

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 the introductory paragraph of 31.35(A) and 31.35(B) 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 the introductory paragraph of 31.35(A) and 31.35(B) 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

1 in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall  
 2 deposit in and credit to the fund monies collected pursuant to R.S. 40:31.35(~~€~~).  
 3 Monies in the fund shall be invested in the same manner as monies in the state  
 4 general fund. Interest earned on investment of monies shall be deposited in and  
 5 credited to the fund. Unexpended and unencumbered monies in the fund shall remain  
 6 in the fund. Monies in the fund shall be appropriated to the office of public health of  
 7 the Louisiana Department of Health and used exclusively as provided in this Section.

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

23 \* \* \*

24 §31.35. Commercial seafood permit fee

25 A. The department shall charge and collect an annual commercial seafood  
 26 permit fee to ~~partially~~ support the cost of inspection, monitoring, sampling, and  
 27 laboratory analysis **of seafood processed and distributed in this state** as mandated  
 28 by **R.S. 40:31.35.1 and** the state Sanitary Code. **The classification of the permit**  
 29 **shall be separated as a domestic commercial seafood permit, an imported**

1 commercial seafood permit, and a commercial seafood distributor permit. The  
 2 fee shall be collected from each seafood distributor and processing plant based on  
 3 gross revenues of the plant or distributor as follows:

4 \* \* \*

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

9 \* \* \*

10 §31.35.1. Commercial seafood permit requirements; domestic processors;  
 11 import processors; distributors; verifications; inspections;  
 12 penalties

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

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

18 (2) A sample of the domestic seafood has been tested for chemical  
 19 composition, as required by the department, by the person who delivers the  
 20 seafood to the processor. A copy of the test results shall be provided to the  
 21 processor. If the seafood has not been tested prior to delivery to the processor,  
 22 the department shall test the seafood. The department may initiate a new test  
 23 at any time or test seafood to verify prior test results. All costs associated with  
 24 testing shall be paid by the processor if the tests are done by the department.

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

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

29 (5) Any other rules and requirements prescribed by the department in

1 the Sanitary Code to ensure seafood safety.

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

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

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

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

22 (a) The country of origin must appear on the front of any packaging or  
23 labeling of imported or commingled seafood. If the product is commingled, the  
24 label must clearly indicate that the seafood is a product of the identified foreign  
25 country that also includes Louisiana domestic seafood.

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

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

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

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

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

11                   (2)(a) Obtain a signed verification statement signed by the processor that  
12 the:

13                   (i) Seafood has been tested as required by the department and is in  
14 compliance with the minimum chemical composition standards established by  
15 the department.

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

19                   (b) Provide the retail establishment with the signed verification  
20 statement provided for in this Subsection upon taking delivery of the seafood  
21 from the distributor. The processor, distributor, and retail establishment shall  
22 all maintain a copy of the verification statement to produce to the department  
23 during an audit or inspection.

24                   (c) The department shall issue a standard form that must be completed  
25 in order to comply with the signed verification statement provision of this  
26 Paragraph. Copies of the form shall be retained by the processor, distributor,  
27 and retailer and shall be produced upon demand of the department. The  
28 department may provide for a paper form or electronic tracking for the form.

29 However, if the form is electronic it shall be designed in a way to track its

1 verification by the distributor and retailer once created by the processor.  
2 Failure of the processor, distributor, or retailer to produce the form or  
3 indication or discovery by the department that the form contains fraudulent or  
4 intentionally misleading statements shall make the producer, distributor, or  
5 retailer subject to the penalties imposed by the department provided for in this  
6 Section or any other provision of law.

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

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

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

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

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

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

21 E. In addition to the fines provided for in Subsection D of this Section,  
22 the department may revoke any commercial seafood permit for noncompliance  
23 with the provisions of this Section.

24 F. Notwithstanding any provision of law to the contrary, including R.S.  
25 40:6(D), prior issuance of a notice of violation or compliance order shall not be  
26 a prerequisite to imposing the fines authorized by this Subsection, which may  
27 be imposed by issuance of a notice and order of imposition of penalties. The  
28 notice shall state with specificity the nature of the violation, shall be served on  
29 the violator by any means authorized by the Sanitary Code, and shall be subject

1 to the same administrative appeal procedures and delays as provided for  
2 compliance orders in the Sanitary Code.

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

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

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

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

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

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

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

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

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

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

28 Section 3. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 3 effective on the day following such approval.

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

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## DIGEST

SB 62 Engrossed

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(A)(intro para) and 31.35(B); adds R.S. 40:31.35.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes provisions relative to the commercial seafood permit fee.
2. Makes technical changes.