THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

S.C.R. NO. 102 S.D. 1 H.D. 1

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF AGRICULTURE TO STUDY LABELING REQUIREMENTS RELATING TO THE USE OF HAWAII-GROWN COFFEE NAMES AND STUDY THE EFFECTIVENESS OF THE ADMINISTRATIVE RULES RELATING TO INSPECTION, CERTIFICATION, AND AUDIT REQUIREMENTS FOR HAWAII-GROWN COFFEE.

WHEREAS, specialty agricultural crops, such as coffee, tropical fruit, macadamia nuts, chocolate, and vanilla, constitute one of the fastest expanding areas of agricultural production for the state; and

WHEREAS, coffee requires a specific combination of sun, soil, and water, and is successfully grown in only a limited number of locations around the world; and

WHEREAS, the Kona weather pattern of bright, sunny mornings, humid rainy afternoons, and mild nights create favorable coffee growing conditions; and

WHEREAS, the care, skill, and cultivation practices of Kona coffee farmers, most of whom operate small family-owned farms, have built a reputation for quality among coffee consumers; and

WHEREAS, the Kona coffee name only applies to coffee beans grown in North and South Kona, thus, coffee that is grown elsewhere in Hawaii cannot be called "Kona coffee"; and

WHEREAS, under section 486-120.6, Hawaii Revised Statutes (HRS), the Kona coffee name is permitted to be used on a package of blended coffee that contains at least ten percent coffee by weight from Kona; and

WHEREAS, the origin and percentage of the other coffees contained in the package of blended coffee is not required to be listed on the package label or advertisement; and

WHEREAS, as a result, a package of blended coffee could be labeled as "Kona coffee" even though it only contains ten per cent of real Kona coffee and ninety per cent of coffee grown in foreign countries; and

WHEREAS, there is disagreement among Kona coffee growers and processors concerning the minimum percentage of Kona coffee beans that should be contained in a blend of Kona beans and other coffee beans, many from out of the country, labeled as "Kona coffee blend" or similar terms; and

WHEREAS, a number of Kona coffee growers and processors feel that this percentage should be 75 percent at minimum; and

WHEREAS, other Kona coffee growers and processors are concerned about the impact that a 75 percent requirement may have on the overall price and market for Kona coffee as an industry; and

WHEREAS, many small growers market their coffee as "100 percent Kona" on the Internet; and

WHEREAS, larger growers and processors are concerned about "shelf space" in retail facilities that smaller growers and processors are not concerned with; and

WHEREAS, existing labeling requirements for Kona coffee causes consumer fraud and confusion and degrades the "Kona coffee" name; and

WHEREAS, furthermore, coffee roasters on the mainland are not bound by any labeling requirements relating to the use of Kona coffee or the "Kona coffee" name, which adds to consumer confusion; and

WHEREAS, in the December 2004, issue of *Consumer Reports*, a writer confused Kona coffee blends with Kona coffee, and mistakenly rated Kona coffee as "second rate" without differentiating between pure and blended Kona coffees; and

WHEREAS, in 2005, United States Congressman Ed Case introduced H.R. No. 3535 to amend the Agricultural Marketing Act of 1946 to require country of origin labeling for macadamia nuts; and

WHEREAS, similar legislation efforts for Hawaii-grown coffee, whether on the national or state level, could establish better truth-in-labeling standards for Hawaii-grown coffee and lessen coffee consumer confusion; and

WHEREAS, furthermore, the high quality standards of Hawaii-grown coffee beans are due to laws and administrative rules enacted for the purposes of ensuring superior grade and quality; and

WHEREAS, under section 147-7, HRS, all Hawaii-grown green coffee beans (coffee beans that are milled and ready for roasting) need to be inspected and certified by the Department of Agriculture (DOA) for grade and origin unless otherwise specified by rules adopted by the DOA; and

WHEREAS, title 4, chapter 143, Hawaii Administrative Rules (HAR), establishes standards for coffee, including labeling requirements, grade standards, inspection requirements, and a coffee quality verification program; and

WHEREAS, under section 4-143-2, HAR, the inspection and certification of green coffee for origin, grade, or both, are required by the DOA, except for a few exceptions; and

