



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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**Testimony in SUPPORT of HB 675**  
**RELATING TO HEALTH**

REPRESENTATIVE RICHARD P. CREAGAN, CHAIR  
HOUSE COMMITTEE ON AGRICULTURE

Hearing Date: January 30, 2019

Room Number: 312

1 **Fiscal Implications:** None

2 **Department Testimony:** The department supports this bill.

3 DOH staff responsible for conducting inspections of food establishments, do so with a clear  
4 mission to reduce the risk of the consuming public to contract foodborne illnesses and to ensure  
5 that food is produced under conditions that preclude adulteration of food products.

6 But the Department does not believe it is the appropriate agency to educate those in the food  
7 industry on the subject of food donation liability protections, as the staff is not qualified to give  
8 legal advice to any person in the State.

9 However, the Department has no objections to food inspection staff providing information in a  
10 form of an open memorandum to permitted food establishments on the subject of  
11 “DONATION/DISTRIBUTION/SALE OF FOOD PRODUCTS BEYOND THE EXPIRATION  
12 DATE”, to every food establishment as part of a routine inspection.

13 The subject memorandum reads as follows:

14 “Confusion over the meaning of dates applied to food products can result in consumers and  
15 retailers discarding wholesome food. Many commercial food products are labeled with dates  
16 preceded by “best if used by,” “sell by,” “use by,” “expires on,” etc. These dates are voluntarily  
17 provided by manufacturers to guarantee product quality and should not be used to determine  
18 product safety.

19

20 There are no uniform descriptions used on food date labeling by manufacturers. As a result, there  
21 are a wide variety of phrases used on labels to describe quality dates.

1 Examples of commonly used phrases:

- 2 • • **“Best if Used By/Before”** – indicates when a product will be of best flavor or quality. It  
3 is not a purchase or safety date.  
4 • • **“Sell By”** – tells the store how long to display the product for sale for inventory  
5 management. It is not a safety date.  
6 • • **“Use By”** – indicates the last date recommended for the use of the product while at peak  
7 quality. It is not a safety date except for when used on \*infant formula.

8

9 If a food product has been handled properly, it should still be safe and wholesome after its  
10 product date label has passed until spoilage characteristics are evident. Spoiled foods will  
11 develop an off odor, off flavor or off texture. If a food has developed such spoilage  
12 characteristics, it should not be eaten and should be discarded.

13

14 \*Infant formula is required to have a “Use By” date on the product label for food safety.  
15 Consumption of infant formula by this date ensures that the formula contains the amount of  
16 nutrients described on the label. Also, infant formula must maintain an acceptable quality to pass  
17 through an ordinary bottle nipple. The only other food products that cannot be distributed past  
18 the pull date are fluid milk products. Infant formula and fluid milk products which are beyond  
19 the “Use By” date must not be distributed and should be discarded. Fluid milk products may be  
20 frozen before the expiration date prior to distribution.

21

22 To reduce food waste, it is important that consumers understand that the dates applied to food are  
23 for quality and not for safety.

24

25 **It is not a violation of DOH rules if food establishments choose to donate or distribute**  
26 **wholesome food products beyond the expiration date.**

27 Regardless of the expiration date, consumers should always check the quality of any food  
28 product before consuming it.”

29

30 **Offered Amendments:** Clarify that “educating” owners/operators of food establishments refers  
31 to the distribution and explanation of the memorandum included in this testimony, as the  
32 Department’s staff are not qualified to give legal advice to any person in the State.

33

34 Thank you for the opportunity to testify on this measure.



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#### **Executive Officers**

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**Barry Taniguchi**, KTA Superstores, *Advisor*  
**Derek Kurisu**, KTA Superstores, *Advisor*

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TO:  
Committee on Agriculture  
Representative Richard P. Creagan, Chair  
Representative Lynn DeCoite, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: January 30  
TIME: 9am  
PLACE: Conference Room 312

RE: HB675 Relating to Health

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

This is a common sense measure with a range of benefits for our state. Most importantly food donations help direct good food into the hands of people who need it. Donating food also makes sure that it doesn't unnecessarily take up space in our state's waste stream. Educating eligible businesses about food donations, and making sure that we have strong liability protections in place for those that do donate food are important ways to support and grow food donations in Hawaii. We ask that you approve this measure and we thank you for the opportunity to testify.

**HB-675**

Submitted on: 1/29/2019 8:43:51 AM

Testimony for AGR on 1/30/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

**TESTIMONY OF NAHELANI WEBSTER FOR THE HAWAII ASSOCIATION  
FOR JUSTICE (HAJ) REGARDING H.B. 675**

January 30, 2019  
9:00 a.m.  
Room 312

To: Chair Creagan and Members of the House Committee on Agriculture:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. 675, Relating to Health.

H.B. 675 seeks to discourage food waste and encourage food donation. While we support the purpose of the bill, and support the provisions in Section 2 of the bill, we believe that the liability exception is overly broad and places the health and safety of the recipients of the donated food at risk.

Sections 3 and 4 create an exception to liability for those who donate the food directly to a needy person. The concern is that when you donate directly to an individual you remove any of the protections that are present when donating through an organization. An organization is more likely to have the knowledge and resources to ensure the food is safe for consumption. We respectfully ask that you take into consideration removing direct donations and include only donations to and from organizations.

Health inspectors are used for the purpose of ensuring health and safety standards are met so that food is safe for public consumption. Those in need should still be afforded the same protections that the rest of the public enjoy. Therefore, our suggestion is rather than mandating health inspectors to educate donors on exceptions to liability, it would be more appropriate for them to educate potential donors on how to donate food in a

reasonable and safe manner. Enhanced immunity could subject consumers to substandard health measures defeating the purpose of this bill.

In addition, there are concerns with placing such a broad exception to liability to all forms of perishable or nonperishable food and further discussion should be had in order to determine if packaged and unpackaged foods should be differentiated along with removing poultry and livestock products from the meaning of “farm produce” in order to provide a basic level of protection to the recipients in need. Therefore, we ask that these concerns be addressed in the discussion as the bill progresses.

Thank you for allowing us to testify regarding this measure. Please feel free to contact either of us should you have any questions or desire additional information.