

SENATE BILL NO. 62

BY SENATORS FESI, ALLAIN AND CONNICK

1 AN ACT

2 To amend and reenact R.S. 40:5.10.1 and the introductory paragraph of 31.35(A) and
3 31.35(C) and to enact R.S. 40:31.35.1, relative to seafood safety; to provide for
4 changes to the Imported Seafood Safety Fund; to provide for clarification of the
5 commercial seafood permit fee; to provide for permit requirements for domestic
6 seafood processors; to provide for permit requirements for imported seafood
7 processors; to provide for requirements for seafood distributors; to provide for the
8 authority of the Louisiana Department of Culture, Recreation and Tourism; to
9 provide for contracting with the Louisiana Department of Agriculture and Forestry;
10 to provide for penalties; to provide for definitions; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:5.10.1 and the introductory paragraph of 31.35(A) and 31.35(C)
13 are hereby amended and reenacted and R.S. 40:31.35.1 is hereby enacted to read as follows:

14 §5.10.1. Imported Seafood Safety Fund

15 A. There is hereby created in the state treasury a special fund designated as
16 the Imported Seafood Safety Fund, referred to hereafter in this Section as the "fund".
17 After allocation of money to the Bond Security and Redemption Fund as provided
18 in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall
19 deposit in and credit to the fund monies collected pursuant to R.S. 40:31.35(C).
20 Monies in the fund shall be invested in the same manner as monies in the state
21 general fund. Interest earned on investment of monies shall be deposited in and
22 credited to the fund. Unexpended and unencumbered monies in the fund shall remain
23 in the fund. ~~Monies in the fund shall be appropriated to the office of public health of~~
24 ~~the Louisiana Department of Health and used exclusively as provided in this Section.~~

25 B. The monies in the fund shall be appropriated to the Department of
26 Culture, Recreation and Tourism and expended solely for the purpose of
27 enforcing the provisions of R.S. 40:31.35.1. ~~sampling, analysis, testing, and~~

1 ~~monitoring of raw seafood products of foreign origin that are imported into~~
 2 ~~Louisiana and stored on the premises of any business holding a commercial seafood~~
 3 ~~permit issued pursuant to R.S. 40:31.35. The office of public health of the Louisiana~~
 4 ~~Department of Health shall directly administer or contract for such sampling,~~
 5 ~~analysis, testing, and monitoring functions. The office of public health shall employ~~
 6 ~~such functions to detect in imported seafood products the presence of substances that~~
 7 ~~are harmful to human health. The state health officer shall determine the specific~~
 8 ~~types of such sampling, analysis, testing, and monitoring functions to be~~
 9 ~~implemented as well as the frequency and scope of these activities, all of which he~~
 10 ~~may modify based upon the availability of funding for these purposes.~~

11 * * *

12 §31.35. Commercial seafood permit fee

13 A. **Each seafood processor and distributor in the state shall be required**
 14 **to obtain a commercial seafood permit from the Louisiana Department of**
 15 **Health.** The department shall charge and collect an annual commercial seafood
 16 permit fee to partially support the cost of inspection, monitoring, sampling, and
 17 laboratory analysis as mandated by the state Sanitary Code. **The classification of the**
 18 **permit shall be classified as a domestic commercial seafood processor permit,**
 19 **an imported commercial seafood processor permit, and a commercial seafood**
 20 **distributor permit.** The fee shall be collected from each seafood distributor and
 21 processing plant based on gross revenues of the plant or distributor as follows:

22 * * *

23 C. ~~The department~~ **In addition to the fee provided for in Subsection A of**
 24 **this Section, the Louisiana Department of Culture, Recreation and Tourism**
 25 shall charge and collect an imported seafood safety fee of one hundred dollars
 26 annually from each holder of a commercial seafood permit fee who **sells processes**
 27 **or distributes** imported seafood. The proceeds of such fee shall be **deposited into**
 28 **the Imported Seafood Safety Fund** ~~used for the purposes described in R.S.~~
 29 ~~40:5-10.1.~~

30 **§31.35.1. Imported seafood; Department of Culture, Recreation and Tourism;**

1 testing; penalties

2 A. In addition to any regulations and testing required by the Louisiana
3 Department of Health to ensure compliance with the state Sanitary Code, any
4 processor or distributor who is required to pay the imported seafood safety fee
5 pursuant to R.S. 40:31.35(C) shall be subject to the regulations and testing
6 provided for in this Section.

