

SENATE RESOLUTION NO. 159

BY SENATORS FRED MILLS, ALLAIN, BARROW, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CONNICK, CORTEZ, DUPLESSIS, FESI, FIELDS, FOIL, HARRIS, HENSGENS, HEWITT, JACKSON, KLEINPETER, LAMBERT, LUNEAU, MCMATH, MILLIGAN, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH, STINE, TARVER AND WOMACK

A RESOLUTION

To direct the Louisiana Department of Health to protect the people of Louisiana from the dangers of imported seafood by immediately taking any and all action necessary to enforce the many provisions of Louisiana law relative to seafood safety.

WHEREAS, according to the National Oceanic and Atmospheric Administration, in 2019 the United States imported six billion pounds of edible seafood products; and

WHEREAS, it is estimated that over half of the imported seafood consumed in the United States is from aquaculture rather than wild-caught; and

WHEREAS, only a very small amount of imported seafood is tested for harmful substances by the federal government; and

WHEREAS, the Louisiana State University School of Renewable Natural Resources published a 2020 paper titled "Determination of Sulfite and Antimicrobial Residue in Imported Shrimp to the USA", which presented findings from a study of imported shrimp purchased from retail stores in Baton Rouge, Louisiana; and

WHEREAS, a screening of these shrimp for sulfites and residues from antimicrobial drugs found the following: (1) five percent of the shrimp contained malachite green, (2) seven percent contained oxytetracycline, (3) seventeen percent contained fluoroquinolone, and (4) seventy percent contained nitrofurantoin; and

WHEREAS, all of these substances have been banned by the United States Food and Drug Administration (FDA) in domestic aquaculture operations; and

WHEREAS, the results of this study confirm that existing screening and enforcement measures for imported seafood are insufficient; whatever the percentage of imports inspected may be, seafood is currently being imported that contains unsafe substances that put Louisiana consumers at risk; and

WHEREAS, the Legislature of Louisiana is concerned about the continued presence of certain chemical, bacterial, or biotoxin contaminants in imported seafood that put its citizens at risk for serious food-borne illnesses; and

WHEREAS, it is imperative to the health and well-being of the citizens of this state that all imported seafood be wholesome and free of adulteration prior to sale in Louisiana; and

WHEREAS, in 2008, the Legislature of Louisiana passed Act No. 264 which enacted R.S. 56:578.14 to prohibit an owner or manager of a restaurant that sells imported crawfish or shrimp from misrepresenting to the public, either verbally, on a menu, or on signs displayed on the premises, that the crawfish or shrimp is domestic; and

WHEREAS, the district attorney of the district in which the restaurant is located has jurisdiction over violations of R.S. 56:578.14, and the penalties for violations are monetary fines between fifty dollars and five hundred dollars, depending on the number of previous violations; and

WHEREAS, in 2009, the Legislature of Louisiana passed Act No. 330 which included legislative findings that serious risks to public health may be posed by radiation, antibiotics, such as chloramphenicol and fluoroquinolones, chemicals, malachite green, copper salts, and other residues found in Chinese seafood; that the overexposure to antibiotics from such seafood may cause serious antibiotic resistance to the consumer; and that, in addition, chemicals such as malachite green are known carcinogens; and

WHEREAS, Act No. 330 clearly states it is the intent of the legislature to protect the health and welfare of Louisiana consumers from potentially harmful residues in seafood imported from the People's Republic of China that are sold or served in Louisiana, and that Louisiana consumers have the right to know if seafood imported from the People's Republic of China is being served in a food service establishment or is available for purchase; and

WHEREAS, Act No. 330 required the state health officer, in conjunction with the Department of Agriculture and Forestry, to institute a public safety marketing campaign to warn the public about the risks of consuming seafood from the People's Republic of China deemed to be safe by the Seafood Inspection Program but which nevertheless contains hazardous substances; and

WHEREAS, R.S. 40:5.5.2, as enacted by Act No. 330, provides for a Chinese seafood warning label program and requires the state health officer to take actions to ensure that all consumers of imported marine and freshwater seafood products from the People's Republic of China are warned about the potential health risks associated with the consumption of those products, including a marketing campaign employed by the state health officer and the Louisiana Restaurant Association that places an emphasis on highlighting the benefits of eating domestic seafood and the production of a statement that may be included on labels, placards, menu boards, or other promotional signage to encourage consumers to consume Louisiana seafood and warn of the risks that may be associated with the consumption of Chinese seafood; and

