

2024 Regular Session

SENATE BILL NO. 62

BY SENATORS FESI, ALLAIN AND CONNICK

PUBLIC HEALTH. Provides relative to seafood safety. (gov sig)

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AN ACT

To amend and reenact R.S. 40:5.10.1 and 31.35 and to enact R.S. 40:31.35.1, relative to seafood safety; to provide for changes to the Imported Seafood Safety Fund; to provide for clarification of the commercial seafood permit fee; to provide for permit requirements for domestic seafood processors; to provide for permit requirements for imported seafood processors; to provide for requirements for seafood distributors; to provide for transparency and record keeping of seafood in this state; to provide for inspections and audits; to provide for penalties; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:5.10.1 and 31.35 are hereby amended and reenacted and R.S. 40:31.35.1 is hereby enacted to read as follows:

§5.10.1. ~~Imported~~ Seafood Safety Fund

A. There is hereby created in the state treasury a special fund designated as the ~~Imported~~ Seafood Safety Fund, referred to hereafter in this Section as the "fund". After allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall

1 deposit in and credit to the fund monies collected pursuant to R.S. 40:31.35(~~€~~).
 2 Monies in the fund shall be invested in the same manner as monies in the state
 3 general fund. Interest earned on investment of monies shall be deposited in and
 4 credited to the fund. Unexpended and unencumbered monies in the fund shall remain
 5 in the fund. Monies in the fund shall be appropriated to the office of public health of
 6 the Louisiana Department of Health and used exclusively as provided in this Section.

7 B. The monies in the fund shall be appropriated and expended solely for the
 8 purpose of enforcing the provisions of R.S. 40:31.35.1, including but not limited
 9 to inspections of processors and distributors to ensure compliance with permit
 10 requirements and sampling, analysis, testing, and monitoring of ~~raw~~ seafood
 11 products of foreign origin that are imported into Louisiana and stored on the
 12 premises of any business holding a commercial seafood permit issued pursuant to
 13 R.S. 40:31.35. The office of public health of the Louisiana Department of Health
 14 shall perform inspections as considered necessary to ensure permit compliance
 15 and shall directly administer or contract for ~~such~~ sampling, analysis, testing, and
 16 monitoring functions. The office of public health shall employ ~~such~~ any functions
 17 necessary to detect in imported seafood products the presence of substances that are
 18 harmful to human health. The state health officer shall determine the specific types
 19 of ~~such~~ sampling, analysis, testing, and monitoring functions to be implemented as
 20 well as the frequency and scope of these activities, all of which he may modify based
 21 upon the availability of funding for these purposes.

22 * * *

23 §31.35. Commercial seafood permit fee

24 A. The department shall charge and collect an annual commercial seafood
 25 permit fee to ~~partially~~ support the cost of inspection, monitoring, sampling, and
 26 laboratory analysis of seafood processed and distributed in this state as mandated
 27 by R.S. 40:31.35 and the state Sanitary Code. The classification of the permit shall
 28 be separated as a domestic commercial seafood permit, an imported commercial
 29 seafood permit, and a commercial seafood distributor permit. The fee shall be

1 collected from each seafood distributor and processing plant based on gross revenues
2 of the plant or distributor as follows:

3 Revenues	Annual fee
4 \$1,000,000 and under	\$ 150.00
5 \$1,000,001 - \$2,500,000	250.00
6 \$2,500,001 - \$5,000,000	350.00
7 over \$5,000,000	500.00

8 B. The department shall charge and collect a shellfish transplant permit fee
9 of one hundred dollars. **The permit issued to any person who transplants shellfish**
10 **shall be subject to the seafood distributor requirements set forth in R.S.**
11 **40:31.35.1(C) and any other requirements established by the department.**

12 C. The department shall charge and collect an imported seafood safety fee of
13 one hundred dollars annually from each holder of a commercial seafood permit fee
14 who ~~sells~~ **processes** imported seafood. The ~~proceeds of such~~ fee shall be used for the
15 purposes described in R.S. 40:5.10.1 **and to ensure compliance with R.S.**
16 **40:31.35.1.**

17 **§31.35.1. Commercial seafood permit requirements; domestic processors;**
18 **import processors; distributors; verifications; inspections;**
19 **penalties**

