimony on this measure.





**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 747, RELATING TO AGRICULTURE.

**BEFORE THE:**

HOUSE COMMITTEE ON AGRICULTURE

**DATE:** Monday, February 4, 2013

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room Aud

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Damien Elefante, Deputy Attorney General, or  
Nathan Chee, Deputy Attorney General

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Chair Wooley and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill. The bill may be challenged as violating the Commerce Clause of the United States Constitution because it could be found to discriminate against interstate commerce.

The stated purpose of this bill is to “[e]xempt from the general excise tax amounts received for the slaughter and processing of poultry and livestock.” However, the exemption is only applicable to poultry and livestock “which have been produced in the State.” Based on this preferential language, this bill creates a general excise tax exemption to favor products that are raised or produced exclusively in the State.

A cardinal rule of Commerce Clause jurisprudence is that “[n]o State, consistent with the Commerce Clause, may ‘impose a tax which discriminates against interstate commerce . . . by providing a direct commercial advantage to local business.’” Bacchus Imports, Ltd. v. Dias, 468 U.S. 263, 268 (1984), *citing* Boston Stock Exchange v. State Tax Comm’n, 429 U.S. 318, 329 (1977).

In Bacchus, the United States Supreme Court found that an exemption similar to the exemption proposed in this bill violated the Commerce Clause. At issue in Bacchus was the Hawaii liquor tax, which was originally enacted in 1939 to defray the costs of police and other governmental services. Because the Legislature sought to encourage development of the Hawaiian liquor industry, it enacted an exemption from the liquor tax for okolehao (a brandy distilled from the root of the ti plant, an indigenous shrub of Hawaii) and for certain fruit wine

manufactured in Hawaii. The United States Supreme Court concluded that the exemption violated the Commerce Clause because the exemption had both the purpose and effect of discriminating in favor of local products.

The general excise tax exemption for poultry and livestock “which have been produced in the State”, as created by this bill, appears to have similar purpose and effect as the exemption that violated the Commerce Clause in Bacchus.

Thus, we recommend that the “which have been produced in the State” requirement be deleted from the bill.

**onishi1-Jerry**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 31, 2013 12:32 PM  
**To:** AGRtestimony  
**Cc:** pamverrey@gmail.com  
**Subject:** \*Submitted testimony for HB747 on Feb 4, 2013 09:30AM\*

**HB747**

Submitted on: 1/31/2013

Testimony for AGR on Feb 4, 2013 09:30AM in Conference Room Auditorium

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Verrey	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## Local Food Coalition

HOUSE COMMITTEE ON AGRICULTURE  
Monday February 4, 2013 9:30 a.m. Auditorium

### **HB 747 RELATING TO AGRICULTURE**

Exempts from the general excise tax amounts received for the slaughter and processing of poultry and livestock.

Chair Wooley, Vice Chair Onishi and Members of the Committees:

My name is Alan Gottlieb, and I represent the Local Food Coalition on this matter.

The Local Food Coalition (LFC) brings together farmers, ranchers, livestock producers, investors and other leading organizations, who collectively manage more than 1 million acres of land, and produce the majority of food in our state. Solving our challenge of increasing the local food supply — putting more local food on local plates — can best be accomplished by bringing people and organizations together who can work on the entire food value chain in a systematic way.

The Local Food Coalition strongly supports HB 747 which exempts from the General Excise Tax the slaughter and processing of meat and poultry.

This exemption from the G.E.T. will help to reduce the operating costs to these local industries and eventually help reduce the cost of purchasing local meat by local consumers.

We appreciate this opportunity to provide testimony on this matter.



## Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743  
Phone (808) 885-5599 • Fax (808) 887-1607  
e-mail: [HCattlemens@hawaii.rr.com](mailto:HCattlemens@hawaii.rr.com)

HOUSE COMMITTEE ON AGRICULTURE  
Monday February 4, 2013 9:30 a.m. Auditorium

### **HB 747 RELATING TO AGRICULTURE**

Exempts from the general excise tax amounts received for  
the slaughter and processing of poultry and livestock.

