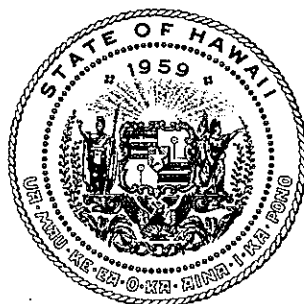


**REPORT TO THE TWENTY-FIFTH LEGISLATURE  
2010 REGULAR SESSION**

**LABELING ISSUES RELATING TO THE HAWAII-MADE PRODUCTS LAW  
IN RESPONSE TO ACT 80, SESSION LAWS OF HAWAII 2009**



**STATE OF HAWAII  
DEPARTMENT OF AGRICULTURE**

**DECEMBER 2009**

## **Background**

On June 1, 2009 Act 080 amending HRS Sections 486-1 and 486-119, was signed by the Governor taking effect on July 1, 2009. The amendments to HRS Section 486-1 and 486-119 include definitions for “Craft items”, “perishable consumer commodity” and more restrictive language limiting the use of “made in Hawaii” as an advertising or media tool, and terms such as “produced in Hawaii”, or “processed in Hawaii.”

In addition to those amendments, Section 3 of Act 080 required the Chair of the Board of Agriculture to convene a working group composed of:

- (1) A representative of the Department of Business, Economic Development, and Tourism;
- (2) Representatives of native Hawaiian artisans;
- (3) Representatives of artisan and handcrafter guilds or collectives such as Creations of Hawaii and the Made in Hawaii Festival;
- (5) Retail merchants of handcrafted goods;
- (6) A representative of Hawaii Farm Bureau Federation;
- (7) A representative of Hawaii Food Manufacturers Association; and
- (8) A representative of Hawaii Food Industry Association.

The purpose of the working group is to identify labeling issues relating to the Hawaii-made products law and to propose workable solutions, including solutions for enforcement.

## **Working Group**

On September 25, 2009, a letter and information form was sent out to 37 representatives from DBEDT, native Hawaiian artisans, artisans and handcrafter guilds, and retail associations (see Attachment A). The letter invited representatives to participate in a working group that would be convened to identify labeling issues relating to the Hawaii-made products law and to propose workable solutions, including solutions for enforcement. A follow up letter was sent after only seven organizations initially responded.

On November 4, 2009 the Measurement Standards Branch convened the working group. In attendance at the working group meeting was:

- Dr. John Ryan, Quality Assurance Division Administrator
- William Pierpont, Manager, Measurement Standards Branch
- Mr. Wayne Thom, Manager of Department of Business, Economic Development and Tourism
- Ann Yamamoto, Executive Director of Hawaii Farm Bureau Federation
- Mela Kealoha-Lindsey, Festival and Events Specialist of Creations of Hawaii
- Maile Meyer, Native Books Na Mea Hawaii
- Martha German, Honolulu Academy of Arts
- Herb Kamiyama, President of Hawaiian Mamaki Tea Plantation

Attending via conference call:

- Richard C. Botti, President of Hawaii Food Industry Association

## **Issues identified and discussed**

- Impact of the pending Reduction in Force on Measurement Standards inspection staff and the Branch's ability to take corrective action statewide.
- Lack of enforcement (personnel/action) at swap meets, farmer markets, "Made in Hawaii" and "Product of Hawaii" festivals and shows; Hawaii made specialty retail stores.
- Lack of participation of property owners or venue operators to ensure that products offered for sale in "Made in Hawaii" and "Product of Hawaii" shows are certified prior to the advertised or marketed event.

## **Suggestions**

- Pre-screening of products and certification by a property owner or venue operator hosting a "Made in Hawaii" or "Products of Hawaii" event.
- Participation of County and State facility managers in the prescreening of event organizers or event marketers to ensure that products offered for sale during a "Made in Hawaii" or "Product of Hawaii" event meets the minimum requirements of the "Made in Hawaii" statute.
- "Seal of Quality" certification or designation for small businesses that can be used to market products during an event, without requiring a label impression (not supported by HDOA).
- Documentation of businesses and products who participate in "Made in Hawaii" shows, stating responsibility for their products authenticity and "Made in Hawaii" content.
- Cultural trademarks to protect against misappropriation and degradation.
- Recognition of notable Hawaii producers and artists.
- Educating the public.

## **Next Steps**

The Department of Agriculture will develop a document that will accompany an individual's application to participate in "Made in Hawaii" events. The document will hold the individual, business, event marketer, or venue owner responsible for ensuring all products offered for sale meet the requirements of the "Made in Hawaii" law (see Attachment B).

The working group will plan to meet before the end of 2009 or early in 2010 in order to develop a pre-screening process for those individuals and businesses that want to offer "Made in Hawaii" items. A flowchart be developed that will identify the steps an individual will need to go through to become qualified. The flow chart will also identify those agencies that will interact with the business at each step.

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I, \_\_\_\_\_, representing \_\_\_\_\_,  
declare that my products, offered for sale on this date, \_\_\_\_\_, at this  
event: \_\_\_\_\_, meet or exceed the requirements of Hawaii  
Revised Statutes (HRS) section 486-119 "*Hawaii-made products*" which prohibits the offer of  
sale of any product labeled "made in Hawaii" or which by any means misrepresents the origin of  
the item as being from any place within the State, if it has not been manufactured, assembled,  
fabricated, or produced within the State and which has not had at least fifty-one percent of its  
wholesale value added by manufacture, assembly, fabrication, or production within the State."

By signing and agreeing to the above statement, you have given the Measurement  
Standards Branch permission to request proof of authenticity of any product represented by the  
business as "Made in Hawaii" or "Product of Hawaii".

Any person or persons representing any business entity or marketing any venue, venue  
operator, or property owner associated with the "Made in Hawaii" or "Product of Hawaii" event  
identified above must demonstrate which of its products offered for sale have at least 51% of  
their wholesale value added by manufacture, assembly, fabrication, or production within the state  
of Hawaii in accordance to Revised Statutes (HRS) section 486-119 "*Hawaii-made products*".

Businesses, individuals, venue marketers, operators or property owners found to be  
misrepresenting products offered for sale as "Made in Hawaii" or "Products of Hawaii" can be  
subjected to prosecution up to and including fines of \$2000 per day per violation.