WHEREAS, under section 4-143-10, HAR, dry millers may participate in a coffee quality verification program, which is a self-certification program that authorizes dry millers to certify green coffee and issue a coffee quality verification program certificate; and

WHEREAS, the DOA must follow a coffee quality verification program audit scheme consisting of three levels of audits depending on production output for dry millers participating in this self-certification program; and

WHEREAS, the audit scheme ensures that a consistent level of quality is maintained for all green coffee beans grown in Hawaii because poor quality coffee degrades the "Kona coffee" or "Hawaii Seal of Quality" names; and

WHEREAS, the inspection and certification requirements under section 147-7, HRS, and title 4, chapter 143, HAR, apply to green coffee beans, and not roasted coffee beans; and

WHEREAS, roasted coffee beans are considered processed foods under part IV, chapter 147, HRS; and

WHEREAS, although roasted coffee beans must also be inspected for grade or origin, it does not follow the same inspection and certification processes as green coffee beans; and

WHEREAS, further studies need to be performed on current administrative rules relating to the certification, inspection, and audit requirements for green coffee beans, and whether a uniform inspection and certification process should be required for all coffee beans grown in Hawaii, whether green or roasted, to ensure a better and higher quality of all Hawaii-grown coffee; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, the House of Representatives concurring, that the DOA is requested to:

(1) Study existing labeling requirements relating to the use of the "Kona coffee" or other Hawaii-grown coffee names; and

(2) Study the effectiveness of current administrative rules relating to the inspection, certification, and audit requirements for all Hawaii-grown coffee beans; and

BE IT FURTHER RESOLVED that the DOA is requested to:

(1) Examine existing labeling requirements relating to the use of the "Kona coffee" or other Hawaii-grown coffee names;

(2) Identify problems with the existing labeling requirements for Hawaii-grown coffee;

(3) Develop stricter labeling requirements under state law and department rules for the use of the "Kona coffee" and other Hawaii-grown coffee names;

(4) Perform a thorough economic analysis of the probable impact of increasing the minimum content requirement to 50 percent upon each segment of the Kona coffee industry, and each segment of the coffee industry in other parts of the state, such as Ka‘u and on islands other than the island of Hawaii;

(5) Determine the fiscal impact that stricter labeling requirements or a uniform national labeling requirement standard will have on farmers of small coffee bean farms in Hawaii;

(6) Develop ideas for a uniform national labeling standard and requirements for coffee roasters to abide by for the use of the "Kona coffee" or other Hawaii-grown coffee names; and

(7) Seek input from and collaborate with Hawaii's Congressional delegation, the United States Department of Agriculture, and the Federal Food and Drug Administration on establishing and enforcing a uniform national labeling standard for the use of the "Kona coffee" or other Hawaii-grown coffee names;

and

BE IT FURTHER RESOLVED that the DOA is requested to:

(1) Examine the effectiveness of current administrative rules relating to the inspection, certification, and audit requirements of green coffee beans grown in Hawaii and current statutes relating to the inspection of roasted Hawaii-grown coffee beans;

(2) Seek input from and collaborate with coffee associations and coffee growers statewide on current statutes and administrative rules relating to the grade and quality assurance of Hawaii-grown coffee beans;

(3) Identify any problems with current statutes or administrative rules relating to the grade and quality assurance of Hawaii-grown coffee beans;

(4) Determine the feasibility of establishing and implementing uniform inspection and certification requirements for Hawaii-grown coffee beans, whether green or roasted, to ensure a better grade and higher quality commodity; and

(5) Determine the fiscal impact that a uniform inspection and certification scheme for all Hawaii-grown coffee beans will have on growers of small coffee bean farms; and

BE IT FURTHER RESOLVED that the DOA is requested to submit a written report to the Legislature of its findings and recommendations, including any proposed legislation, no later than 20 days prior to the convening of the 2009 Regular Session; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson of the Board of Agriculture; Dean of the College of Tropical Agriculture and Human Resources, University of Hawaii; President of the Hawaii Farm Bureau Federation; President of the Hawaii Coffee Association; President of the Kona Coffee Council; President of the Kona Coffee Farmers Association; and any other statewide coffee organizations.