20 **A. Any person who processes only domestic seafood in this state shall**
21 **obtain a domestic commercial seafood permit issued by the department**
22 **pursuant to R.S. 40:31.35 and shall ensure all of the following:**

23 **(1) The seafood is a domestic product that has not been commingled with**
24 **any imported seafood prior to delivery to the processor.**

25 **(2) A sample of the domestic seafood has been tested for chemical**
26 **composition, as required by the department, by the person who delivers the**
27 **seafood to the processor. A copy of the test results shall be provided to the**
28 **processor. If the seafood has not been tested prior to delivery to the processor,**
29 **the department shall test the seafood. The department may initiate a new test**

1 at any time or test seafood to verify prior test results. All costs associated with
2 testing shall be paid by the processor if the tests are done by the department.

3 (3) All labels affixed to the seafood clearly indicate that it is a Louisiana
4 product only if the processor can guarantee that the product is purely a
5 domestic product.

6 (4) All labels indicate the results of chemical composition after testing.

7 (5) Any other rules and requirements prescribed by the department in
8 the Sanitary Code to ensure seafood safety.

9 B. Any person who processes only imported seafood in this state or who
10 processes both imported seafood and domestic seafood in the same seafood plant
11 shall obtain an imported commercial seafood permit issued by the department
12 pursuant to R.S. 40:31.35 and shall ensure all of the following:

13 (1) The seafood has been tested in the country of origin and at the point
14 of embarkation in the United States and a certified copy of the test results have
15 been provided to the processor. The processor shall not accept any imported
16 seafood at the processing plant without test results for chemical compositions
17 that are in compliance with the minimum standards established by the
18 department. The department may initiate a new test at any time or test seafood
19 to verify prior test results. All costs associated with testing shall be paid by the
20 processor if the tests are performed by the department.

21 (2) Commingled seafood shall be processed separately from domestic
22 seafood to avoid cross contamination. Any commingled seafood products shall
23 be considered imported for purposes of processing, distributing, and labeling.

24 (3) All labels affixed to the imported or commingled seafood clearly
25 indicate that it is imported, indicates the original country of origin, and does not
26 bear any likenesses, images, or references to Louisiana or its geography,
27 including the Gulf of Mexico, that would give a consumer the impression that
28 it is a domestic product. The label shall also comply with the following:

29 (a) The country of origin must appear on the front of any packaging or

1 labeling of imported or commingled seafood. If the product is commingled, the
2 label must clearly indicate that the seafood is a product of the identified foreign
3 country that also includes Louisiana domestic seafood.

4 (b) The label shall include a percentage that informs the consumer of the
5 amount of imported seafood included in the packaging compared to the amount
6 of domestic seafood. However, any commingled seafood shall be considered a
7 product of the foreign country for labeling purposes.

8 (4) All labels indicate the results of chemical composition after testing.

9 (5) Any other rules and requirements prescribed by the department in
10 the Sanitary Code to ensure seafood safety.

11 C. Any person who transports or distributes any seafood in this state
12 shall obtain a commercial seafood distributor permit issued by the department
13 pursuant to R.S. 40:31.35 and shall do all of the following as a condition of
14 distributing seafood from the processing plant:

15 (1) Verify the processor's permit is current and that they are in good
16 standing with the department. The distributor shall review the number and
17 severity of any violations incurred by the processor.

18 (2)(a) Obtain a signed verification statement signed by the processor that
19 the:

20 (i) Seafood has been tested as required by the department and is in
21 compliance with the minimum chemical composition standards established by
22 the department.

23 (ii) Labeling affixed to the seafood is in compliance with the statutory
24 requirements for clearly distinguishing domestic Louisiana seafood from
25 imported or commingled seafood.

26 (b) Provide the retail establishment with the signed verification
27 statement provided for in this Subsection upon taking delivery of the seafood
28 from the distributor. The processor, distributor, and retail establishment shall
29 all maintain a copy of the verification statement to produce to the department

1 during an audit or inspection.

