

2024 Regular Session

SENATE BILL NO. 166

BY SENATORS CONNICK, ALLAIN AND FESI

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

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AN ACT

To amend and reenact R.S. 39:2101 and R.S. 40:5.5.2 and 5.5.4, to enact R.S. 3:4706 and R.S. 40:5.5.5, and to repeal R.S. 40:4(A)(1)(b) and R.S. 56:578.14, relative to seafood safety; to provide for powers and duties of the commissioner of agriculture; to prohibit misleading packaging and marketing of seafood products; to provide for state procurement of seafood products; to provide for food establishment requirements; to provide for retailer requirements; to provide for powers and duties of the Louisiana Department of Health; to provide definitions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:4706 is hereby enacted to read as follows:

§4706. Seafood; misleading packaging and marketing

A. The legislature finds that consumers must be protected from misleading and false labeling of seafood products. Louisiana's seafood culture is world renowned and is a vital part of our culture and heritage. It is not only misleading but dangerous to public health by solely relying on names and phrases associated with Louisiana when purchasing or consuming seafood.

1 Phrases such as "Boudreauxs", "Gulf", and "Louisiana caught" are often on
2 products that are from foreign countries. Consumers need to be well informed
3 on what seafood they are purchasing and consuming.

4 B.(1) No person shall engage in marketing, labeling, packaging, or
5 advertising that implies or suggests any association with Louisiana's culture and
6 heritage if the association is false, misleading, or deceptive.

7 (2) No person shall market their products using any Louisiana-related
8 imagery, phrases, colors, or styles if the products are not genuinely linked to
9 Louisiana's cultural heritage and produced within the state or landed within the
10 state.

11 C. The commissioner shall be responsible for ensuring compliance with
12 this Section. The commissioner shall issue fines for violations of this Section as
13 follows:

14 (1) For a first offense, a fine of not less than five thousand dollars and not
15 more than fifteen thousand dollars for each violation.

16 (2) For a second offense, a fine of not less than fifteen thousand dollars
17 and not more than twenty-five thousand dollars for each violation.

18 (3) For a third and subsequent offense, a fine of not less than twenty-five
19 thousand dollars and not more than fifty thousand dollars for each violation.

20 D. In addition to the fines provided for in Subsection C of this Section,
21 the commissioner may confiscate any products in violation of this Section.

22 E. The commissioner shall promulgate rules in accordance with the
23 Administrative Procedure Act as are necessary to enforce the provisions of this
24 Section.

25 Section 2. R.S. 39:2101 is hereby amended and reenacted to read as follows:

26 §2101. Food service facilities; use of certified meat, poultry, and seafood products

27 A.(1) All state agencies, state institutions, or local school districts operating
28 food service facilities for students, or for patients or inmates in their custody, shall
29 utilize only those meat, poultry, and seafood products that have met all Louisiana

1 Department of Agriculture and Forestry requirements for grading and certification
2 service.

3 (2) All state agencies, state institutions, or local school districts operating
4 food service facilities for students, or for patients or inmates in their custody,
5 shall only utilize domestic shrimp or domestic crawfish as defined in R.S.
6 40:5.5.2.

7 B.(1) No contract shall be entered into by any state agency, state institution,
8 or local school district for the operation of any facility that includes a food service
9 facility, unless the contract contains provisions requiring that any meat, poultry, or
10 seafood utilized in such facility has met all Louisiana Department of Agriculture and
11 Forestry requirements for grading and certification service.

12 (2) No contract shall be entered into by any state agency, state
13 institution, or local school district for the operation of any facility that includes
14 a food service facility, unless the contract contains provisions requiring that any
15 seafood shall only utilize domestic shrimp or domestic crawfish as defined in
16 R.S. 40:5.5.2.

17 Section 3. R.S. 40:5.5.2 and 5.5.4 are hereby amended and reenacted and R.S.
18 40:5.5.5 is hereby enacted to read as follows:

19 §5.5.2. ~~Chinese seafood warning label program~~ Seafood safety

20 A. The legislature finds that serious risks to public health may be posed by
21 radiation, antibiotics, such as chloramphenicol and fluoroquinolones, chemicals,
22 malachite green, copper salts, and other residues found in ~~Chinese~~ seafood that
23 originates from outside of the United States. The overexposure to antibiotics from
24 such seafood may cause serious antibiotic resistance to the consumer. In addition,
25 chemicals such as malachite green are known carcinogens. It is the intent of the
26 legislature to protect the health and welfare of Louisiana consumers from potentially
27 harmful residues in imported seafood ~~imported from the People's Republic of China~~
28 that ~~are~~ is sold or served in Louisiana. The legislature further recognizes that the
29 magnitude of the health risks associated with imported seafood requires the full

1 cooperation and collaboration of the Louisiana Department of Health,
 2 Louisiana Department of Agriculture and Forestry, Louisiana Department of
 3 Wildlife and Fisheries, the Department of Culture, Tourism and Recreation,
 4 and the Department of Environmental Quality. Therefore, the legislature finds
 5 that ~~Louisiana consumers have the right to know if seafood imported from the~~
 6 ~~People's Republic of China is being served in a food service establishment or is~~
 7 ~~available for purchase.~~

8 B.(1) The state health officer shall prepare and promulgate all rules and
 9 regulations necessary to ensure that all consumers of imported marine and freshwater
 10 seafood products ~~from the People's Republic of China~~ are warned about the potential
 11 health risks associated with the consumption of those products.

12 (2) The state health officer, **in consultation with the Seafood Safety Task**
 13 **Force, office of the lieutenant governor, the Louisiana Seafood Promotion and**
 14 **Marketing Board,** and the Louisiana Restaurant Association shall employ a
 15 marketing campaign that places an emphasis on highlighting the benefits of eating
 16 domestic seafood.

17 ~~C.~~(3) The state health officer shall produce a statement that may be included
 18 on labels, placards, menu boards, or other promotional signage that encourages
 19 consumers to consume Louisiana seafood and warns of the risks that may be
 20 associated with the consumption of ~~Chinese~~ **imported** seafood.

21 ~~D.~~(4) With the cooperation and assistance of the Louisiana Retailers
 22 Association, the Louisiana Restaurant Association, and other necessary
 23 organizations, the state health officer in conjunction with the Department of
 24 Agriculture and Forestry shall encourage the display of the signage and other
 25 promotional literature as provided for in ~~Subsection C~~ of this Section where seafood
 26 sales occur.

27 **C. As used in this Part, the following terms shall have the following**
 28 **meanings:**

29 **(1) "Commingle" means to cause to blend together, mix, or combine**

1 **domestic and imported seafood.**

2 **(2) "Domestic crawfish" means any food product that is derived from**
3 **red swamp crawfish (*Procambarus clarkii*), white river crawfish (*Procambarus***
4 **zonangulus), or pond-raised crawfish and is either:**

5 **(a) Raised, harvested, and processed in Louisiana.**

6 **(b) Raised, harvested, and processed in the United States and has**
7 **satisfied the same or substantially equivalent testing and labeling requirements**
8 **of this state.**

9 **(3) "Domestic shrimp" means any food product that is derived from the**
10 **species *Litopenaeus setiferus*, *Farfantepenaeus aztecus*, *Farfantepenaeus***
11 ***duorarum*, *Sicyonia brevirostris*, *Pandalus borealis*, and *Pleoticus robustus* and**
12 **is either:**

13 **(a) Caught in Louisiana waters, the Gulf of Mexico, or any other**
14 **adjacent state waters and landed and processed in Louisiana.**

15 **(b) Caught, landed, and processed in the United States and has satisfied**
16 **the same or substantially equivalent testing and labeling requirements of this**
17 **state.**

18 * * *

19 §5.5.4. Imported crawfish and shrimp; notice to patrons of food service
20 establishments required

21 A. ~~As reflected in Act No. 330 of the 2009 Regular Session of the~~
22 ~~Legislature, this state recognizes that serious risks to public health may be posed by~~
23 ~~antibiotics, radiation, and numerous toxins found in seafood products, including but~~
24 ~~not limited to crawfish and shrimp, that originate outside of the United States. It~~
25 ~~remains the intent of the legislature to protect Louisiana consumers from potentially~~
26 ~~harmful chemicals and residues in seafood products that are imported from foreign~~
27 ~~countries and sold or served in food service establishments in this state. Therefore,~~
28 ~~the legislature declares that Louisiana consumers have the right to know if crawfish~~
29 ~~or shrimp imported from a foreign country is being served in a food service~~

1 ~~establishment, as the consumption of such seafood may pose a health risk.~~

2 B.(1) Any food service establishment that uses a menu as a standard business
3 practice and sells or provides cooked or prepared crawfish or shrimp that originate
4 outside of the United States shall display on all menus the country of origin of such
5 ~~crawfish or shrimp~~, or denote that the crawfish or shrimp are imported, in letters no
6 smaller than the same size, font, and shade as the product being offered, immediately
7 adjacent to the menu listing of the seafood item being sold. ~~In lieu of this~~
8 ~~requirement, the notice shall be paper-clipped to the menu, with the same location,~~
9 ~~size, font, and shade restrictions required when the notice is listed directly on the~~
10 ~~menu.~~

11 (2) ~~B.~~ Any food service establishment that does not use a menu as a standard
12 business practice and sells or provides cooked or prepared crawfish or shrimp that
13 originate outside of the United States shall display on a sign posted at the main
14 entrance to the establishment that certain crawfish or shrimp, as applicable, being
15 served within originate from a foreign country. Each sign shall be at least eighteen
16 inches tall and eighteen inches wide and shall be written in the English language in
17 letters not less than one inch in size. The sign shall be placed in an open area and in
18 a conspicuous position not less than thirty-six inches from the floor so that it is
19 visible to all patrons.

20 ~~C. Any violation of this Section shall constitute a violation of the state~~
21 ~~sanitary code.~~

22 **C.(1) No owner or employee of a restaurant or other retailer that sells**
23 **imported seafood shall misrepresent to the public, either verbally, on a menu,**
24 **or on signs displayed on the premises, that the seafood being sold is domestic.**

25 **(2) All representations, notices, and declarations made to the general**
26 **public under this provision shall state clearly whether or not the seafood being**
27 **sold to the consumer at the point of purchase is either domestic or imported.**

28 **D.(1) The Louisiana Department of Health shall be responsible for**
29 **ensuring compliance with this Section. The department shall issue fines for**

1 violations of this Section as follows:

2 (a) For a first offense, a fine of not less than two hundred dollars and not
3 more than five hundred dollars per violation.

4 (b) For a second offense, a fine of not less than five hundred dollars and
5 not more than one thousand dollars per violation.

6 (c) For a third and subsequent offense, a fine of not less than one
7 thousand dollars and not more than two thousand dollars per violation.

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

16 E. The department shall establish a reporting mechanism for members
17 of the public to report suspected violations of this Section.

18 F. Reports to the department of suspected violations may be made
19 anonymously. No person who in good faith reports a suspected violation to the
20 department shall be liable for any civil damages. This Subsection shall not
21 exempt from liability those individuals who intentionally cause damages to
22 another individual, business, or entity.

23 ~~D.G.~~ The Louisiana Department of Health shall promulgate all such rules in
24 accordance with the Administrative Procedure Act as are necessary to enforce the
25 provisions of this Section.

26 ~~E.H.~~ For purposes of this Section, "food service establishment" shall have the
27 meaning ascribed in R.S. 40:5.5.

28 §5.5.5. Requirements for retailers; seafood markets

29 A. A retail food establishment shall clearly display the country of origin

1 for any seafood that is sold unpackaged in a manner that is easily visible to the
2 consumer.

3 B. Any retailer who sells seafood from a freezer, ice chest, or other
4 temperature-controlled case shall clearly indicate on the door of the case, ice
5 chest, or other easily identifiable location that the seafood contained therein are
6 either imported or domestic.

7 C.(1) The Department of Health shall be responsible for ensuring
8 compliance with this Section. The department shall issue fines for violations of
9 this Section as follows:

10 (a) For a first offense, a fine of not less than two hundred dollars and not
11 more than five hundred dollars per violation.

12 (b) For a second offense, a fine of not less than five hundred dollars and
13 not more than one thousand dollars per violation.

14 (c) For a third and subsequent offense, a fine of not less than one
15 thousand dollars and not more than two thousand dollars per violation.

16 (2) Notwithstanding any provision of law to the contrary, including R.S.
17 40:6(D), prior issuance of a notice of violation or compliance order shall not be
18 a prerequisite to imposing the fines authorized by this Subsection, which may
19 be imposed by issuance of a notice and order of imposition of penalties. The
20 notice shall state with specificity the nature of the violation, shall be served on
21 the violator by any means authorized by the Sanitary Code, and shall be subject
22 to the same administrative appeal procedures and delays as provided for
23 compliance orders in the Sanitary Code.

24 D. For purposes of this Section, "retail food establishment" means a
25 seafood market, grocer, vehicle, or other entity or person that sells food directly
26 to the public for consumption.

27 Section 4. R.S. 40:4(A)(1)(b) and R.S. 56:578.14 are repealed.

28 Section 5. The Louisiana Department of Health and the Louisiana Department of
29 Agriculture and Forestry shall individually promulgate, in accordance with the

1 Administrative Procedure Act, any emergency rules necessary to implement the provisions
2 of this Act relevant to that department.

3 Section 6. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 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 166 Original

2024 Regular Session

Connick

Proposed law prohibits misleading packaging and marketing of seafood products as Louisiana products.

Proposed law requires the commissioner of agriculture to ensure compliance and issue fines for violation of proposed law.

Present law requires all state agencies, state institutions, and local school districts that operate food service facilities for students, patients, or inmates to only utilize meat, poultry, and seafood products that have met all Louisiana Department of Agriculture and Forestry requirements for grading and certification.

Proposed law adds that those entities only utilize domestic shrimp or domestic crawfish as defined in proposed law.

Present law establishes a Chinese seafood warning label program.

Proposed law modernizes the warning label program to include all imported seafood.

Proposed law provides definition for "domestic shrimp" and "domestic crawfish".

Present law requires food service establishments that sell or provide cooked or prepared crawfish or shrimp that originate outside of the United States to notify patrons that the seafood is imported or to provide the country of origin for seafood. Present law requires the Louisiana Department of Health to ensure compliance with present law.

Present law prohibits 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. Present law requires the district attorney of the district where the restaurant is located to have jurisdiction over violations.

Proposed law combines the present law provisions and grants enforcement authority of both provisions to the Louisiana Department of Health and increases fines issued by the department.

Proposed law requires the Louisiana Department of Health to establish a reporting mechanism for members of the public to report suspected violations and provides for limitations on liability for individuals who report.

Proposed law provides label and notification requirements for retail food establishments that sell shrimp or crawfish.

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

Proposed law repeals provisions in the Sanitary Code relative to Chinese seafood.

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

(Amends R.S. 39:2101 and R.S. 40:5.5.2 and 5.5.4; adds R.S. 3:4706 and R.S. 40:5.5.5; repeals R.S. 40:4(A)(1)(b) and R.S. 56:578.14)