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In reply, please refer to:  
File:

**House Committee on Consumer Protection & Commerce**

**House Committee on Judiciary**

**HB 1611, RELATING TO LABELING OF MEAT AND FISH PRODUCTS**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**February 23, 2009  
2:00pm**

1 **Department's Position:** The Department appreciates the intent of the bill, but has concerns regarding  
2 this proposal; and therefore, offers comments.

3 **Fiscal Implications:** As yet unquantified funds to support the proposed amendments.

4 **Purpose and Justification:** This bill amends HRS Chapter 328 by introducing new language that  
5 labeling be required for fish products that have been gas-treated to enhance the product's color. This  
6 testimony only addresses the proposed changes to HRS Chapter 328, a health statute. We defer to the  
7 Department of Agriculture regarding the proposed changes to HRS 159.

8 The Department finds this section of the bill unnecessary as HRS Section 328-10 and  
9 Chapter 11-19, Hawaii Administrative Rules (HAR), already address the issue of proper labeling of  
10 products treated with chemical preservatives.

11 HAR section 11-29-8 includes by reference 21 CFR, Part 101, which addresses proper labeling  
12 of food products. Specifically 21 CFR, Section 101.22(j) states:

13 "A food to which a chemical preservative(s) is added shall, except when exempt pursuant to  
14 101.100 bear a label declaration stating both the common or usual name of the ingredient(s) and

1 a separate description of its function, e.g., 'preservative', 'to retard spoilage', 'a mold inhibitor',  
2 'to help protect flavor' or 'to promote color retention'."

3 Therefore, at a minimum, if a fish product has been gas-treated to promote color retention, the  
4 label must include the name of the product, what it has been treated with, and the reason for using this  
5 type of preservative.

6 Fish products sold in packages by themselves (Ahi filets, Tombo cubes, Frozen Tilapia filets -  
7 No other ingredients) that were treated with carbon monoxide for color retention must be properly  
8 labeled like other processed foods in package form. The treatment must be declared in the ingredient  
9 statement of the label - "Ahi preserved with carbon monoxide to promote color retention".

10 When sold in unpackaged form (poke sold in trays in markets or fish filets in display cases),  
11 carbon monoxide-treated fish must be accompanied by a counter card or sign disclosing the treatment.  
12 For example, signage for ahi poke would read - "Ahi preserved with carbon monoxide to promote color  
13 retention".

14 The Department checks for proper labeling requirements through routine food safety inspections.  
15 We also check to see that products are not offered for sale beyond their expiration date. During a food  
16 safety inspection, should a firm be discovered using an improper expiration date, an investigation of the  
17 firm's policies and procedures regarding food handling practices will be initiated. However, we doubt  
18 that a labeling requirement will stop negligence or intentional misconduct.

19 Labeling has other limits. Any food product that has an expiration date (use, sell, or freeze by  
20 date) can have high bacterial levels and still be within the expiration date if the food product has been  
21 mishandled (e.g., food held at improper temperature for too long). The concept that a food product can  
22 appear "fresh" and still have the potential to cause foodborne illness is not unique to CO-treated fish or  
23 meats, as the major outbreak associated with consuming fresh spinach has shown. Locally caught fresh

1 fish have the potential to cause ciguatera intoxication, and there is no way the fisherman or the consumer  
2 can determine which fish will cause illness based on appearance.

3 Education of commercial firms and consumers on proper food handling and preservation, in  
4 relation to time and temperature, remain important.

5 We thank you for the opportunity to testify.