

STAND. COM. REP. NO. 2600

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 111  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committees on Agriculture, Commerce and Consumer Protection, and Ways and Means, to which was referred S.B. No. 111, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

beg leave to report as follows:

The purpose and intent of this measure is to require the Board of Agriculture to create labeling requirements through administrative rulemaking for all agricultural commodities in Hawaii beginning July 1, 2015.

Your Committees received testimony in opposition to this measure from Hawaii Farmers Union United, Kanalani Ohana Farm, GMO Free Hawaii, and thirty-eight individuals. Your Committees received comments on this measure from the Department of Agriculture and Hawaii Food Industry Association.

Prior to holding a hearing on this measure, your Committees made available for public review a proposed S.D. 2, which amends this measure by:

- (1) Clarifying that the measure applies to "made in Hawaii" labeling requirements and that rules adopted by the Board of Agriculture relating to "made in Hawaii" labeling requirements shall have the force and effect of law and shall not supersede any state law regarding "made in Hawaii" labeling requirements for agricultural



commodities enacted prior to the effective date of this measure;

- (2) Defining "made in Hawaii" labeling requirements" as the written, printed, or graphic matter on or attached to an agricultural commodity or any of its containers or wrappers that uses the phrase "made in Hawaii" or "produced in Hawaii" or that by any other means represents the geographic origin of the agricultural commodity as being from any place within the State;
- (3) Clarifying that the Department of Agriculture may make rules defining "made in Hawaii" labeling requirements, rather than all labeling requirements, of all agricultural commodities;
- (4) Removing language that would have deleted sections 486-120.5 and 486-120.6, Hawaii Revised Statutes, relating to labeling requirements for macadamia nuts and Hawaii grown roasted or instant coffee;
- (5) Clarifying that "made in Hawaii" labeling requirements adopted by the Board of Agriculture beginning on July 1, 2015, shall apply to fresh and processed agricultural commodities destined for shipment by commercial exporters to points outside the State; and
- (6) Clarifying that section 486-119, Hawaii Revised Statutes, relating to Hawaii-made and Hawaii-processed product labels, shall not apply to the "made in Hawaii" labeling requirements of agricultural commodities determined by the Board of Agriculture through rules.

Your Committees received testimony in support of the proposed S.D. 2 from one individual. Your Committees received testimony in opposition to the proposed S.D. 2 from Kona Coffee Farmers Association, Kona Coffee Association, and five individuals.

Your Committees find that Hawaii-made macadamia nuts and coffees are popular and coveted agriculture commodities that must be safeguarded from consumer fraud and confusion. Although the Legislature has passed laws regulating "made in Hawaii" labels on macadamia nuts and coffees, the Legislature is now receiving requests to pass similar legislation for a number of other specialty crops and agricultural commodities that are grown in



Hawaii. Each one of these agricultural commodities requires different "made in Hawaii" labeling requirements and needs to be individually analyzed and assessed. Because this process is time-consuming and requires agricultural expertise, your Committees find that "made in Hawaii" labeling requirements would be better created by the Department of Agriculture through its rulemaking authority.

Members of the public expressed concerns that this measure would override the statutory labeling requirements that are already in effect for agricultural commodities such as macadamia nuts and coffees. Your Committees note the public's concerns and are adopting the proposed S.D. 2 to, among other things, clarify that statutory "made in Hawaii" labeling requirements shall supersede any rules adopted by the Board of Agriculture. In other words, those labeling requirements required by sections 486-120.5 and 486-120.6, Hawaii Revised Statutes, relating to labeling requirements for macadamia nuts and Hawaii grown roasted or instant coffee, shall not be removed or altered by this measure. As for those agricultural commodities not yet regulated by statute, your Committees find that the Board of Agriculture can create "made in Hawaii" labeling requirements more quickly and efficiently than the Legislature and should be given the authority to do so.

Accordingly, your Committees have amended this measure by adopting the proposed S.D. 2 and further amending the measure by:

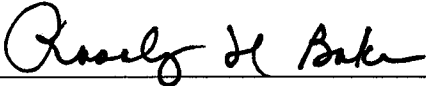
- (1) Clarifying that retailers, distributors, farmers, producers, and producer-distributors that sell agricultural commodities for purchase or consumption by consumers may, rather than shall, be subject to "made in Hawaii" labeling requirements pursuant to law or adopted by the Board of Agriculture through rules;
- (2) Clarifying that "made in Hawaii" labeling requirements of all agricultural commodities may, rather than shall, be determined by the Board of Agriculture through rules adopted pursuant to Chapter 91, Hawaii Revised Statutes;
- (3) Inserting an appropriation for an unspecified amount to the Department of Agriculture to create "made in Hawaii" labeling requirements for agricultural commodities in Hawaii; and



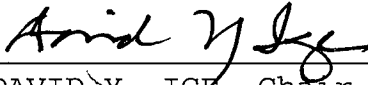
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Agriculture, Commerce and Consumer Protection, and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 111, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 111, S.D. 2, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Agriculture, Commerce and Consumer Protection, and Ways and Means,

  
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ROSALYN H. BAKER, Chair

  
\_\_\_\_\_  
CLARENCE K. NISHIHARA, Chair

  
\_\_\_\_\_  
DAVID Y. IGE, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

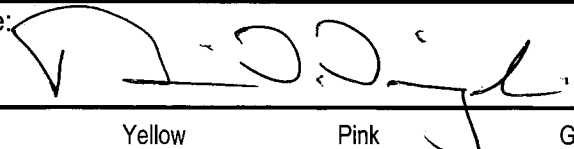
**Record of Votes**  
**Committee on Agriculture**  
**AGL**

Bill / Resolution No.:*	Committee Referral:	Date:
<i>SB III SD I</i>	<i>AGL/CPN/WAM</i>	<i>2/27/14</i>
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input checked="" type="checkbox"/> <del>Pass, unamended</del> 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
NISHIHARA, Clarence K. (C)	✓	
KOUCHI, Ronald D. (VC)	✓	
DELA CRUZ, Donovan M.	✓	
ENGLISH, J. Kalani	✓	
THIELEN, Laura H.	✓	
WAKAI, Glenn	✓	
SLOM, Sam	✓	
<b>TOTAL</b>	<i>7</i>	
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
<i>Sam W. W.</i>		
Distribution:		
Original	Yellow	Pink
File with Committee Report	Clerk's Office	Drafting Agency
		Goldenrod
		Committee File Copy

\*Only one measure per Record of Votes

The Senate  
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**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:*	Committee Referral:	Date:		
SBIII, SDI	AGL/CPN/WAM	2/20/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

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 Twenty-Seventh Legislature  
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**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>SB III SD1</b>	Committee Referral: <b>AGL/CPN/WAM</b>	Date: <b>2-26-14</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
KOUCHI, Ronald D.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam	✓			
	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

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