



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of HB1806
RELATING TO FOOD DONATIONS

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES

Hearing Date: January 25, 2018

Room Number: 329

Time: 9:00 a.m.

1 **Fiscal Implications:** None

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

3 Infant formula and baby food are the only food products that are required to be labeled
4 for food safety. Hawaii Administrative Rules 11-15 requires Grade A milk and milk products to
5 be labeled with a sell by date.

6 Many commercial food products are labeled with dates preceded by “best if used by,”
7 “sell by,” “use by,” “expires on,” etc. These dates are voluntarily provided by manufacturers to
8 guarantee product quality and should not be used to determine product safety. According to
9 United States Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS),
10 even after a quality date has passed, the food should still be safe and wholesome if the product
11 had been handled properly, until spoilage characteristics (off odors, off flavor, off texture) are
12 evident. It is critical that food operations watch for signs of spoilage. Spoiled product is
13 adulterated product and must be discarded.

14 Thank you for the opportunity to testify.



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TO:
Committee on Health and Human Services
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Thursday, January 25, 2018
TIME: 9am
PLACE: Conference Room 329

RE: HB 1806 RELATING TO FOOD DONATION

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.

Providing these common sense protections for food donors makes it easier for businesses to participate in food donations programs. This helps to minimize food waste and means that food ends up being eaten by people who need it rather than taking up space in our landfills. We urge you to vote yes on this measure.

Thank you for the opportunity to testify.

HB-1806

Submitted on: 1/24/2018 3:14:31 AM

Testimony for HHS on 1/25/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE OF HEALTH & HUMAN SERVICES

HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, January 25, 2018

9:00 a.m.

Hawaii State Capitol, Conference Room 329

RE: Testimony in Support of HB 1806, RELATING TO FOOD DONATION AND LIABILITY PROTECTION

To the Honorable John M. Mizuno, Chair; the Honorable Bertrand Kobayashi, Vice-Chair and Members of the Committee on Health & Human Services:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No. 1806, relating to Food Donation and Liability Protection. The OCC Legislative Priorities Committee is in favor of House Bill No. 1806 and support its passage.

House Bill No. 1806, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it discourages food waste and encourages food donation to needy recipients by: (1) clarifying and expanding liability protections for good—faith food donors; (2) allowing the donation of expired food when the donor makes a good—faith judgment that the food is unspoiled; and (3) requiring that education about food donation liability protections be made a part of the health inspection process so that food establishments are aware of these provisions.

Specifically, the DPH Platform states, "We believe in supporting best management practices in sustaining our environment and increased citizen involvement. We support programs that encourage sustainable clean efficient creative and environmentally friendly modes of . . . recycling and waste reduction. The conservation, preservation and restoration of Hawaii's natural resources are connected to the health and welfare of our people; therefore, we support the conservation and protection of our natural environment, which includes reducing our carbon footprint for the benefit of current and future generations."

As provided in HB1806, despite the high level of food insecurity, Hawaii businesses and residents discard more than 237,000 tons of food waste annually. Approximately twenty—six percent of food grown in or imported to Hawaii is thrown away, amounting to approximately \$1,000,000,000 in annual food waste. Food production is a direct contributor to local and global climate change. Food production requires energy, fertilizer, irrigation, feed for livestock, and other resources that contribute to greenhouse gas emissions and add pollutants to the environment. Food waste entering landfills creates methane gas, a greenhouse gas that is eighty-four times more potent than carbon dioxide.

Given that House Bill No. 1806 discourages food waste and encourages food donation to needy recipients, it is the position of the OCC Legislative Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

**TESTIMONY OF ROBERT TOYOFUKU AND NAHELANI WEBSTER FOR
THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) REGARDING H.B. 1806**

January 25, 2018
9:00 a.m.
Room 329

To: Chair John M. Mizuno and Members of the House Committee on Health and Human Services:

We are presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. 1806, Relating to Food Donation.

H.B. 1806 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 donated food recipients at risk.

Sections 3 and 4 create an exception to liability for those who donate 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 donated 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 ensure safety standards are met so that food is safe for public consumption, which includes those in need. Those in need should be afforded the same protections as the general public. Therefore, we suggest it would be of greater public interest for food inspectors to educate potential donors on safe food handling for donated food rather than to simply provide blanket immunity to the donor. Enhanced immunity

would subject our consumers to substandard health measures and defeat 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. We encourage further discussion to determine the meaning of “farm produce.” This includes determining if packaged, unpackaged, poultry, and livestock foods fall under this label, which would ensure these high-risk foods receive a basic level of care to ultimately protect any consumer. 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.

HB-1806

Submitted on: 1/24/2018 10:46:55 AM

Testimony for HHS on 1/25/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Kokua Hawaii Foundation	Support	No

Comments:

Nearly 15% of Hawaii's population are deemed food insecure, relying on emergency assistance, while nearly 240,000 tons of wasted food annually are sent to disposal. Much of this wasted food remains fit for human consumption and donation, but fears of liability lead many manufacturers, retailers and consumers to throw this food away. Federal and state protections are already in place, but current law lacks clarity in some provisions and is limited in scope. Limitations in the federal Good Samaritan Act and in Hawaii law include:

- 1) Current law does not explicitly state that donations of past-date foods are protected from liability.
- 2) No liability protection is given when donors donate directly to final recipients without going through a nonprofit food recovery intermediary.
- 3) There is no education and awareness component for food donor protection laws.

HB1806 will:

- ï, Explicitly state that donated food which has exceeded the sell-by date is subject to liability protection.
- ï, Provide liability protection for donations made directly to end-users.
- ï, Provide liability protection to gleaners, allowing farms to donate surplus produce.
- ï, In order to provide education and awareness, Environmental Health Officers will be required to promote Good Samaritan laws through newsletters, bulletins, handouts, and during inspection.

By more explicitly stating what kinds of food donations are currently protected under Good Samaritan laws, many potential donors will feel reassured that they are, in fact, protected.

Speaking specifically to this committee's purview, it is essential to note that in the entire life of existing federal and state liability protections, there is no available public record of anyone in the United States being sued • or having to pay damages • because of harms related to donated food, nor of reported illnesses. In addition, many quality foods are disposed of when past "Sell By" dates, which are in no way a true indication of freshness, and still fit for donation and consumption. The expanded protections in this bill would allow for more quality foods to be donated from farms, manufacturers, and retailers directly to the food insecure, many thousands of which are the vulnerable children and seniors of Hawaii.

Mahalo for your time and consideration.

Jennifer Milholen - Waste Reduction Coordinator - Kokua Hawaii Foundation

HB-1806

Submitted on: 1/24/2018 12:45:52 PM

Testimony for HHS on 1/25/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Bergstom	Surfrider Foundation Oahu Chapter	Support	No

Comments: