

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(C) 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 the authority of the Louisiana Department of Culture, Recreation and Tourism; to provide for contracting with the Louisiana Department of Agriculture and Forestry; 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(C) 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 **to the Department of**  
 9 **Culture, Recreation and Tourism** and expended solely for the purpose of  
 10 **enforcing the provisions of R.S. 40:31.35.1.** ~~sampling, analysis, testing, and~~  
 11 ~~monitoring of raw seafood products of foreign origin that are imported into~~  
 12 ~~Louisiana and stored on the premises of any business holding a commercial seafood~~  
 13 ~~permit issued pursuant to R.S. 40:31.35. The office of public health of the Louisiana~~  
 14 ~~Department of Health shall directly administer or contract for such sampling,~~  
 15 ~~analysis, testing, and monitoring functions. The office of public health shall employ~~  
 16 ~~such functions to detect in imported seafood products the presence of substances that~~  
 17 ~~are harmful to human health. The state health officer shall determine the specific~~  
 18 ~~types of such sampling, analysis, testing, and monitoring functions to be~~  
 19 ~~implemented as well as the frequency and scope of these activities, all of which he~~  
 20 ~~may modify based upon the availability of funding for these purposes.~~

21 \* \* \*

22 §31.35. Commercial seafood permit fee

23 A. The department shall charge and collect an annual commercial seafood  
 24 permit fee to ~~partially~~ support the cost of inspection, monitoring, sampling, and  
 25 laboratory analysis as mandated by the state Sanitary Code. **The classification of the**  
 26 **permit shall be classified as a domestic commercial seafood processor permit,**  
 27 **an imported commercial seafood processor permit, and a commercial seafood**  
 28 **distributor permit.** The fee shall be collected from each seafood distributor and  
 29 processing plant based on gross revenues of the plant or distributor as follows:

1 \* \* \*

2 C. ~~The department~~ In addition to the fee provided for in Subsection A of  
3 this Section, the Louisiana Department of Culture, Recreation and Tourism  
4 shall charge and collect an imported seafood safety fee of one hundred dollars  
5 annually from each holder of a commercial seafood permit fee who ~~sells~~ processes  
6 or distributes imported seafood. The proceeds of such fee shall be deposited into  
7 the Imported Seafood Safety Fund and used for the purposes described in ~~R.S.~~  
8 ~~40:5.10.†~~ R.S. 40:31.35.1.

9 §31.35.1. Imported seafood; Department of Culture, Recreation and Tourism;  
10 testing; penalties

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

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

18 (1) Provide any information, if available, on whether the seafood has  
19 been tested in the country of origin or at the point of embarkation in the United  
20 States.

21 (2) Ensure all labels affixed to the imported or commingled seafood  
22 clearly indicates that it is imported, indicates the original country of origin, and  
23 if the product is commingled, that the label clearly indicates that the seafood is  
24 a product of the identified foreign country that also includes Louisiana domestic  
25 seafood.

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

28 C.(1) Upon recommendation of the Seafood Safety Task Force, the  
29 department may test seafood processed or sold by an imported commercial

1 seafood processor or distributor to ensure the chemical concentrations do not  
2 exceed the minimum standards established by the United States Food and Drug  
3 Administration.

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

9 (3) In addition to reporting the test results to the Louisiana Department  
10 of Health, the Department of Culture, Recreation and Tourism may issue a fine  
11 of not more than one thousand dollars for violations of this Subsection.

12 D. If the department has reason to believe a commercial seafood  
13 processor or distributor is processing or distributing imported seafood packed  
14 or labeled as domestic seafood, the department may test the seafood to ensure  
15 the seafood is domestic. If the seafood is not domestic, the department may  
16 assess the following fines on the commercial seafood processor or distributor:

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

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

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

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

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

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

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

1           domestic and imported seafood.

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

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

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

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

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

14                  (7) "Seafood" means fish and edible crustaceans, excluding domestic  
 15          catfish, live crawfish, and live crabs.

16           Section 2. The Louisiana Department of Culture, Recreation and Tourism and the  
 17           Louisiana Department of Agriculture and Forestry shall promulgate, in accordance with the  
 18           Administrative Procedure Act, any emergency rules necessary to implement the provisions  
 19           of this Act.

20           Section 3. This Act shall become effective upon signature by the governor or, if not  
 21           signed by the governor, upon expiration of the time for bills to become law without signature  
 22           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 23           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 24           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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Present law establishes the Imported Seafood Safety Fund for the purpose providing funding to the La. Department of Health for sampling, testing, and monitoring raw seafood products of foreign origin that are imported and stored in Louisiana by commercial seafood

permittees.

Proposed law changes the entity that receives monies from the fund for sampling and testing to the Department of Culture, Recreation and Tourism (CRT).

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 authorizes CRT to test seafood as recommended by the Seafood Safety Task Force and in accordance with proposed law.

Proposed law requires CRT to contract with the Dept. of Agriculture and Forestry to sample, analyze, and test the seafood.

Proposed law authorizes CRT to assess fines and report certain violations to the La. Department of Health.

Proposed law establishes definitions for terms used in 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(C); 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.

##### Senate Floor Amendments to engrossed bill

1. Change regulatory authority and funding for additional testing and enforcement from the La. Department of Health to the Dept. of Culture, Recreation and Tourism.
2. Require the Dept. of Culture, Recreation and Tourism to contract with the La. Dept. of Agriculture and Forestry to perform seafood testing.
3. Remove certain labeling and documentation requirements.
4. Change definitions.
5. Reduce the amount of fines for violations.