2 (c) The department shall issue a standard form that must be completed
3 in order to comply with the signed verification statement provision of this
4 Paragraph. Copies of the form shall be retained by the processor, distributor,
5 and retailer and shall be produced upon demand of the department. The
6 department may provide for a paper form or electronic tracking for the form.
7 However, if the form is electronic it shall be designed in a way to track its
8 verification by the distributor and retailer once created by the processor.
9 Failure of the processor, distributor, or retailer to produce the form or
10 indication or discovery by the department that the form contains fraudulent or
11 intentionally misleading statements shall make the producer, distributor, or
12 retailer subject to the penalties imposed by the department provided for in this
13 Section or any other provision of law.

14 (3) Comply with any other rules and requirements prescribed by the
15 department in the Sanitary Code to ensure seafood safety.

16 D.(1) The department shall conduct inspections of seafood processor
17 plants and seafood distributors to ensure compliance with the provisions of this
18 Section, the Sanitary Code, and any other provision of law relative to seafood
19 safety. Inspections may be of the physical plant, of the seafood, or a desk audit
20 to ensure compliance with mandated record keeping.

21 (2) The department shall impose fines for violations of this Section as
22 follows:

23 (a) For a first offense, a fine of not more than five thousand dollars.

24 (b) For a second offense, a fine of not more than ten thousand dollars per
25 violation.

26 (c) For a third offense, a fine of not more than fifteen thousand dollars
27 per violation.

28 E. In addition to the fines provided for in Subsection D of this Section,
29 the department may revoke any commercial seafood permit for noncompliance

1 with the provisions of this Section.

2 F. Notwithstanding any provision of law to the contrary, including R.S.
3 40:6(D), prior issuance of a notice of violation or compliance order shall not be
4 a prerequisite to imposing the fines authorized by this Subsection, which may
5 be imposed by issuance of a notice and order of imposition of penalties. The
6 notice shall state with specificity the nature of the violation, shall be served on
7 the violator by any means authorized by the Sanitary Code, and shall be subject
8 to the same administrative appeal procedures and delays as provided for
9 compliance orders in the Sanitary Code.

10 G. For purposes of implementing the provisions of seafood safety
11 required by R.S. 40:5.1.1, R.S. 40:31.35, and this Section, the following
12 definitions shall apply:

13 (1) "Commingled" means to cause to blend together, mix, or combine
14 domestic and imported seafood.

15 (2) "Distributor" means a person engaged in the purchasing, storing,
16 shipping, and selling of seafood.

17 (3) "Domestic" means raised, harvested, or caught in Louisiana waters,
18 the Gulf of Mexico, or any other adjacent state waters and landed in Louisiana.

19 (4) "Importer" means any person in the business of importing seafood
20 or seafood products into the United States from another country for commercial
21 purposes or who acts as an agent, broker, or consignee for any person or nation
22 that produces, processes or markets seafood or seafood products outside of the
23 United States for sale or other commercial purpose in the United States.

24 (5) "Plant" means any establishment approved by the department for
25 the purpose of processing seafood.

26 (6) "Processor" means any plant or facility that has been permitted by
27 the department to clean, shuck, pick, peel, or pack seafood.

28 (7) "Seafood" includes but is not limited to fish, shellfish, edible
29 crustaceans, and marine and freshwater animal food products.

1 **(8) "Shellfish" means all edible species of oysters, clams, or mussels,**
 2 **either shucked or in the shell, fresh or frozen, whole or in part.**

3 Section 2. The Louisiana Department of Health shall promulgate, in accordance with
 4 the Administrative Procedure Act, any emergency rules necessary to implement the
 5 provisions of this Act.

6 Section 3. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Amanda Trapp.

DIGEST

SB 62 Original

2024 Regular Session

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Present law establishes the Imported Seafood Safety Fund for the purpose of sampling, testing, and monitoring raw seafood products of foreign origin that are imported and stored in Louisiana by commercial seafood permittees.

Proposed law expands the uses of the fund to cover additional responsibilities of the Louisiana Department of Health required by proposed law.

Present law establishes a commercial seafood permit fee for seafood distributors and processing plants.

Proposed law requires that the permit be divided into separate classifications for processors and distributors and for processors that process either imported or domestic seafood.

Proposed law places additional requirements on the processors and distributors relative to testing, documentation, and labeling.

Proposed law requires the Louisiana Department of Health to ensure compliance and impose fines for violations of proposed law.

Proposed law establishes definitions for terms used in present law and proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:5.10.1 and 31.35; adds R.S. 40:31.35.1)