

HB280 FAQ

Q: What is HB280?

A: HB280 is a bill that makes two primary changes to current Hawaii coffee certification laws:

The first change makes counterfeiting Hawaiian coffee a class C felony instead of a misdemeanor. This will move enforcement from the HDOA to county prosecutor's office or state law enforcement agencies as well as give it some teeth. The hope is that this change will provide better enforcement of existing laws which are currently being ignored.

The second change will make certification for grade voluntary instead of mandatory. This only changes the certification for grade while certification for origin will actually be more rigorous. All unroasted green coffee leaving its place of geographic origin must still meet minimum standards of quality and must be marked with or contain documentation of origin approved by HDOA. In other words, it will still be illegal to counterfeit coffee.

Q: Why oppose HB280?

A: *Repeal of the current system would take us back to the days of the Kona Kai Coffee Counterfeiting Scandal of the mid-1990s when the reputation of Hawaii-grown coffee was severely damaged because of a "voluntary" certification system.*

- "Independent Voice" newsletter, Kona Coffee Farmers Association, July 2012

The KCFA created an online petition opposing HB280. The petition received more than 700 signatures of Kona coffee farmers, friends and mainland customers.

Q: What was the Kona Kai scandal?

A: From 1993-1996, Michael Norton sold 3.6 million pounds of non-Kona that was relabeled as Kona coffee. He was never convicted of this crime. In 2000, Norton was convicted for wire fraud, money laundering and tax evasion.

Q: Where did Kona Kai happen?

A: Kona Kai Farms owned a coffee mill in Kona, Hawaii but headquarters were in Berkeley, California. All of the blending and counterfeiting occurred in California, outside the jurisdictions of Hawaii state law.

Q: Could the Kona Kai scandal happen again today?

A: Yes. All of Kona Kai's coffee shipped out of Kona was HDOA (Hawaii Department of Agriculture) certified. There are no federal statutes governing Hawaiian coffee so the Kona Kai scandal was and still is perfectly legal. Even in Hawaii, prior to HB280, counterfeiting coffee was considered only a misdemeanor.

Q: Is counterfeiting happening today?

A: With any premium product, counterfeiting will always be a concern. Origin counterfeiting is occurring today with Ka'u coffee being sold as Kona coffee. Prior to HB280, with lack of enforcement and lack of

sufficient penalties, there was little chance of stopping counterfeiting.

Q: What are the current Hawaii state certification laws?

A: All unroasted green coffee leaving its place of geographic origin (i.e. Kona, Ka'u, Kauai, Maui, etc.) must be properly labeled and documented. Coffee can be certified by grade or as "Origin Only" which is Prime or better. Grade certification is a statement of quality while origin certification is a statement of where the product came from.

Q: How does coffee get certified?

A: Certification is performed by a state inspector, usually at a large coffee mill on a preset schedule. Certification costs a couple hundred dollars per batch for grade certification and slightly less for origin certification. Each grade must be certified separately so the cost can quickly become significant. In 2010, due to state budget cuts, the number of inspectors was reduced and the time required for inspection went from a few days to several weeks or months.

Q: Does all coffee require certification?

A: There are no certification requirements for roasted coffee nor for coffee sold inside its place of origin. Since most small farms sell either roasted coffee or unprocessed coffee cherry, they do not need certification. Usually only large batches of wholesale green beans are certified. Poor quality coffee that fails certification can legally be sold as roasted coffee. Of course there is no protection at all outside the state of Hawaii.

Q: Why make grade certification voluntary?

A: Voluntary grade certification moves the final decision of quality away from a government official and into the hands of the buyer and seller. If desired, state certification is still an option. However many buyers prefer to make their own decision and don't want to pay for state certification. Since quality is a matter of personal taste, most consumers don't want the government telling them what they can or can't buy. No other product in Hawaii must be certified for quality.

Q: How will HB280 affect coffee sales?

A: Nobody can predict the future so there are a variety of answers to this question. It is fairly certain that voluntary certification will lighten the load on state inspectors, reducing the number of inspectors required. HB280 may help prevent fraud by changing the focus from certifying honest sellers to catching dishonest counterfeiters. Or HB280 may increase fraud by allowing dishonest sellers to more easily avoid certification.

Q: Who opposed HB280?

A: Kona Coffee Farmers Association

The KCFA has approximately 300 members. Only Kona coffee farmers may be members of the KCFA. Most are smaller, part-time farmers that sell either unprocessed coffee cherry directly to a local mill or roasted coffee directly to consumers. Since most small farms do not sell large quantities of wholesale green beans, many do not get their coffee certified. Overall, KCFA members represent approximately 5%

of the Hawaii coffee industry.

Q: Who supports HB280?