WHEREAS, Act No. 330 created, within the Louisiana Department of Health, the Seafood Safety Task Force, which was charged with obtaining: (1) the method in which the imported seafood is inspected in Louisiana; (2) the frequency of inspections of imported seafood; (3) the substances for which imported seafood are currently being tested; and (4) the results of sampling analysis of potentially harmful substances in imported seafood; and

WHEREAS, R.S. 40:5.5.3 required the task force to compile the results of these findings and develop seafood and safety recommendations to be reported to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development, and the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development by March 1, 2010; and

WHEREAS, the Seafood Safety Task Force still exists in current law and the need for the task force to review state policy regarding imported seafood has not diminished but has grown greater than ever; and

WHEREAS, in 2019, the Legislature of Louisiana passed Act No. 372 which recognized that serious risks to public health may be posed by antibiotics, radiation, and numerous toxins found in seafood products, including but not limited to crawfish and shrimp, that originate outside of the United States; and

WHEREAS, Act No. 372 further affirmed the intent of the legislature to protect Louisiana consumers from potentially harmful chemicals and residues in seafood products

that are imported from foreign countries and sold or served in food service establishments in this state and declared that Louisiana consumers have the right to know if crawfish or shrimp imported from a foreign country is being served in a food service establishment, as the consumption of such seafood may pose a health risk; and

WHEREAS, R.S. 40:5.5.4, as enacted by Act No. 372, requires any food service establishment that sells or provides cooked or prepared crawfish or shrimp that originate outside of the United States to display on all menus the country of origin of the crawfish or shrimp, or denote that the crawfish or shrimp are imported, in letters no smaller than the same size, font, and shade as the product being offered, immediately adjacent to the menu listing of the seafood item being sold or paper-clipped to the menu; and

WHEREAS, R.S. 40:5.5.4 further requires any food service establishment that does not use a menu as a standard business practice to display on a sign posted at the main entrance to the establishment, and visible to all patrons, that the crawfish or shrimp being served originate from a foreign country; and

WHEREAS, a violation of R.S. 40:5.5.4 constitutes a violation of the state sanitary code; and

WHEREAS, the Legislature of Louisiana has recently heard the concerns of Louisiana residents that Louisiana statutory requirements regarding imported seafood are not being properly enforced; and

WHEREAS, at the May 31, 2023, meeting of the Senate Committee on Health and Welfare, Louisiana Department of Health staff members indicated that a violation of R.S. 40:5.5.4 is not considered a critical violation of the state sanitary code which must be promptly remedied; and

WHEREAS, the mission of the Louisiana Department of Health is to protect and promote health for all residents of Louisiana; and

WHEREAS, unfair competition allows foreign competitors to flood the United States market with seafood harvested under intensive farming practices, while devastating local industries and coastal communities built around them; and

WHEREAS, domestically produced shrimp and crawfish offer the best option for the health and safety of United States consumers; and

WHEREAS, people all over the United States and foreign tourists who travel to Louisiana purposefully choose to eat Louisiana seafood and it is imperative that they can be assured that they are receiving genuine Louisiana seafood.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature does hereby direct the Louisiana Department of Health to protect the people of Louisiana from the dangers of imported seafood by immediately taking any and all action necessary to enforce the many provisions of Louisiana law relative to seafood safety.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall immediately coordinate with the commissioner of agriculture and the lieutenant governor to pursue every funding option available to promote Louisiana seafood, including revival of the "Ask before you eat" campaign or something equally compelling and the marketing campaign required by R.S. 40:5.5.2.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall convene and resume the operations of the Seafood Safety Task Force created by R.S. 40:5.5.3, with the first meeting taking place no later than August 1, 2023.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall immediately amend LAC 51:XXIII:4311 to include a violation of R.S. 40:5.5.4 as a critical violation for enforcement purposes.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall immediately amend LAC 51:I:113 to include a violation of R.S. 40:5.5.4 as class A violation subject to the imposition of a civil fine for noncompliance.

BE IT FURTHER RESOLVED that the Louisiana Department of Health shall report to the appropriate district attorney all violations of R.S. 56:578.14 discovered during restaurant inspections or reported in complaints made to the department.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Louisiana Department of Health.

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PRESIDENT OF THE SENATE