Chair Wooley, Vice Chair Onishi and Members of the Committees:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chairperson of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly supports HB 747 which exempts from the General Excise Tax the slaughter and processing of poultry and livestock

**This exemption from the G.E.T. will help to reduce the operating costs to these local industries and eventually help reduce the cost of purchasing local meat by local consumers.**

Several slaughterhouses and processors around the State are already exempt from the General Excise tax because they are either a coop (which was exempted from G.E.T. years ago) or are in an Enterprise Zone. We estimate that the cost of such an exemption would be less than \$50,000 per year, a very small amount for the State but a big amount for local livestock producers. In the future, if we can help improve the economics of livestock production in Hawaii, we hope to increase our production, and help the State with its agricultural self sufficiency and improve our food security.

The Department of the Attorney General and The Department of Taxation had some concerns with the language of a similar bill in the Senate as they said this violated the Commerce Clause of the U.S. Constitution, but we look forward to working with them to suit the language to your intent.

We appreciate this opportunity to provide testimony on this matter.



Hawaii's Agricultural Partnership

HOUSE COMMITTEE ON AGRICULTURE

Monday February 4, 2013 9:30 a.m. Auditorium

**HB 747 RELATING TO AGRICULTURE**

*Exempts from the general excise tax amounts received for the slaughter and processing of poultry and livestock.*

Chair Wooley, Vice Chair Onishi and Members of the Committees:

**4 Ag Hawaii strongly supports HB 747**

If we were to portend the future both food and energy prices will rise faster than family income and Hawaii will need to become increasingly self-sufficient by producing locally grown livestock and by harnessing the potential of renewable energy sources.

Hawaii's processing facilities need to decrease their operating costs and to better utilize resources so we can inch closer to the day when Hawaii will not need to rely on food supply chains based overseas. This exemption from the G.E.T. will help to reduce the operating costs of these local businesses and eventually provide for increased availability of local poultry and meats. Funding for this measure can come from a very modest reallocation of the barrel tax.

It is estimated that the cost of such an exemption would be less than \$50,000 per year, a small amount for the State but a large step for our local livestock producers and Hawaii's consumers.

4 Ag Hawaii is a non-profit 501[c] [3] corporation established as a public-private partnership focused on goals that include: promoting the agricultural economic welfare of Hawai'i and its counties; conducting agricultural economic; educational & media programs, and fostering statewide interest for responsible agricultural economic development of our islands.

Thank you for the opportunity to provide testimony on this matter.



HOUSE COMMITTEE ON AGRICULTURE

Monday February 4, 2013 9:30 a.m. Auditorium

HB 747 RELATING TO AGRICULTURE

Exempts from the general excise tax amounts received for  
the slaughter and processing of poultry and livestock.

Chair Wooley, Vice Chair Onishi and Members of the Committees:

My name is Karin Carswell Guest, I am a rancher and the secretary/treasurer for the Kauai Cattlemen's Association. Kauai Cattlemen's Association (KCA) is part of The Hawaii Cattlemen's Association (HCC) which is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Kauai Cattlemen's Association strongly supports HB 747 which exempts from the General Excise Tax the slaughter and processing of poultry and livestock

This exemption from the G.E.T. will help to reduce the operating costs to these local industries and eventually help reduce the cost of purchasing local meat by local consumers.

Several slaughterhouses and processors around the State are already exempt from the General Excise tax because they are either a coop (which was exempted from G.E.T. years ago) or are in an Enterprise Zone. We estimate that the cost of such an exemption would be less than \$50,000 per year, a very small amount for the State but a big amount for local livestock producers. In the future, if we can help improve the economics of livestock production in Hawaii, we hope to increase our production, and help the State with its agricultural self sufficiency and improve our food security.

We appreciate this opportunity to provide testimony on this matter.

Thank you,

Karin Carswell Guest

Kauai Cattlemen's Association