7 B. Upon request of the Department of Culture, Recreation and Tourism,
8 the processor or distributor shall:

9 (1) Provide any information, if available, on whether the seafood has
10 previously been tested in the country of origin or upon arrival in the United
11 States.

12 (2) Ensure all labels affixed to the imported or commingled seafood
13 clearly indicates that it is imported, indicates the original country of origin, and
14 if the product is commingled, that the label clearly indicates that the seafood is
15 a product of the identified foreign country that also includes Louisiana domestic
16 seafood.

17 (3) Provide any additional information considered necessary by the
18 department to implement the provisions of this Section.

19 C.(1) Upon recommendation of the Seafood Safety Task Force, the
20 department may test seafood processed or sold by an imported commercial
21 seafood processor or distributor to ensure the chemical concentrations do not
22 exceed the minimum standards established by the United States Food and Drug
23 Administration.

24 (2) If the seafood tested exceeds the minimum standards, the department
25 shall report the test results to the Louisiana Department of Health and the
26 processor or distributor. The Louisiana Department of Health shall consider
27 any seafood reported pursuant to this Subsection to be an adulterated food
28 pursuant to R.S. 40:607.

29 (3) In addition to reporting the test results to the Louisiana Department
30 of Health, the Department of Culture, Recreation and Tourism may issue a fine

1 of not more than one thousand dollars for violations of this Subsection.

2 D. If the department has reason to believe a commercial seafood
3 processor or distributor is processing or distributing imported seafood packed
4 or labeled as domestic seafood, the department may test the seafood to ensure
5 the seafood is domestic. If the seafood is not domestic, the department may
6 assess the following fines on the commercial seafood processor or distributor:

7 (1) For a first offense, a fine of not more than one thousand dollars per
8 violation.

9 (2) For a second offense, a fine of not more than two thousand five
10 hundred dollars per violation.

11 (3) For a third offense, a fine of not more than five thousand dollars per
12 violation.

13 E. Any fines collected pursuant to this Section shall be deposited into the
14 Imported Seafood Safety Fund established in R.S. 40:5.10.1.

15 F. The department shall contract with the Louisiana Department of
16 Agriculture and Forestry to sample, analyze, and test seafood as required by
17 this Section.

18 G. For purposes of this Section, the following definitions shall apply:

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

21 (2) "Department" means the Louisiana Department of Culture,
22 Recreation and Tourism.

23 (3) "Distributor" means a person engaged in the purchasing, storing,
24 shipping, and selling of seafood.

25 (4) "Domestic" means raised, harvested, or caught in any of the fifty
26 states of the United States or its territories and within the federal exclusive
27 economic zone (EEZ) and landed in the United States.

28 (5) "Imported" means raised, harvested, or caught outside of the federal
29 exclusive economic zone (EEZ) or landed in a country other than the United
30 States.

1 **(6) "Processor" means any plant or facility that has been permitted by**
2 **the Louisiana Department of Health to clean, shuck, pick, peel, or pack seafood.**

3 **(7) "Seafood" means fish and edible crustaceans, excluding domestic**
4 **catfish, live crawfish, and live crabs.**

5 Section 2. The Louisiana Department of Culture, Recreation and Tourism and the
6 Louisiana Department of Agriculture and Forestry shall promulgate, in accordance with the
7 Administrative Procedure Act, any emergency rules necessary to implement the provisions
8 of this Act.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____