A: Over 90% of Hawaii coffee, by volume and value, is represented by the following organizations which all support HB280:

Hawaii Coffee Growers Association

Maui Coffee Association

Kona Coffee Council

Hawaii Coffee Association

Ka'u Farm Bureau

Hawaii Farm Bureau

HB280 was approved by both the Hawaii state House and Senate in May, 2012.

It was not vetoed by the Governor and passed into law in July, 2012.

www.hawaiifreepress.com/ArticlesMain/tabid/56/ID/6646/HB280-Strangled-by-Bureaucracy-Coffee-Farmers-Call-for-Repeal-of-Mandatory-Inspections.aspx

Hawai'i Free Press

Tuesday, May 01, 2012

HB280: Strangled by Bureaucracy, Coffee Farmers Call for Repeal of Mandatory Inspections

By Selected News Articles @ 4:03 PM :: 4450 Views :: [Hawaii County](#), [Akaka Bill](#), [Energy](#), [Environment](#)

Passage of HB 280 is Important for Hawaii Coffee Industry

by Chris Manfredi, Ka'u Farm Bureau

Coffee is one of Hawaii's signature products. The legendary Kona origin has been part of the mystique of Hawaii for nearly 200 years. High-quality Hawaiian coffee is a unique export crop in that it is almost exclusively grown on small family farms that help to support resilient rural communities. However the very success of Hawaii's coffee has led to problems of counterfeiting that the coffee industry must address in order to protect the integrity of Hawaiian coffee in a global marketplace.

HB280 seeks to repeal **mandatory** coffee certification for quality standards while giving Hawaii's valuable coffee origins more protection.

Deep budget cuts in 2009 set Hawaii's Department of Agriculture on its heels, shrinking the department's budget by 19%. Numerous positions were eliminated, including coffee inspectors. With the loss of all but one inspector position in Kona, the viability of the inspection service was crippled. This year's growing season has been marked by increasing delays for inspection and certification. Coupled with impacts from Coffee Berry Borer, severe drought, and rising shipping costs, the coffee industry has reached a tipping point. Delays of up to four weeks hurt the industry, crimping cash flows

to farmers and producers alike, strangling commerce.

The certification process has become a restrictive bottleneck, damaging the industry it was intended to protect. Inspector positions have not been restored notwithstanding industry efforts. The pain will continue if a remedy is not found. Our primary competition is not within our borders, but overseas where our wage and benefit burdens don't exist. Long delays combined with relatively high production and shipping costs combine to make one of Hawaii's signature crops less competitive in the global marketplace. Clearly a change is needed.

There are two aspects of coffee certification that inspections address: minimum quality standards and origin. Currently, in order to sell coffee as of Hawaiian origin, minimum quality standards must be met. Sophisticated buyers who pay the prices that Hawaiian coffees command typically request samples in advance. These samples are evaluated to a much higher standard than HDOA's standards by panels of highly skilled, accredited cuppers with discerning palates. The ultimate arbiter of quality is the buyer. If coffee buyers are not demanding minimum quality certification by HDOA, HB280 will make quality certification voluntary. If they are, it would continue to be available on a fee-for-service basis.

Secondly is certification for origin. This inspection helps ensure that the coffee is accurately represented by the seller with respect to where it is grown. Maximum penalties are currently up to a \$1,000 fine and up to one year in prison, or both, and enforcement lies with HDOA. These penalties are not having the necessary deterrent effect. A fine of \$1,000 is less than the value of a single bag of quality Hawaiian green coffee and HDOA has never put anyone in jail.

Passage of HB280 would make false labeling (counterfeiting) of Hawaii-grown coffee a felony punishable by a \$10,000 fine and up to five years in prison. The bill provides for enhanced record keeping and reporting and gives law enforcement statutory authority to enforce the laws. HB280 gives Hawaii's valuable coffee origins more protection than they have ever had before; certainly more than what exists today. The ability for producers to opt out of minimum quality certification will reduce HDOA's workload, eliminate delays and help rural locations that have been historically underserved by inspectors.

It's important to note that Hawaii's current certification rules do not regulate roasted coffee nor any coffee not moved out of the growing region. If the market can voluntarily regulate quality in these trading environments, the same is true at other levels.

While much of Hawaii's coffee is produced on small family farms, large scale production is also found on plantations located on Maui, Kauai, Molokai and Oahu. Given this diverse spectrum of producers, it's uncommon when such a broad array of stakeholders agrees upon any issue. This is one of those landmark occasions when growers and producers, large and small, government and law enforcement agree on a solution.

HB 280 is less costly, improves Hawaii's competitiveness, helps rural underserved locations and

protects Hawaii's valuable origins better than ever before.

That sounds like a change for the better.

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This opinion is endorsed by the collective membership of the Hawaii Coffee Association, Kona Coffee Council, Hawaii Coffee Growers Association and the Maui Coffee Association

Link: [HB280 HD1 SD2 CD1](#)